

# 2023-2024 Texas Election Laws



*Donna Garcia Davidson and Eric Opiela, Editors*

Fourth Edition

# Texas Election Laws 2023-2024

*including*

Texas Election Code

1 Texas Administrative Code, Chapter 81

Texas Constitution, *selected provisions*

Texas Education Code, *selected provisions*

Texas Tax Code, *selected provisions*

Texas Water Code, *selected provisions*

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Editors



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# Texas Election Code TITLE 1. INTRODUCTORY PROVISIONS

## CHAPTER 1. GENERAL PROVISIONS

**Sec. 1.001. SHORT TITLE.** This code may be cited as the Election Code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 1.0015. LEGISLATIVE INTENT.** It is the intent of the legislature that the application of this code and the conduct of elections be uniform and consistent throughout this state to reduce the likelihood of fraud in the conduct of elections, protect the secrecy of the ballot, promote voter access, and ensure that all legally cast ballots are counted..

S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 1.04, eff. Dec. 2, 2021.

**Sec. 1.002. APPLICABILITY OF CODE.** (a) This code applies to all general, special, and primary elections held in this state.

(b) This code supersedes a conflicting statute outside this code unless this code or the outside statute expressly provides otherwise.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 1.003. CONSTRUCTION OF CODE.** (a) The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision in this code, except as otherwise expressly provided by this code.

(a-1) Election officials and other public officials shall strictly construe the provisions of this code to effect the intent of the legislature under Section 1.0015.

(b) When a provision of this code provides that it supersedes another specifically referenced provision of this code to the extent of any conflict, no conflict is created by the failure of the superseding provision, or of related provisions, to repeat the substance of the referenced provision; rather, a conflict exists only if the substance of the superseding and any related provisions is irreconcilable with the substance of the referenced provision. If the substance of the superseding provision, together with any related provisions, and the substance of the referenced provision can each be applied to the same subject or set of circumstances, both provisions shall be given effect.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 17, eff. Sept. 1, 1987; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 1.05, eff. Dec. 2, 2021.

**Sec. 1.004. INTERNAL REFERENCES.** In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 1.005. DEFINITIONS.** In this code:

(1) "City secretary" includes a city clerk or, in a city that has no city secretary or clerk, the city officer who performs the duties of a city secretary.

(2) "County election precinct" means an election precinct established under Section 42.001.

(3) "County office" means an office of the county government that is voted on countywide.

(4) "District office" means an office of the federal or state government that is not voted on statewide.

(4-a) "Election official" means:

(A) a county clerk;

(B) a permanent or temporary deputy county clerk;

(C) an elections administrator;

(D) a permanent or temporary employee of an elections administrator;

(E) an election judge;

(F) an alternate election judge;

(G) an early voting clerk;

(H) a deputy early voting clerk;

- (I) an election clerk;
- (J) the presiding judge of an early voting ballot board;
- (K) the alternate presiding judge of an early voting ballot board;
- (L) a member of an early voting ballot board;
- (M) the chair of a signature verification committee;
- (N) the vice chair of a signature verification committee;
- (O) a member of a signature verification committee;
- (P) the presiding judge of a central counting station;
- (Q) the alternate presiding judge of a central counting station;
- (R) a central counting station manager;
- (S) a central counting station clerk;
- (T) a tabulation supervisor;
- (U) an assistant to a tabulation supervisor; and
- (V) a chair of a county political party holding a primary election or a runoff primary election.

(4-b) "Federal judge" means:

- (A) a judge, former judge, or retired judge of a United States court of appeals;
- (B) a judge, former judge, or retired judge of a United States district court;
- (C) a judge, former judge, or retired judge of a United States bankruptcy court; or
- (D) a magistrate judge, former magistrate judge, or retired magistrate judge of a United States district court.

(5) "Final canvass" means the canvass from which the official result of an election is determined.

(6) "General election" means an election, other than a primary election, that regularly recurs at fixed dates.

(7) "General election for state and county officers" means the general election at which officers of the federal, state, and county governments are elected.

(8) "Gubernatorial general election" means the general election held every four years to elect a governor for a full term.

(9) "Independent candidate" means a candidate in a nonpartisan election or a candidate in a partisan election who is not the nominee of a political party.

(10) "Law" means a constitution, statute, city charter, or city ordinance.

(11) "Local canvass" means the canvass of the precinct election returns.

(12) "Measure" means a question or proposal submitted in an election for an expression of the voters' will.

(13) "Political subdivision" means a county, city, or school district or any other governmental entity that:

- (A) embraces a geographic area with a defined boundary;
- (B) exists for the purpose of discharging functions of government; and
- (C) possesses authority for subordinate self-government through officers selected by it.

(14) "Primary election" means an election held by a political party under Chapter 172 to select its nominees for public office, and, unless the context indicates otherwise, the term includes a presidential primary election.

(15) "Proposition" means the wording appearing on a ballot to identify a measure.

(16) "Registered voter" means a person registered to vote in this state whose registration is effective.

(17) "Residence address" means the street address and any apartment number, or the address at which mail is received if the residence has no address, and the city, state, and zip code that correspond to a person's residence.

(18) "Special election" means an election that is not a general election or a primary election.

(18-a) "State judge" means:

(A) a judge, former judge, or retired judge of an appellate court, a district court, a constitutional county court, a county court at law, or a statutory probate court of this state;

(B) an associate judge appointed under Chapter 201, Family Code, or a retired associate judge or former associate judge appointed under that chapter;

(C) a magistrate or associate judge appointed under Chapter 54 or 54A, Government Code;

(D) a justice of the peace; or

(E) a municipal court judge.

(19) "Statewide office" means an office of the federal or state government that is voted on statewide.

(20) Repealed by H.B. 25, 85<sup>th</sup> Leg., R.S., Sec. 8, Sept. 1, 2020.

(21) "Uniform election date" means an election date prescribed by Section 41.001.

(22) "Voting station" means the voting booth or other place where voters mark their ballots or otherwise indicate their votes at a polling place.

(23) "Voting year" means the 12-month period beginning January 1 of each year.

(24) "Presidential primary election" means an election held under Subchapter A, Chapter 191, at which a political party's voters are given an opportunity to express their preferences for the party's presidential candidates, or for an "uncommitted" status if provided by party rule, for the purpose of determining the allocation of the party's delegates from this state to the party's national presidential nominating convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 2, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 436, Sec. 9, eff. Sept. 1, 1989; Acts 1987, 70th Leg., ch. 472, Sec. 52, eff. Sept. 1, 1989; H.B. 2910, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 1.06, eff. Dec. 2, 2021.

**Sec. 1.006. EFFECT OF WEEKEND OR HOLIDAY.** (a) If the last day for performance of an act is a Saturday, Sunday, or legal state or national holiday, the act is timely if performed on the next regular business day, except as otherwise provided by this code.

(b) If the last day for performance of an act is extended under Subsection (a), the extended date is used to determine any other dates and deadlines, and the dates or times of any related procedures, that are expressly required to be made on a date or at a time determined in relation to the last day for performance of the act.

(c) A declaration of ineligibility of a candidate is considered to be the performance of an act under this section for purposes of causing the candidate's name to be omitted from the ballot.

(d) The filing of a document, including a withdrawal request or resignation, is considered to be the performance of an act under this section for purposes of creating a vacancy to be filled at a subsequent election.

(e) The death of a person is not considered to be the performance of an act under this section.

(f) In this code:

(1) "National holiday" means:

(A) a legal public holiday under 5 U.S.C. Section 6103; and

(B) if a holiday described by Paragraph (A) occurs on a Saturday or Sunday, a holiday taken in lieu of that holiday on which there is no regular United States mail delivery.

(2) "State holiday" means a state holiday under Sections 662.003(b)(1) through (6), Government Code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 1, eff. Sept. 1, 2003. Amended by: Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 2, eff. September 1, 2015.

**Sec. 1.007. DELIVERING, SUBMITTING, AND FILING DOCUMENTS.** (a) When this code provides for the delivery, submission, or filing of an application, notice, report, or other document or paper with an authority having administrative responsibility under this code, a delivery, submission, or filing with an employee of the authority at the authority's usual place for conducting official business constitutes filing with the authority.

(b) The authority to whom a delivery, submission, or filing is required by this code to be made may accept the document or paper at a place other than the authority's usual place for conducting official business.

(c) A delivery, submission, or filing of a document or paper under this code may be made by personal delivery, mail, telephonic facsimile machine, e-mail, or any other method of transmission.

(d) Any other provision of this code supersedes this section to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 1, eff. Sept. 1, 1997. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 1, eff. September 1, 2013; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2021.

**Sec. 1.008. TIMELINESS OF ACTION BY MAIL.** When this code requires an application, notice, report, or other document or paper to be delivered, submitted, or filed within a specified period or before a specified deadline, a delivery, submission, or filing by first-class United States mail is timely, except as otherwise provided by this code, if:

(1) it is properly addressed with postage prepaid; and

(2) it bears a post office cancellation mark indicating a time within the period or before the deadline, or if the person required to take the action furnishes satisfactory proof that it was deposited in the mail within the period or before the deadline.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 1.009. TIME OF RECEIPT OF MAILED DOCUMENT.** (a) When this code provides that an application, notice, or other document or paper that is delivered, submitted, or filed by mail is considered to be delivered, submitted, or filed at the time of its receipt by the appropriate authority, the time of receipt is the time at which a post office employee:

(1) places it in the actual possession of the authority or the authority's agent; or

(2) deposits it in the authority's mailbox or at the usual place of delivery for the authority's official mail.

(b) If the authority cannot determine the time at which a deposit under Subsection (a)(2) occurred or whether it



occurred before a specified deadline, the deposit is considered to have occurred at the time the mailbox or usual place of mail delivery, as applicable, was last inspected for removal of mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 2, eff. Sept. 1, 1997.

**Sec. 1.010. AVAILABILITY OF OFFICIAL FORMS.** (a) The office, agency, or other authority with whom this code requires an application, report, or other document or paper to be submitted or filed shall make printed forms for that purpose, as officially prescribed, readily and timely available.

(b) The authority shall furnish forms in a reasonable quantity to a person requesting them for the purpose of submitting or filing the document or paper.

(c) The forms shall be furnished without charge, except as otherwise provided by this code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 1.011. SIGNING DOCUMENT BY WITNESS.** (a) When this code requires a person to sign an application, report, or other document or paper, except as otherwise provided by this code, the document or paper may be signed for the person by a witness, as provided by this section, if the person required to sign cannot do so because of a physical disability or illiteracy.

(b) The person who cannot sign must affix the person's mark to the document or paper, which the witness must attest. If the person cannot make the mark, the witness must state that fact on the document or paper.

(c) The witness must state on the document or paper the name, in printed form, of the person who cannot sign.

(d) The witness must affix the witness's own signature to the document or paper and state the witness's own name, in printed form, near the signature. The witness must also state the witness's residence address unless the witness is an election officer, in which case the witness must state the witness's official title.

(e) The procedure prescribed by this section must be conducted in the presence of the person who cannot sign.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 3, eff. Sept. 1, 1997.

**Sec. 1.012. PUBLIC INSPECTION OF ELECTION RECORDS.** (a) Subject to Subsection (b), an election record that is public information shall be made available to the public during the regular business hours of the record's custodian.

(b) For the purpose of safeguarding the election records or economizing the custodian's time, the custodian may adopt reasonable rules limiting public access.

(c) Except as otherwise provided by this code or Chapter 552, Government Code, all election records are public information.

(d) In this code, "election record" includes:

(1) anything distributed or received by government under this code;

(2) anything required by law to be kept by others for information of government under this code; or

(3) a certificate, application, notice, report, or other document or paper issued or received by government

under this code.

(e) Except as provided by Subsections (f) and (g), an election record shall be available not later than the 15th day after election day in an electronic format for a fee of not more than \$50.

(f) Beginning on the first day after the date the final canvass of an election is completed, the general custodian of election records shall make available for public inspection election records that are:

(1) images of voted ballots, if a county maintains images of voted ballots; or

(2) cast vote records.

(g) Beginning on the 61st day after election day, the general custodian of election records shall make available for public inspection election records that are original voted ballots.

(h) The custodian shall adopt procedures to ensure the redaction of any personally identifiable information of the voter contained on a ballot before making the voted ballot available for public inspection.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(88), eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 393, Sec. 1, eff. Sept. 1, 2003; S.B. 902, 86th Leg., Sec. 1, eff. Sept. 1, 2019; H.B. 5180, 88th Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 1.013. DESTRUCTION OF RECORDS.** After expiration of the prescribed period for preserving voted ballots, election returns, other election records, or other records that are preserved under this code, the records may be destroyed or otherwise disposed of unless, at the expiration of the preservation period, an election contest or a criminal investigation or proceeding in connection with an election to which the records pertain is pending. In that case, the records shall be preserved until the contest, investigation, or proceeding is completed and the judgment, if any, becomes final.

**Sec. 1.014. ELECTION EXPENSES.** (a) Except as otherwise provided by law, the expenses incurred in the conduct of a general or special election shall be paid by the political subdivision served by the authority ordering the election.

(b) Each county in the territory covered by an election ordered by the governor shall pay the expenses incurred in that particular county in the conduct of the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 1.015. RESIDENCE.** (a) In this code, "residence" means domicile, that is, one's home and fixed place of habitation to which one intends to return after any temporary absence.

(b) A person may not establish residence for the purpose of influencing the outcome of a certain election.

(c) A person does not lose the person's residence by leaving the person's home to go to another place for temporary purposes only.

(d) A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home.

(e) A person who is an inmate in a penal institution or who is an involuntary inmate in a hospital or eleemosynary institution does not, while an inmate, acquire residence at the place where the institution is located.

(f) A person may not establish a residence at any place the person has not inhabited. A person may not designate a previous residence as a home and fixed place of habitation unless the person inhabits the place at the time of designation and intends to remain.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 4, eff. Sept. 1, 1997; Amended by: S.B. 1111, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2021.

**Sec. 1.016. OATHS BY ELECTION OFFICERS.** (a) An oath or statement required by the Texas Constitution or this code prior to an election officer entering service may be administered and a certificate of the fact given by:

(1) the secretary of state, a member of the secretary of state's staff, or a state inspector appointed by the secretary;

(2) a county or municipal clerk or the clerk's deputies;

(3) a county tax assessor-collector or the county tax assessor-collector's deputies;

(4) a city secretary;

(5) a member of a county election commission or county election board;

(6) a county elections administrator or employee of a county elections administrator;

(7) the secretary of the governing body of a political subdivision other than a county or city or the authority performing the duties of a secretary under this code;

(8) a presiding election judge or alternate presiding judge who has already entered service;

(9) an early voting clerk or a deputy early voting clerk who has already entered service;

(10) a member of an early voting ballot board or signature verification committee who has already entered service; or

(11) a presiding judge, manager, or tabulation supervisor of a central counting station who has already entered service.

(b) An oath, statement, or certificate described under Subsection (a) is valid for the duration of the election officer's term of office and shall be filed with election records for the election in which the election officer is serving.

(c) The secretary of state may prescribe a form of oath, statement, or certificate that incorporates any oaths or statements required by the Texas Constitution or this code for an election officer into a single oath or statement.

Added by HB 1735, 85<sup>th</sup> Leg., eff. Sept. 1, 2017.

**Sec. 1.017. INELIGIBILITY NO DEFENSE TO PROSECUTION.** It is no defense to prosecution under this code that a person who receives an official ballot is ineligible to vote in the election for which the ballot is received.

Added by Acts 2003, 78th Leg., ch. 393, Sec. 2, eff. Sept. 1, 2003.

**Sec. 1.018. APPLICABILITY OF PENAL CODE.** In addition to Section 1.03, Penal Code, and to other titles of the Penal Code that may apply to this code, Titles 2 and 4, Penal Code, apply to offenses prescribed by this code.

Added by Acts 2003, 78th Leg., ch. 393, Sec. 2, eff. Sept. 1, 2003; Amended by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 1.07, eff. Dec. 2, 2021.

**Sec. 1.019. REQUIRED EVIDENCE OR TESTIMONY.** (a) A party to an offense under this code may be required to furnish evidence or testimony about the offense.

(b) Evidence or testimony required to be furnished under this section, or information directly or indirectly derived from that evidence or testimony, may not be used against the party providing the evidence or testimony in a criminal case except for a prosecution of aggravated perjury or contempt.

Added by Acts 2003, 78th Leg., ch. 393, Sec. 2, eff. Sept. 1, 2003.

**Sec. 1.020. VOTING DISABILITY OR CANDIDACY DISQUALIFICATION: DETERMINATION OF MENTAL INCAPACITY.** (a) A person determined to be totally mentally incapacitated by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person's mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction.

(b) A person determined to be partially mentally incapacitated without the right to vote by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person's guardianship has been modified to include the right to vote or the person's mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction.

Added by Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 21, eff. Sept. 1, 2007.

**Sec. 1.021. NOTICE OF POLLING PLACE LOCATION.** When this code requires notice of a polling place location, the written notice must state the building name, if any, and the street address, including the suite or room number, if any, of the polling place.

Added by H.B. 1241, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 1.022. REASONABLE ACCOMODATION OR MODIFICATION.** A provision of this code may not be interpreted to prohibit or limit the right of a qualified individual with a disability from requesting a reasonable accommodation or modification to any election standard, practice, or procedure mandated by law or rule that the individual is entitled to request under federal or state law.

Added by H.B. 1241, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019; Amended by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 1.08, eff. Dec. 2, 2021.

## CHAPTER 2. VOTE REQUIRED FOR ELECTION TO OFFICE

### SUBCHAPTER A. ELECTION BY PLURALITY

**Sec. 2.001. PLURALITY VOTE REQUIRED.** Except as otherwise provided by law, to be elected to a public office, a candidate must receive more votes than any other candidate for the office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 2.002. TIE VOTE.** (a) Except as provided by Subsection (f), (g), or (i), in an election requiring a plurality vote, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held.

(b) Not later than the fifth day after the date the automatic recount required by Subsection (i) is completed or the final canvass following the automatic recount is completed, if applicable, the authority responsible for ordering the first election shall order the second election. The second election shall be held not earlier than the 20th day or later than the 45th day after the date the automatic recount required by Subsection (i) is completed or the final canvass following the automatic recount is completed, if applicable.

(c) The names of the tying candidates only shall be printed on the ballot for the second election. Write-in votes are not permitted. If either of the candidates is a party nominee, the title of the office shall be listed on the ballot in a vertical column with the name of each candidate listed below the office title with each candidate's political party alignment next to the name.

(d) The order of the candidates' names on the ballot shall be the relative order of names on the original ballot.

(e) Notice of the second election shall be given in accordance with Chapter 4 except that a notice under Section 4.003(a)(2) or (b) must be posted not later than the 15th day before election day.

(f) The tying candidates may agree to cast lots to resolve the tie. The agreement must be filed with the authority responsible for ordering the election. That authority or, if the authority is a body, the body's presiding officer, shall supervise the casting of lots.

(g) A tying candidate may resolve the tie by filing with the authority described by Subsection (f) a written statement of withdrawal signed and acknowledged by the candidate. On receipt of the statement of withdrawal, the remaining candidate is the winner, and a second election or casting of lots is not held.

(h) This section does not apply to elective offices of the executive department specified by Article IV, Section 1, of the Texas Constitution.

(i) If the tie vote is not resolved under Subsection (f) or (g), an automatic recount shall be conducted in accordance with Chapter 216 before the second election is held. If the recount resolves the tie, the second election is not held.

(j) If the recount does not resolve the tie, the tied candidates may:

(1) cast lots not later than the day before the date the authority must order the second election under Subsection (b); or

(2) withdraw from the election not later than 5 p.m. of the day after the date the automatic recount is held..

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 851, Sec. 1, eff. Sept. 1, 2001; Acts 2019, 86th Leg. H.B. 88, eff. Sept. 1, 2019; H.B. 3107, 87th Leg., R.S., Sec. 2, eff. Sept. 1, 2021.

### SUBCHAPTER B. RUNOFF ELECTION

**Sec. 2.021. RUNOFF ELECTION REQUIRED.** If no candidate for a particular office receives the vote necessary to be elected in an election requiring a majority vote, a runoff election for that office is required.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 2.022. CONFLICTS WITH OTHER LAW.** (a) Except as provided by Subsection (b), a law outside this subchapter supersedes this subchapter to the extent of any conflict.

(b) Sections 2.023, 2.025 and 2.028 supersede a law outside this subchapter to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 652, Sec. 1, eff. Sept. 1, 2003; H.B. 3107, 87th Leg., R.S., Sec. 3, eff. Sept. 1, 2021.

**Sec. 2.023. RUNOFF CANDIDATES.** (a) Except as provided by Subsections (b) and (c), the candidates in a runoff election are the candidates who receive the highest and second highest number of votes in the main election or who tie for the highest number of votes.

(b) If more than two candidates tie for the highest number of votes in the main election, an automatic recount shall be conducted in accordance with Chapter 216. If the recount does not resolve the tie, the tied candidates shall cast lots to determine which two are to be the runoff candidates.

(c) If two or more candidates tie for the second highest number of votes in the main election, an automatic recount shall be conducted in accordance with Chapter 216. If the recount does not resolve the tie, the tied candidates shall cast lots to determine which one is to be the second candidate in the runoff election.

(d) The presiding officer of the final canvassing authority for the election shall supervise the casting of lots under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 652, Sec. 2, eff. Sept. 1, 2003.

**Sec. 2.024. ORDERING RUNOFF.** Not later than the fifth day after the date the final canvass of the main election is completed, the authority responsible for ordering the main election shall order the runoff election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 2.025. RUNOFF ELECTION DAY.** (a) Except as provided by Subsection (d) or as otherwise provided by this code, a runoff election shall be held on a Saturday designated by the secretary of state.

(b) Repealed by H.B. 357, 88<sup>th</sup> Leg., R.S., Sec. 3, eff. Sept. 1, 2023.

(c) This section supersedes a law outside this subchapter to the extent of a conflict notwithstanding Section 2.022.

(d) A runoff election for a special election to fill a vacancy in Congress or a special election to fill a vacancy in the legislature, except an election ordered as an emergency election under Section 41.0011 or an election held as an expedited election under Section 203.013, shall be held not earlier than the 70th day or later than the 77th day after the date the final canvass of the main election is completed.

(e) A date designated by the secretary of state under this section for a runoff election:

(1) must be:

(A) not earlier than the 30th day after the date of the main election; and

(B) not later than the 45th day after the date of the main election; and

(2) may not:

(A) be a national or state holiday under Section 1.006(f); or

(B) have an early voting period that includes a national or state holiday under Section 1.006(f).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 60, Sec. 2, eff. Oct. 20, 1987; Acts 1991, 72nd Leg., ch. 389, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 2, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1316, Sec. 2, eff. Sept. 1, 2003. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 2, eff. September 1, 2011; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 4, eff. Sept. 1, 2021; H.B. 357, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 2.026. NOTICE OF RUNOFF.** Notice of a runoff election shall be given in accordance with Chapter 4 except that a notice under Section 4.003(a)(2) or (b) must be posted not later than the 15th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 2.027. CERTIFICATION OF RUNOFF CANDIDATES.** The presiding officer of the final canvassing authority shall certify in writing for placement on a runoff election ballot the names of the runoff candidates and shall deliver the certification to the authority responsible for having the official ballot prepared.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 2.028. TIE VOTE IN RUNOFF.** (a) Except as provided by Subsection (c), if the candidates in a runoff election tie, an automatic recount shall be conducted in accordance with Chapter 216. If the recount does not resolve the tie, the tied candidates shall cast lots to determine the winner.

(b) The presiding officer of the final canvassing authority shall supervise the casting of lots under this section.

(c) A tying candidate may resolve the tie by filing with the presiding officer of the final canvassing authority a written statement of withdrawal signed and sworn to by the candidate. If the statement of withdrawal is received before the automatic recount is conducted, the remaining candidate is the winner, and the automatic recount is not conducted. If the statement of withdrawal is received not later than 5 p.m. the day after the date the automatic recount is conducted, the remaining candidate is the winner, and a casting of lots is not held.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch.

## SUBCHAPTER C. ELECTION OF UNOPPOSED CANDIDATE

**Sec. 2.051. APPLICABILITY OF SUBCHAPTER.** (a) Except as provided by Section 2.055, this subchapter applies only to an election for officers of a political subdivision other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates and in which each candidate for an office that is to appear on the ballot is unopposed, except as provided by Subsection (b). For purposes of this section, a special election of a political subdivision is considered to be a separate election with a separate ballot from:

- (1) a general election for officers of the political subdivision held at the same time as the special election; or
- (2) another special election of the political subdivision held at the same time as the special election.

(b) In the case of an election in which any members of the political subdivision's governing body are elected from territorial units such as single-member districts, this subchapter applies to the election in a particular territorial unit if each candidate for an office that is to appear on the ballot in that territorial unit is unopposed and no opposed at-large race is to appear on the ballot. This subchapter applies to an unopposed at-large race in such an election regardless of whether an opposed race is to appear on the ballot in a particular territorial unit.

Added by Acts 1995, 74<sup>th</sup> Leg., ch. 667, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75<sup>th</sup> Leg., ch. 1349, Sec. 3, eff. Sept. 1, 1997; Acts 2001, 77<sup>th</sup> Leg., ch. 17, Sec. 1, eff. Jan. 1, 2002; Acts 2003, 78<sup>th</sup> Leg., ch. 1061, Sec. 1; Acts 2003, 78<sup>th</sup> Leg., ch. 1316, Sec. 3, eff. Sept. 1, 2003.

Amended by: Acts 2005, 79<sup>th</sup> Leg., Ch. 1107 (H.B. 2309), Sec. 1.01, eff. September 1, 2005; Acts 2009, 81<sup>st</sup> Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 1, eff. September 1, 2009; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 6, eff. Sept. 1, 2021; S.B. 1089, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2023.

**Sec. 2.052. CERTIFICATION OF UNOPPOSED STATUS.** (a) The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted.

(b) The certification shall be delivered to the governing body of the political subdivision as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.

(c) A certification may be made under Subsection (a) following the filing of a withdrawal request by a candidate after the deadline prescribed by Section 145.092 if:

- (1) the withdrawal request is valid except for the untimely filing;
- (2) ballots for the election have not been prepared; and
- (3) the conditions for certification under Subsection (a) are otherwise met.

(d) A certification described by Subsection (c) shall be delivered to the governing body of the political subdivision as soon as possible.

Added by Acts 1995, 74<sup>th</sup> Leg., ch. 667, Sec. 1, eff. Sept. 1, 1995.

Amended by: Acts 2005, 79<sup>th</sup> Leg., Ch. 1107 (H.B. 2309), Sec. 1.02, eff. September 1, 2005; HB 1661, 85<sup>th</sup> Leg., eff. September 1, 2017.

**Sec. 2.053. ACTION ON CERTIFICATION.** (a) On receipt of the certification, the governing body of the political subdivision by order or ordinance shall declare each unopposed candidate elected to the office. If no election is to be held on election day by the political subdivision, a copy of the order or ordinance shall be posted on election day at each polling place used or that would have been used in the election.

(b) If a declaration is made under Subsection (a), the election is not held.

(c) The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the candidates.

(d) The secretary of state by rule may prescribe any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of this section.

(e) A certificate of election shall be issued to each candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election.

Added by Acts 1995, 74<sup>th</sup> Leg., ch. 667, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78<sup>th</sup> Leg., ch. 1316, Sec. 4, eff. Sept. 1, 2003; Acts 2009, 81<sup>st</sup> Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 2, eff. September 1, 2009; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 3.01, eff. Dec. 2, 2021.

**Sec. 2.055. SPECIAL ELECTION TO FILL VACANCY IN LEGISLATURE.** (a) The secretary of state shall declare an unopposed candidate elected to fill a vacancy in the legislature if:

(1) each candidate for an office that is to appear on the ballot is unopposed; and

(2) no proposition is to appear on the ballot.

(b) The declaration under Subsection (a) shall be made on the second day after:

(1) the last date an application for a place on the special election ballot may be filed; or

(2) the date of a withdrawal, death, or final judgment of ineligibility of a candidate that causes the remaining candidate to be unopposed.

(c) After a declaration is made under Subsection (a), the election is not held. A copy of the declaration shall be posted on election day at each polling place that would have been used in the election.

(d) At the same time a declaration is made under Subsection (a), the secretary of state shall issue a certificate of election to each candidate in the same manner as provided for a candidate elected at the election.

Added by Acts 2001, 77th Leg., ch. 17, Sec. 2, eff. Jan. 1, 2002. Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.03, eff. September 1, 2005. Acts 2011, 82nd Leg., R.S., Ch. 467 (H.B. 184), Sec. 1, eff. September 1, 2011.

## **SUBCHAPTER D. CANCELLATION OF ELECTIONS**

**Sec. 2.081. CANCELLATION OF MOOT MEASURE.** (a) If an authority that orders an election on a measure determines that the action to be authorized by the voters may not be taken, regardless of the outcome of the election, the authority may declare the measure moot and remove the measure from the ballot.

(b) If a measure is declared moot under this section and is removed from the ballot, the authority holding the election shall post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.

(c) A county election officer, as defined by Section 31.091, may use a single combined notice of cancellation under Subsection (b) for all authorities:

(1) for which the officer provides election services under contract; and

(2) that declare an election moot under Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 4, eff. September 1, 2009.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 1107 (H.B. 3157), Sec. 1, eff. September 1, 2015.

**Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED.** An authority that orders an election may cancel the election only if the power to cancel the election is specifically provided by statute.

Added by Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 4, eff. September 1, 2009.

## **CHAPTER 3. ORDERING ELECTION**

**Sec. 3.001. ORDER REQUIRED.** Each general and special election shall be ordered as provided by this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 3.002. CONFLICTS WITH OTHER LAW.** A law outside this chapter supersedes this chapter to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 3.003. ELECTION ORDERED BY GOVERNOR.** (a) The governor shall order:

(1) each general election for officers of the state government, members of the United States Congress, and electors for president and vice-president of the United States;

(2) each election on a proposed constitutional amendment; and

(3) each special election to fill a vacancy in the legislature or in congress.

(b) The order shall be made by proclamation.

(c) Not later than the 36th day before election day, a copy of the proclamation ordering an election shall be mailed to the county judge of each county wholly or partly in the territory covered by the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 3.004. ELECTION OF POLITICAL SUBDIVISION.** (a) The following authority shall order an election:

(1) the county judge, for the general election for officers of the county government;

(2) the mayor, for the general election for city officers in a city with a population of 1.9 million or more;

and

(3) the governing body of a political subdivision, other than a county or a city described by Subdivision (2), that has elective offices, for the general election for those officers.

(b) If a law providing for an election relating to the affairs of a political subdivision does not designate the authority responsible for ordering the election, the governing body of the political subdivision shall order the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77th Leg., ch. 340, Sec. 1, eff. Sept. 1, 2001.

**Sec. 3.005. TIME FOR ORDERING ELECTION.** (a) Except as provided by Subsections (c) and (d), an election ordered by an authority of a political subdivision shall be ordered not later than the 62nd day before election day.

(b) This section supersedes a law outside this code to the extent of any conflict.

(c) For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day.

(d) Except as provided by Subsection (c), an election under Section 26.08, Tax Code, to ratify a tax rate adopted by the governing body of a school district under Section 26.05(g) of that code shall be ordered not later than the 30th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 925, Sec. 1, eff. Nov. 1, 2003.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 2, eff. September 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 78, eff.

September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 3, eff. September 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 3,

eff. September 1, 2015; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 7, eff. Sept. 1, 2021.

**Sec. 3.006. CONTENTS OF ELECTION ORDER.** In addition to any other elements required to be included in an election order by other law, each election order must state the date of the election and the offices or measures to be voted on at the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 3.007. FAILURE TO ORDER GENERAL ELECTION.** Failure to order a general election does not affect the validity of the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 3.008. PRESERVATION OF ELECTION ORDER.** (a) The authority ordering an election shall preserve the order, proclamation, or other document ordering the election for the period for preserving the precinct election records.

(b) For an election ordered by an authority of a political subdivision, the date and nature of each election shall be entered in the official records of the political subdivision's governing body. For an election on a measure, the entry must



include a description of the measure.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 3.009. CONTENTS OF DEBT OBLIGATION ELECTION ORDER.** (a) In this section, "debt obligation" means an issued public security, as defined by Section 1201.002, Government Code, that is secured by and payable from ad valorem taxes. The term does not include public securities that are designated as self-supporting by the political subdivision issuing the securities.

(b) The document ordering an election to authorize a political subdivision to issue debt obligations must distinctly state:

- (1) the proposition language that will appear on the ballot;
- (2) the purpose for which the debt obligations are to be authorized;
- (3) the principal amount of the debt obligations to be authorized;
- (4) that taxes sufficient to pay the principal of and interest on the debt obligations may be imposed;
- (5) a statement of the estimated tax rate if the debt obligations are authorized or of the maximum interest rate of the debt obligations or any series of the debt obligations, based on the market conditions at the time of the election order;
- (6) the maximum maturity date of the debt obligations to be authorized or that the debt obligations may be issued to mature over a specified number of years not to exceed the maximum number of years authorized by law;
- (7) the aggregate amount of the outstanding principal of the political subdivision's debt obligations as of the date the election is ordered;
- (8) the aggregate amount of the outstanding interest on debt obligations of the political subdivision as of the date the election is ordered, which may be based on the political subdivision's expectations relative to variable rate debt obligations; and
- (9) the ad valorem debt service tax rate for the political subdivision at the time the election is ordered, expressed as an amount per \$100 valuation of taxable property.

Added by Acts 2013, 83rd Leg., R.S., Ch. 554 (S.B. 637), Sec. 1, eff. September 1, 2013. Amended by H.B. 477, 86<sup>th</sup> Leg. Sec. 1, eff. Sept. 1, 2019.

## **CHAPTER 4. NOTICE OF ELECTION**

**Sec. 4.001. NOTICE REQUIRED.** Notice of each general and special election shall be given as provided by this chapter.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 4.002. AUTHORITY RESPONSIBLE FOR GIVING NOTICE.** Except as otherwise provided by law, the following authority shall give notice of an election:

- (1) the county judge of each county wholly or partly in the territory covered by the election, for an election ordered by the governor;
- (2) the presiding officer of the governing body of a political subdivision, for an election ordered by the presiding officer or the governing body; and
- (3) the authority ordering the election, for an election ordered by any other authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 4.003. METHOD OF GIVING NOTICE.** (a) Except as provided by Subsection (c), notice of an election must be given by any one or more of the following methods:

- (1) by publishing the notice at least once, not earlier than the 30th day or later than the 10th day before election day:

(A) in a newspaper published in the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice; or

(B) in a newspaper of general circulation in the territory if none is published in the jurisdiction of the authority responsible for giving the notice;

- (2) by posting, not later than the 21st day before election day, a copy of the notice at a public place in each election precinct that is in the jurisdiction of the authority responsible for giving the notice; or

- (3) by mailing, not later than the 10th day before election day, a copy of the notice to each registered voter of the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice.

(b) In addition to any other notice given for an election under Subsection (a), not later than the 21st day before election day, a county shall post a copy of a notice of the election given by the county or provided to the county under Section 4.008(a), which must include the location of each polling place, on the county's Internet website, if the county maintains a website. An authority responsible for giving notice of an election may post a copy of the notice on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision that the authority serves. If a county does not maintain a website, the authority responsible for giving notice of the election shall post a copy of a notice of the election on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision that the authority serves. For each precinct that is combined to form a consolidated precinct under Section 42.008, not later than the 10th day before election day, the authority shall also post, at the polling place used in the preceding general election, notice of the precinct's consolidation and the location of the polling place in the consolidated precinct. A notice posted under this subsection must remain posted continuously through election day.

(c) In addition to any other notice given, notice of an election ordered by the governor, by a county authority, or by an authority of a city or school district must be given by the method prescribed by Subsection (a)(1).

(d) If other law prescribes the method of giving notice of an election, that law supersedes this section, except that Subsection (c) applies regardless of the notice requirements prescribed by other law with respect to an election covered by that subsection.

(e) The authority responsible for giving notice of the election shall deliver to the secretary of state a copy of the notice of a consolidated precinct required by Subsection (b) not later than the date of the election.

(f) A debt obligation election order required under Section 3.009 shall be posted:

- (1) on election day and during early voting by personal appearance, in a prominent location at each polling place;

(2) not later than the 21st day before the election, in three public places in the boundaries of the political subdivision holding the election; and

(3) during the 21 days before the election, on the political subdivision's Internet website, prominently and together with the notice of the election, the contents of the proposition, and any sample ballot prepared for the election, if the political subdivision maintains an Internet website.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 114,

Sec. 1, eff. Sept. 1, 1989; Acts 2013, 83rd Leg., R.S., Ch. 554 (S.B. 637), Sec. 2, eff. Sept. 1, 2013; H.B. 440, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019; H.B. 933, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 8, eff. Sept. 1, 2021.

**Sec. 4.004. CONTENTS OF NOTICE.** (a) The notice of a general or special election must state:

- (1) the nature and date of the election;
- (2) except as provided by Subsection (c), the location of each polling place;
- (3) the hours that the polls will be open;
- (4) the Internet website of the authority conducting the election; and
- (5) any other information required by other law.

(b) The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. This subsection does not apply to an election on a proposed constitutional amendment.

(c) If notice of an election is given by posting the notice in the various election precincts, the notice posted in a precinct is not required to state the location of the polling places in other precincts.

(d) If precincts are consolidated under Section 42.008, the notice must state which precincts have been combined to form each consolidated precinct in addition to the locations of the polling places in the consolidated precincts.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 479, Sec. 2, eff. Sept. 1, 1987; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 5, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 1, eff. September 1, 2011 H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 9, eff. Sept. 1, 2021.

**Sec. 4.005. RECORD OF NOTICE.** (a) If notice of an election is given by publication, the authority responsible for giving the notice shall retain a copy of the published notice that contains the name of the newspaper and the date of publication.

(b) For each notice posted under Section 4.003(a)(2) or (b), the person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the authority responsible for giving the election notice after the last posting is made.

(c) If notice of an election is given under Section 4.003(a)(3), the authority responsible for giving the notice shall:

- (1) retain a copy of the notice and enter on the copy the date or dates the mailing occurred; and
- (2) prepare a list of the names and addresses of the persons to whom the notice was mailed.

(d) The authority responsible for giving the election notice shall preserve the records required by this section for the period for preserving the precinct election records.

(e) If other law prescribes the method of preserving the notice of an election, that law supersedes this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.01, eff. Aug. 28, 1989.

**Sec. 4.006. FAILURE TO GIVE NOTICE OF GENERAL ELECTION.** Failure to give notice of a general election does not affect the validity of the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 4.007. NOTICE TO ELECTION JUDGE.** Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the authority responsible for giving notice of the election shall deliver to the presiding judge of each election precinct in which the election is to be held in the authority's jurisdiction a written notice of:

- (1) the nature and date of the election;
- (2) the location of the polling place for the precinct served by the judge;
- (3) the hours that the polls will be open;
- (4) the judge's duty to hold the election in the precinct specified by the notice; and
- (5) the maximum number of clerks that the judge may appoint for the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 4.008. NOTICE TO COUNTY CLERK.** (a) Except as provided by Subsection (b), the governing body of a political subdivision, other than a county, that orders an election shall deliver notice of the election, including the location of each polling place, to the county clerk and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day. The county clerk shall post notice of the election, including the location of each polling place, on the county's Internet website, if the county maintains a website, as provided by Section 4.003(b).

(b) The governing body of a school district that orders an election under Section 26.08, Tax Code, to ratify an ad valorem tax rate adopted by the governing body under Section 26.05(g) of that code shall deliver notice of the election to the county clerk of each county in which the school district is located not later than the 30th day before election day.

Added by Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.05, eff. September 1, 2005. Amended by: Acts 2009, 81st Leg., R.S., Ch. 195 (H.B. 3062), Sec. 1, eff. September 1, 2009; Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 79, eff. September 1, 2009; H.B. 933, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019.

**Sec. 4.009. INTERNET POSTING.** (a) Not later than the 21<sup>st</sup> day before election day, a county that holds or provides election services for an election and maintains an Internet website shall post on its public Internet website for an election of public officials or of a governmental entity authorized by law to impose a tax administered by the county:

- (1) the date of the election;
- (2) the location of each polling place;
- (3) each candidate for an elected office on the ballot; and
- (4) each measure on the ballot.

(b) Not later than the 21<sup>st</sup> day before election day, a city or independent school district that holds an election and maintains an Internet website shall post on the public Internet website for the city or independent school district, as applicable:

- (1) the date of the next election;
- (2) the location of each polling place;
- (3) each candidate for an elected office on the ballot; and
- (4) each measure on the ballot.

Added by S.B. 1116, 87<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2021.

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## TITLE 2. VOTER QUALIFICATIONS AND REGISTRATION

### CHAPTER 11. QUALIFICATIONS AND REQUIREMENTS FOR VOTING

**Sec. 11.001. ELIGIBILITY TO VOTE.** (a) Except as otherwise provided by law, to be eligible to vote in an election in this state, a person must:

- (1) be a qualified voter as defined by Section 11.002 on the day the person offers to vote;
- (2) be a resident of the territory covered by the election for the office or measure on which the person desires to vote; and
- (3) satisfy all other requirements for voting prescribed by law for the particular election.

(b) For a person who resides on property located in more than one territory described by Subsection (a)(2), the person shall choose in which territory the residence of the person is located.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.06, eff. September 1, 2005.

**Sec. 11.002. QUALIFIED VOTER.** (a) In this code, "qualified voter" means a person who:

- (1) is 18 years of age or older;
- (2) is a United States citizen;
- (3) has not been determined by a final judgment of a court exercising probate jurisdiction to be:
  - (A) totally mentally incapacitated; or
  - (B) partially mentally incapacitated without the right to vote;
- (4) has not been finally convicted of a felony or, if so convicted, has:
  - (A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or
  - (B) been pardoned or otherwise released from the resulting disability to vote;
- (5) is a resident of this state; and
- (6) is a registered voter.

(b) For purposes of Subsection (a)(4), a person is not considered to have been finally convicted of an offense for which the criminal proceedings are deferred without an adjudication of guilt.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 23, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 16, Sec. 6.01, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 916, Sec. 27, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 850, Sec. 1, eff. Sept. 1, 1997. Amended by: Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 22, eff. September 1, 2007; Acts 2011, 82nd Leg., R.S., Ch. 744 (H.B. 1226), Sec. 1, eff. June 17, 2011.

**Sec. 11.003. PLACE FOR VOTING.** Except as otherwise provided by this code, a person may vote only in the election precinct in which the person resides.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 11.004. VOTING IN PRECINCT OF FORMER RESIDENCE.** A registered voter who changes residence to another election precinct in the same county, if otherwise eligible, may vote a full ballot in the election precinct of former residence until the voter's registration becomes effective in the new precinct if the voter satisfies the residence requirements prescribed by Section 63.0011 and submits a statement of residence in accordance with that section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 1, eff. Sept. 1, 1995.

**Sec. 11.005. EFFECT OF VOTE BY VOTER REGISTERED IN WRONG PRECINCT.** If a voter who is erroneously registered in an election precinct in which the voter does not reside is permitted to vote by an election officer who does not know of the erroneous registration, the votes for the offices and measures on which the voter would have been eligible to vote in the voter's precinct of residence are valid unless the voter intentionally gave false information to procure the erroneous registration.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 5, eff. Sept. 1, 1997.

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## CHAPTER 12. VOTER REGISTRAR

### SUBCHAPTER A. VOTER REGISTRAR

**Sec. 12.001. DESIGNATION OF VOTER REGISTRAR.** The county tax assessor-collector is the voter registrar for the county unless the position of county elections administrator is created or the county clerk is designated as the voter registrar.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 12.002. ADMINISTRATION OF OATHS.** The registrar may administer and certify an oath under the seal of office if the oath is required in connection with the registrar's responsibilities under this code.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 12.003. FEES PROHIBITED.** The registrar may not charge a fee for performing a function in connection with voter registration unless expressly authorized to do so by law.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 12.004. OFFICE HOURS.** (a) The registrar shall conduct voter registration activities at all times during regular office hours.

(b) The registrar may keep the office open for voter registration activities at times other than regular office hours. The registrar shall post notice of the irregular days and hours the office will be open. The notice must remain posted continuously at each entrance to the registrar's office for the period beginning not later than the third day before the day the office is to be open during irregular hours and ending after the last time specified in the notice for the office to be open.

(c) The registrar's office shall remain open for voter registration activities during the hours the polls are required to be open for voting on the date of any general or primary election in which a statewide office appears on the ballot or any other election held in the county on a uniform election date.

(d) If early voting by personal appearance is required to be conducted for extended hours under Section 85.005(c) or for weekend hours under Section 85.006(e), the registrar's office shall remain open for providing voter registration information during the extended hours or weekend hours that the main early voting polling place is open for voting.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 54, Sec. 1(a), eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 916, Sec. 2, eff. Sept. 1, 1993.

**Sec. 12.005. BRANCH OFFICES.** The registrar may establish one or more branch offices in the county to conduct voter registration activities for the convenience of persons desiring to register. A branch office may be temporary or permanent.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 12.006. REGULAR DEPUTY REGISTRARS.** (a) The registrar may appoint one or more deputy registrars to assist in the registration of voters, subject to Subsection (e).

(b) In this code, "regular deputy registrar" means a deputy registrar appointed under this section.

(c) Except as provided by Subsection (d), a regular deputy registrar has the same authority as the registrar, subject to the registrar's supervision.

(d) A regular deputy registrar may not hear or determine a challenge under this title.

(e) To be eligible for appointment as a regular deputy registrar under this section, a person must meet the requirements to be a qualified voter under Section 11.002 except that the person is not required to be a registered voter.

(f) A regular deputy registrar may not assist in the registration of voters until the deputy registrar has completed training developed under Section 13.047. At the time of appointment, the voter registrar shall provide information about the times and places at which training is offered.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986;

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 507 (H.B. 1570), Sec. 1, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 1, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(13), eff. September 1, 2013.



## SUBCHAPTER B. COUNTY CLERK AS VOTER REGISTRAR

**Sec. 12.031. DESIGNATION OF COUNTY CLERK AS VOTER REGISTRAR.** The commissioners court by written order may designate the county clerk as the voter registrar for the county if the county clerk and county tax assessor-collector agree to the designation.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 12.032. DESIGNATION ORDER.** (a) The order designating the county clerk as the voter registrar must state the effective date of the transfer of voter registration duties and functions to the county clerk.

(b) The county clerk shall deliver a certified copy of the order to the secretary of state not later than the third day after the date the order is adopted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by S.B. 893, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 12.033. APPROPRIATION BY COMMISSIONERS COURT.** The amount initially appropriated by the commissioners court for the voter registration activities of the county clerk may not be less than the amount last appropriated to the county's voter registrar for the same purpose.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 12.034. RESCISSION OF DESIGNATION ORDER.** (a) The commissioners court by written order may rescind the order designating the county clerk as the voter registrar at any time after two years have elapsed from the date the order was adopted, to become effective on a date stated in the order.

(b) Not later than the third day after the date the rescission order is adopted, the county clerk shall deliver a certified copy of the order to the secretary of state.

(c) On the effective date of the rescission, the county tax assessor-collector is the voter registrar for the county unless the position of county elections administrator is created.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by S.B. 893, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019.

## **CHAPTER 13. APPLICATION FOR REGISTRATION; INITIAL REGISTRATION**

### **SUBCHAPTER A. ELIGIBILITY; MANNER OF APPLYING FOR REGISTRATION**

**Sec. 13.001. ELIGIBILITY FOR REGISTRATION.** (a) To be eligible for registration as a voter in this state, a person must:

- (1) be 18 years of age or older;
- (2) be a United States citizen;
- (3) not have been determined by a final judgment of a court exercising probate jurisdiction to be:
  - (A) totally mentally incapacitated; or
  - (B) partially mentally incapacitated without the right to vote;
- (4) not have been finally convicted of a felony or, if so convicted, must have:
  - (A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or
  - (B) been pardoned or otherwise released from the resulting disability to vote; and
- (5) be a resident of the county in which application for registration is made.

(b) To be eligible to apply for registration, a person must, on the date the registration application is submitted to the registrar, be at least 17 years and 10 months of age and satisfy the requirements of Subsection (a) except for age.

(c) For purposes of Subsection (a)(4), a person is not considered to have been finally convicted of an offense for which the criminal proceedings are deferred without an adjudication of guilt.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 23, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 16, Sec. 6.02, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 916, Sec. 27, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 850, Sec. 2, eff. Sept. 1, 1997. Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 23, eff. September 1, 2007. Acts 2011, 82nd Leg., R.S., Ch. 744 (H.B. 1226), Sec. 2, eff. June 17, 2011.

**Sec. 13.002. APPLICATION REQUIRED.** (a) A person desiring to register to vote must submit an application to the registrar of the county in which the person resides. Except as provided by Subsection (e), an application must be submitted by personal delivery, by mail, or by telephonic facsimile machine in accordance with Sections 13.143(d) and (d-2).

(b) A registration application must be in writing and signed by the applicant.

(c) A registration application must include:

- (1) the applicant's first name, middle name, if any, last name, and former name, if any;
- (2) the month, day, and year of the applicant's birth;
- (3) a statement that the applicant is a United States citizen;
- (4) a statement that the applicant is a resident of the county;
- (5) a statement that the applicant has not been determined by a final judgment of a court exercising probate jurisdiction to be:
  - (A) totally mentally incapacitated; or
  - (B) partially mentally incapacitated without the right to vote;
- (6) a statement that the applicant has not been finally convicted of a felony or that the applicant is a felon eligible for registration under Section 13.001;
- (7) the applicant's residence address or, if the residence has no address, the address at which the applicant receives mail and a concise description of the location of the applicant's residence;
- (8) the following information:
  - (A) the applicant's Texas driver's license number or the number of a personal identification card issued by the Department of Public Safety;
  - (B) if the applicant has not been issued a number described by Paragraph (A), the last four digits of the applicant's social security number; or
  - (C) a statement by the applicant that the applicant has not been issued a number described by Paragraph (A) or (B);
- (9) if the application is made by an agent, a statement of the agent's relationship to the applicant; and
- (10) the city and county in which the applicant formerly resided.

(c-1) The information required under Subsections (c)(3), (4), (5), (6), and (8) must be supplied by the person desiring to register to vote.

(d) The omission of the applicant's middle or former name under Subsection (c)(1) or the applicant's zip code under Subsection (c)(7) does not affect the validity of a registration application, and the registrar may not reject the application

because of that omission.

(e) A person who is certified for participation in the address confidentiality program administered by the attorney general under Subchapter B, Chapter 58, Code of Criminal Procedure, is not eligible for early voting by mail under Section 82.007 unless the person submits an application under this section by personal delivery. The secretary of state may adopt rules to implement this subsection.

(f) Instead of the statement required by Subsection (c)(5), an applicant who has been determined to be partially mentally incapacitated without the right to vote by a court and who is eligible to register because of Section 1.020(b) shall include in the application a statement that the person's guardianship has been modified to include the right to vote or the person's mental capacity has been completely restored, as applicable, by a final judgment of a court.

(g) Instead of the statement required by Subsection (c)(5), an applicant who has been determined to be totally mentally incapacitated by a court and who is eligible to register because of Section 1.020(a) shall include in the application a statement that the person's mental capacity has been completely restored by a final judgment of a court.

(h) The submission of a federal postcard application constitutes an application for registration under this section at the voting residence address stated on the application. This subsection does not apply to a person who indicates on the person's federal postcard application that the person is residing outside the United States indefinitely. The secretary of state shall prescribe rules to implement this subsection, including:

(1) rules providing directions to court clerks regarding the inclusion on jury lists of persons who submit federal postcard applications; and

(2) rules relating to whether a person who submits a federal postcard application is to be considered a registered voter of the applicable authority for the purposes of determining the number of signatures required on a petition.

(i) An applicant who wishes to receive an exemption from the requirements of Section 63.001(b) on the basis of disability must submit:

(1) written documentation:

(A) from the United States Social Security Administration evidencing the applicant has been determined to have a disability; or

(B) from the United States Department of Veterans Affairs evidencing the applicant has a disability rating of at least 50 percent; and

(2) a statement in a form prescribed by the secretary of state that the applicant does not have a form of identification acceptable under Section 63.0101.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 436, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 472, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 920, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 7.02, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 916, Sec. 30(c), eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 390, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 797, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 454, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 1, eff. Jan. 1, 2004; Acts 2005, 79th Leg., Ch. 1049 (H.B. 1268), Sec. 1, eff. January 1, 2006; Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 24, eff. September 1, 2007; Acts 2007, 80th Leg., R.S., Ch. 1295 (S.B. 74), Sec. 4, eff. June 15, 2007; Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(11), eff. September 1, 2009; Acts 2009, 81st Leg., R.S., Ch. 91 (H.B. 536), Sec. 1, eff. September 1, 2009; Acts 2009, 81st Leg., R.S., Ch. 632 (H.B. 1448), Sec. 1, eff. June 19, 2009; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 1, eff. January 1, 2012; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 2, eff. September 1, 2013; H.B. 4173, 86th Leg., Sec. 2.25, eff. Jan. 1, 2021; H.B. 3107, 87th Leg., R.S., Sec. 10, eff. Sept. 1, 2021; S.B. 1, 87th Leg., 2nd C.S., Sec. 2.01, eff. Dec. 2, 2021.

**Sec. 13.0021. ADDITIONAL REGISTRATION INFORMATION FROM CERTAIN FEDERAL AND STATE JUDGES, FEDERAL OFFICIALS, AND FAMILY MEMBERS.** (a) In this section, "family member" has the meaning assigned by Section 31.006, Finance Code.

(b) If the registration applicant is a federal judge, including a federal bankruptcy judge, a state judge, a marshal of the United States Marshals Service, a United States attorney, or a family member of a state judge, a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, or a United States attorney, the registrar of the county shall omit the applicant's residence address from the registration list.

Added by Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 1, eff. September 1, 2007. Amended by: Acts 2009, 81st Leg., R.S., Ch. 465 (S.B. 281), Sec. 1, eff. September 1, 2009; Acts 2009, 81st Leg., R.S., Ch. 1259 (H.B. 559), Sec. 1, eff. September 1, 2009; SB 42, 85th Leg., Sec. 20, eff. Sept. 1, 2017; H.B. 2910, 86th Leg., Sec. 10, eff. Sept. 1, 2019; S.B. 1134, 87th Leg., R.S., Sec. 1, eff. Sept 1, 2021.

**Sec. 13.003. APPLICATION BY AGENT.** (a) An applicant may appoint, either orally or in writing, an agent to perform one or more of the following acts for the applicant:

(1) complete and sign a registration application;

(2) submit an application;

(3) act on the applicant's behalf in the process of approving the application, including a challenge of the applicant;

- (4) receive a registration certificate in person; and
- (5) submit a notice or other applicable document for correcting registration information.
- (b) To be eligible for appointment as an agent, a person must:
  - (1) be the applicant's spouse, parent, or child; and
  - (2) be a qualified voter of the county or have submitted a registration application and be otherwise eligible to vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 436, Sec. 2, eff. Sept. 1, 1987.

**Sec. 13.004. RECORDING AND DISCLOSURE OF CERTAIN INFORMATION BY REGISTRAR.** (a) The registrar may not transcribe, copy, or otherwise record a telephone number furnished on a registration application.

(b) The registrar may transcribe, copy, or otherwise record a social security number furnished on a registration application only in maintaining the accuracy of the registration records.

(c) The following information furnished on a registration application is confidential and does not constitute public information for purposes of Chapter 552, Government Code:

- (1) a social security number;
- (2) a Texas driver's license number;
- (3) a number of a personal identification card issued by the Department of Public Safety;
- (4) the residence address of the applicant, if the applicant is a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge, a family member of a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge, the spouse of a peace officer as defined by Article 2A.001, Code of Criminal Procedure, or an individual to whom Section 552.1175, Government Code or Section 521.1211, Transportation Code, applies and the applicant:

(A) included an affidavit with the registration application describing the applicant's status under this subdivision, if the applicant is a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals service, a United States Attorney, or a state judge or a family member of a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge;

(B) provided the registrar with an affidavit describing the applicant's status under this subdivision, if the applicant is a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge or a family member of a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge; or

(C) provided the registrar with a completed form approved by the secretary of state for the purpose of notifying the registrar of the applicant's status under this subdivision;

(5) the residence address of the applicant, if the applicant, the applicant's child, or another person in the applicant's household is a victim of family violence as defined by Section 71.004, Family Code, who provided the registrar with:

(A) a copy of a protective order issued under Chapter 85, Family Code, or a magistrate's order for emergency protection issued under Article 17.292, Code of Criminal Procedure; or

(B) other independent documentary evidence necessary to show that the applicant, the applicant's child, or another person in the applicant's household is a victim of family violence;

(6) the residence address of the applicant, if the applicant, the applicant's child, or another person in the applicant's household is a victim of sexual assault or abuse, stalking, or trafficking of persons who provided the registrar with:

(A) a copy of a protective order issued under Subchapter A or B, Chapter 7B, Code of Criminal Procedure, or a magistrate's order for emergency protection issued under Article 17.292, Code of Criminal Procedure; or

(B) other independent documentary evidence necessary to show that the applicant, the applicant's child, or another person in the applicant's household is a victim of sexual assault or abuse, stalking, or trafficking of persons;

(7) the residence address of the applicant, if the applicant:

(A) is a participant in the address confidentiality program administered by the attorney general under Subchapter B, Chapter 58, Code of Criminal Procedure; and

(B) provided the registrar with proof of certification under Article 58.059, Code of Criminal

Procedure; or

(8) the telephone number of any applicant submitting documentation under Subdivision (4), (5), (6), or (7).

(c-1) The registrar shall ensure that the information listed in Subsection (c) is excluded from disclosure, except that the registrar shall forward to the county chair of each county executive committee the information necessary to contact applicants who indicate interest in working as an election judge.

(d) The voter registrar or other county official who has access to the information furnished on a registration application may not post the following information on a website:

(1) a telephone number;

(2) a social security number;

(3) a driver's license number or a number of a personal identification card;

(4) a date of birth; or

(5) the residence address of a voter who submits documentation under Subsection (c)(4), (5), (6), or (7) to the voter registrar, or regarding whom the registrar has received notification under Section 15.0215.

(e) Documentation submitted under Subsection (c)(4), (5), (6), or (7) shall be retained on file with the voter registration application.

(f) In this section, "family member" has the meaning assigned by Section 31.006, Finance Code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 454, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 606, Sec. 1, 2, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 487 (H.B. 345), Sec. 1, eff. June 17, 2005; Acts 2005, 79th Leg., Ch. 487 (H.B. 345), Sec. 2, eff. June 17, 2005; Acts 2005, 79th Leg., Ch. 1049 (H.B. 1268), Sec. 2, eff. January 1, 2006; Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 2, eff. September 1, 2007; Acts 2009, 81st Leg., R.S., Ch. 465 (S.B. 281), Sec. 2, eff. September 1, 2009; Acts 2013, 83rd Leg., R.S., Ch. 937 (H.B. 1632), Sec. 1, eff. June 14, 2013; H.B. 256, 85th R.S., Sec. 6, eff. May 19, 2017; H.B. 2015, 85th R.S., Sec. 1, eff. September 1, 2017; H.B. 2910, 86th Leg., Sec. 2, eff. Sept. 1, 2019; H.B. 3100, 86th Leg., Sec. 1, eff. June 7, 2019; H.B. 4173, 86th Leg., Sec. 2.26, eff. Jan. 1, 2021; H.B. 3107, 87th Leg., R.S., Sec. 11, eff. Sept. 1, 2021; S.B. 1134, 87th Leg., R.S., Sec. 2, eff. Sept. 1, 2021; S.B. 1134, 87th Leg., R.S., Sec. 2 & 3, eff. Sept. 1, 2021; H.B. 4595, 88th Leg., R.S., Sec. 7.001, eff. Sept. 1, 2023; H.B. 4504, 88th Leg., R.S., Sec. 2.045, eff. Jan. 1, 2025.

**Sec. 13.005. UNLAWFULLY ACTING AS AGENT.** (a) A person commits an offense if the person acts as an agent for an applicant but is not eligible for appointment as an agent under Section 13.003(b).

(b) An offense under this section is a Class B misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.006. PURPORTEDLY ACTING AS AGENT.** (a) A person commits an offense if the person purports to act as an agent in applying for registration or in signing a registration application at a time when the person:

(1) is not an agent of the applicant under Section 13.003(a); and

(2) is not eligible for appointment under Section 13.003(b) as the agent of the person for whom the person purports to act.

(b) An offense under this section is a felony of the third degree.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 6, eff. Sept. 1, 1997.

**Sec. 13.007. FALSE STATEMENT ON APPLICATION.** (a) A person commits an offense if the person knowingly or intentionally:

(1) makes a false statement; or

(2) requests, commands, coerces, or attempts to induce another person to make a false statement on a registration application.

(b) An offense under this section is a Class A misdemeanor, except that an offense under this section is a state jail felony if the person:

(1) directly or through a third party offers or provides compensation or other benefit to a person for activity described by Subsection (a); or

(2) solicits, receives, or accepts compensation or other benefit for an activity described by Subsection (a).

(c) If conduct that constitutes an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 436, Sec. 3, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 797, Sec. 3, eff. Sept. 1, 1995; S.B. 1, 87th Leg., 2<sup>nd</sup> C.S., Sec. 2.02, eff. Dec. 2, 2021.

**Sec. 13.008. PERFORMANCE-BASED COMPENSATION FOR REGISTERING VOTERS PROHIBITED.** (a) A person commits an offense if the person:

(1) compensates another person based on the number of voter registrations that the other person successfully facilitates;

- (2) presents another person with a quota of voter registrations to facilitate as a condition of payment or employment;
- (3) engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of voter registrations that the other person facilitates; or
- (4) accepts compensation for an activity described by Subdivision (1), (2), or (3).

(b) An offense under this section is a Class A misdemeanor.

(c) An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 2, eff. September 1, 2011.

## **SUBCHAPTER B. VOLUNTEER DEPUTY REGISTRARS; HIGH SCHOOL DEPUTY REGISTRARS**

**Sec. 13.031. APPOINTMENT; TERM.** (a) To encourage voter registration, the registrar shall appoint as deputy registrars persons who volunteer to serve.

(b) In this code, "volunteer deputy registrar" means a deputy registrar appointed under this section.

(c) Volunteer deputy registrars serve for terms expiring December 31 of even-numbered years.

(d) To be eligible for appointment as a volunteer deputy registrar, a person must:

(1) be 18 years of age or older;

(2) not have been finally convicted of a felony or, if so convicted, must have:

(A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or

(B) been pardoned or otherwise released from the resulting disability to vote;

(3) meet the requirements to be a qualified voter under Section 11.002 except that the person is not required to be a registered voter; and

(4) not have been finally convicted of an offense under Section 32.51, Penal Code.

(e) A volunteer deputy registrar appointed under this section may not receive another person's registration application until the deputy registrar has completed training developed under Section 13.047. At the time of appointment, the voter registrar shall provide information about the times and places at which training is offered.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2009, 81st Leg., R.S., Ch. 307 (H.B. 488), Sec. 1, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 507 (H.B. 1570), Sec. 2, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 3, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 2, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 5.001, eff. September 1, 2013.

**Sec. 13.032. PROHIBITION ON REFUSING TO APPOINT.** A registrar may not refuse to appoint as a volunteer deputy registrar:

(1) a person eligible for appointment under Section 13.031(d); or

(2) any person on the basis of sex, race, creed, color, or national origin or ancestry.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2009, 81st Leg., R.S., Ch. 307 (H.B. 488), Sec. 2, eff. September 1, 2009.

**Sec. 13.033. CERTIFICATE OF APPOINTMENT.** (a) A person desiring to serve as a volunteer deputy registrar must request appointment by the registrar in person or by mail.

(b) If a person is to be appointed, the registrar shall prepare a certificate of appointment in duplicate containing:

(1) the date of appointment;

(2) the statement: "I, \_\_\_\_\_, Voter Registrar for \_\_\_\_\_ County, do hereby appoint \_\_\_\_\_ as a volunteer deputy registrar for \_\_\_\_\_ County.";

(3) the person's residence address;

(4) the person's voter registration number, if any;

(5) a statement that the term of the appointment expires December 31 of an even-numbered year; and

(6) a statement that the appointment terminates on the person's final conviction for an offense for failure to deliver a registration application and may terminate on the registrar's determination that the person failed to adequately review a registration application, intentionally destroyed or physically altered a registration application, or engaged in any other activity that conflicts with the responsibilities of a volunteer deputy registrar under this chapter.

(c) The registrar shall sign the certificate and issue the original to the appointee, who shall sign it on receipt.

(d) A volunteer deputy shall present the certificate as identification to an applicant for registration, on request, when receiving the application for delivery to the registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 3, eff. Sept. 1, 1993; Acts 2015, 84th Leg., R.S., Ch. 1003 (H.B. 621), Sec. 1, eff. September 1, 2015.

**Sec. 13.034. ACTIVE APPOINTMENT FILE.** (a) The registrar shall maintain a file containing the duplicate certificates of appointment of the volunteer deputy registrars whose appointments are effective.

(b) The registrar shall maintain the file in alphabetical order by deputy name on a countywide basis.

(c) Each certificate shall be retained on file during the time the appointment is effective.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.035. INACTIVE APPOINTMENT FILE.** (a) The registrar shall maintain a file containing the duplicate certificates of appointment of the volunteer deputy registrars whose appointments have been terminated.

(b) The registrar shall enter the date of and reason for termination on each duplicate certificate.

(c) The registrar shall maintain the file in alphabetical order by deputy name on a countywide basis.

(d) Each certificate shall be retained on file for two years after the date of termination.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.036. TERMINATION OF APPOINTMENT.** (a) An appointment as a volunteer deputy registrar is terminated on:

(1) the expiration of the volunteer deputy's term of appointment; or

(2) the final conviction of the volunteer deputy for an offense prescribed by Section 13.008 or 13.043.

(b) The registrar may terminate the appointment of a volunteer deputy registrar on a determination by the registrar that the volunteer deputy:

(1) failed to adequately review a registration application as required by Section 13.039;

(2) intentionally destroyed or physically altered a registration application; or

(3) engaged in any other activity that conflicts with the responsibilities of a volunteer deputy registrar under this chapter.

(c) Immediately on the termination of an appointment, the registrar shall deliver written notice of the termination to the volunteer deputy, directing the deputy:

(1) to stop activity as a volunteer deputy registrar immediately; and

(2) to deliver the certificate of appointment, receipt forms, and registration applications and receipts in the volunteer deputy's possession to the registrar not later than the second day after the date the deputy receives the termination notice.

(d) The registrar shall reject all registration applications received by a person purporting to act as a volunteer deputy registrar after the person's appointment is terminated.

(e) The registrar may not reappoint a person whose appointment as a volunteer deputy registrar is terminated under Subsection (a)(2).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 4, eff. Sept. 1, 1993; Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 4, eff. September 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 1003 (H.B. 621), Sec. 2, eff. September 1, 2015.

**Sec. 13.037. COMPENSATION; BOND.** (a) A person may not receive compensation from the county for service as a volunteer deputy registrar unless compensation is authorized by the commissioners court.

(b) An unpaid volunteer deputy is not required to give a bond in connection with the deputy's service.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 5, eff. Sept. 1, 1993.

**Sec. 13.038. POWERS GENERALLY.** A volunteer deputy registrar may distribute voter registration application forms throughout the county and receive registration applications submitted to the deputy in person.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 7, eff. Sept. 1, 1997.

**Sec. 13.039. REVIEW OF APPLICATION.** (a) On receipt of a registration application, a volunteer deputy registrar shall review it for completeness in the applicant's presence.

(b) If the application does not contain all the required information and the required signature, the volunteer deputy shall return the application to the applicant for completion and resubmission.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.040. ISSUANCE OF RECEIPT.** (a) On receipt of a completed registration application, a volunteer deputy registrar shall prepare a receipt in duplicate on a form furnished by the registrar.

(b) The receipt must contain:

- (1) the name of the applicant and, if applicable, the name of the applicant's agent; and
  - (2) the date the completed application is submitted to the volunteer deputy.
  - (c) The volunteer deputy shall sign the receipt in the applicant's presence and shall give the original to the applicant.
  - (d) The volunteer deputy shall deliver the duplicate receipt to the registrar with the registration application. The registrar shall retain the receipt on file with the application.
  - (e) The secretary of state may prescribe a procedure that is an alternative to the procedure prescribed by this section that will ensure the accountability of the registration applications.
- Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.041. EFFECT OF SUBMISSION OF APPLICATION.** The date of submission of a completed registration application to a volunteer deputy registrar is considered to be the date of submission to the registrar for the purpose of determining the effective date of registration only.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.042. DELIVERY OF APPLICATION TO REGISTRAR.** (a) A volunteer deputy registrar shall deliver in person, or by personal delivery through another designated volunteer deputy, to the registrar each completed voter registration application submitted to the deputy, as provided by this section. The secretary of state shall prescribe any procedures necessary to ensure the proper and timely delivery of completed applications that are not delivered in person by the volunteer deputy who receives them.

(b) Except as provided by Subsection (c), an application shall be delivered to the registrar not later than 5 p.m. of the fifth day after the date the application is submitted to the volunteer deputy registrar.

(c) An application submitted after the 34th day before the date of an election and on or before the last day for a person to timely submit a registration application for that election as provided by Section 13.143 shall be delivered not later than 5 p.m. of the next regular business day after the date to timely submit a registration application for that election as provided by Section 13.143.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 2, eff. Sept. 1, 1987; H.B. 2324, 85th Leg., Sec. 1, eff. Sept. 1, 2017.

**Sec. 13.043. FAILURE TO DELIVER APPLICATION.** (a) A volunteer deputy registrar commits an offense if the deputy fails to comply with Section 13.042.

(b) Except as provided by Subsection (c), an offense under this section is a Class C misdemeanor.

(c) An offense under this section is a Class A misdemeanor if the deputy's failure to comply is intentional.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.044. PURPORTEDLY ACTING AS VOLUNTEER DEPUTY REGISTRAR.** (a) A person commits an offense if the person purports to act as a volunteer deputy registrar when the person does not have an effective appointment as a volunteer deputy registrar.

(b) An offense under this section is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.045. ACTIVITY ON GOVERNMENTAL PREMISES.** Except as otherwise provided by law, the chief executive of a state agency with approval of the agency's governing body, if any, the chief executive of a department of a city with approval of the city's governing body, or a county officer may permit an officer or employee under the chief executive's or officer's supervision who is a volunteer deputy registrar to engage in official registration activities during working hours on the premises under the chief executive's or officer's control.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.046. HIGH SCHOOL DEPUTY REGISTRARS.** (a) Each principal of a public or private high school or the principal's designee shall serve as a deputy registrar for the county in which the school is located.

(b) In this code, "high school deputy registrar" means a deputy registrar serving under this section.

(c) A high school deputy registrar may distribute registration application forms to and receive registration applications submitted to the deputy in person from students and employees of the school only.

(d) At least twice each school year, a high school deputy registrar shall distribute an officially prescribed registration application form to each student who is or will be 18 years of age or older during that year, subject to rules prescribed by the secretary of state.

(e) Each application form distributed under this section must be accompanied by a notice informing the student or



employee that the application may be submitted in person or by mail to the voter registrar of the county in which the applicant resides or in person to a high school deputy registrar or volunteer deputy registrar for delivery to the voter registrar of the county in which the applicant resides.

(f) Except as provided by this subsection, Sections 13.039, 13.041, and 13.042 apply to the submission and delivery of registration applications under this section, and for that purpose, "volunteer deputy registrar" in those sections includes a high school deputy registrar. A high school deputy registrar may review an application for completeness out of the applicant's presence. A deputy may deliver a group of applications to the registrar by mail in an envelope or package, and, for the purpose of determining compliance with the delivery deadline, an application delivered by mail is considered to be delivered at the time of its receipt by the registrar.

(g) A high school deputy registrar commits an offense if the deputy fails to comply with Section 13.042. An offense under this subsection is a Class C misdemeanor unless the deputy's failure to comply is intentional, in which case the offense is a Class A misdemeanor.

(h) The secretary of state shall prescribe any additional procedures necessary to implement this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 279, Sec. 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 797, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 864, Sec. 8, eff. Sept. 1, 1997.

**Sec. 13.047. TRAINING STANDARDS FOR DEPUTY REGISTRARS.** (a) The secretary of state shall:

- (1) adopt standards of training in election law relating to the registration of voters;
- (2) develop materials for a standardized curriculum for that training; and
- (3) distribute the materials as necessary to each county voter registrar.

(b) The training standards may include the passage of an examination at the end of a training program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 507 (H.B. 1570), Sec. 3, eff. September 1, 2011.

**Sec. 13.048. OPTIONAL PROCEDURE FOR APPOINTMENT OF VOLUNTEER DEPUTY REGISTRAR; PROVISION OF TRAINING MATERIALS ON SECRETARY OF STATE WEBSITE.** (a) A county may adopt a method of appointment for volunteer deputy registrars prescribed by the secretary of state or developed by the county and approved by the secretary of state under this section that provides for the training and examination of potential volunteer deputy registrars.

(b) For the purposes of this section, the secretary of state shall:

- (1) provide on the secretary of state's website the training materials prescribed by the secretary of state under Section 13.047 for volunteer deputy registrars; and
- (2) prescribe and make available on the secretary of state's website an examination based on those materials.

(c) A county that has adopted the method under this section:

- (1) shall administer the required examination to a potential volunteer deputy registrar at any time during the county voter registrar's regular business hours; and
- (2) is not required to hold in-person training sessions for potential volunteer deputy registrars.

(d) At the time a person satisfactorily completes the examination in compliance with standards adopted by the secretary of state, the registrar shall appoint the person as a volunteer deputy registrar and advise the person:

- (1) of county-specific procedures for processing voter registration applications, if applicable; and
- (2) that the only requirements for voter registration are those prescribed by state law or by the secretary of state.

Added by Acts 2015, 84th Leg., R.S., Ch. 1269 (S.B. 142), Sec. 1, eff. June 20, 2015.

## **SUBCHAPTER C. ACTION ON APPLICATION BY REGISTRAR**

**Sec. 13.071. REVIEW OF APPLICATION.** (a) The registrar shall review each submitted application for registration to determine whether it complies with Section 13.002 and indicates that the applicant is eligible for registration.

(b) The registrar shall make the determination not later than the seventh day after the date the application is submitted to the registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.072. ACTION ON APPLICATION.** (a) Unless the registrar challenges the applicant, the registrar shall approve the application if:

- (1) the registrar determines that an application complies with Section 13.002 and indicates that the applicant is eligible for registration; and
- (2) for an applicant who has not included a statement described by Section 13.002(c)(8)(C), the registrar

verifies with the secretary of state:

(A) the applicant's Texas driver's license number or number of a personal identification card issued by the Department of Public Safety; or

(B) the last four digits of the applicant's social security number.

(b) After approval of an application by an applicant who was registered in another county at the time of application, the registrar shall deliver written notice of the applicant's change of residence to the other county's registrar and include in the notice the applicant's name, former residence address, and former registration number, if known.

(c) Except as provided by Subsection (d), if the registrar determines that an application does not comply with Section 13.002 or does not indicate that the applicant is eligible for registration, the registrar shall reject the application.

(d) If an application clearly indicates that the applicant resides in another county, the registrar shall forward the application to the other county's registrar not later than the second day after the date the application is received. The date of submission of a completed application to the wrong registrar is considered to be the date of submission to the proper registrar for purposes of determining the effective date of the registration.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 415, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 559, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 5, 44, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 1105 (H.B. 2280), Sec. 1, eff. January 1, 2006; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 12, eff. Sept. 1, 2021.

**Sec. 13.073. NOTICE OF REJECTION.** (a) Except as provided by Subsection (b), the registrar shall deliver written notice of the reason for the rejection of an application to the applicant not later than the second day after the date of rejection.

(b) If the registrar rejects an application in the applicant's presence, at that time the registrar shall orally inform the applicant of the reason for the rejection. If the rejection is for incompleteness, the registrar shall return the application to the applicant for completion and resubmission.

(c) If the registrar rejects an application for incompleteness but receives a completed application not later than the 10th day after the date the notice is delivered under Subsection (a) or the date the incomplete application is returned under Subsection (b), as applicable, the original date of submission of the incomplete application is considered to be the date of submission to the registrar for the purpose of determining the effective date of registration.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 6, eff. Sept. 1, 2003.

**Sec. 13.074. CHALLENGE OF APPLICANT.** (a) If after determining that an application complies with Section 13.002 and indicates that the applicant is eligible for registration, the registrar has reason to believe the applicant is not eligible for registration or the application was submitted in an unauthorized manner, the registrar shall challenge the applicant.

(b) The registrar shall indicate on the application of a challenged applicant that the applicant's eligibility or the manner of submission of the application has been challenged and the date of the challenge.

(c) The registrar may not challenge an applicant later than the second day after the date the application is determined to comply with Section 13.002 and indicate that the applicant is eligible for registration.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.075. NOTICE OF CHALLENGE TO APPLICANT.** (a) Except as provided by Subsection (c), the registrar shall deliver written notice of the challenge to the applicant not later than the second day after the date of the challenge.

(b) The notice must include:

(1) the date of the challenge;

(2) a statement of the grounds for the challenge; and

(3) a brief explanation of the applicant's right to a hearing on the challenge and the right to appeal the registrar's decision.

(c) If a challenge is made in the applicant's presence, at that time the registrar shall orally explain to the applicant the grounds for the challenge and the applicant's right to a hearing and appeal.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.076. REQUEST FOR HEARING ON CHALLENGE.** (a) Except as provided by Subsection (b), to be entitled to a hearing on a challenge, the applicant must file a written, signed request for a hearing with the registrar not later than the 10th day after the date of the challenge.

(b) If a challenge is made in the applicant's presence, at that time the applicant may orally request a hearing.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.077. HEARING ON CHALLENGE.** (a) On the timely filing or making of a hearing request, the registrar shall schedule a hearing on the challenge.

(b) The registrar shall conduct the hearing not later than the 10th day after the date the request is filed or made or at a later date on the applicant's request.

(c) The applicant may appear personally at the hearing to offer evidence or argument. The applicant may offer evidence or argument by affidavit without personally appearing if the applicant submits the affidavit to the registrar before the hearing begins.

(d) If a challenge is made in the applicant's presence and the applicant orally requests a hearing, the hearing may be conducted at that time with the applicant's consent.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.078. NOTICE OF HEARING.** (a) The registrar shall deliver to a challenged applicant written notice of the date, hour, and place set for the hearing on the challenge not later than the second day after the date the hearing request is filed or made.

(b) This section does not apply to a hearing conducted under Section 13.077(d).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.079. DETERMINATION OF CHALLENGE.** (a) After hearing and considering the evidence or argument, the registrar shall promptly determine the challenge and issue a decision in writing.

(b) If the registrar determines that the applicant is eligible for registration or that the manner of submission of the application was authorized, the registrar shall approve the application.

(c) If the registrar determines that the applicant is not eligible for registration or that the manner of submission of the application was unauthorized, the registrar shall reject the application.

(d) The registrar shall retain a copy of the decision on file with the applicant's registration application and shall deliver a copy to the applicant.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.080. RECORDING REJECTION.** On rejection of an applicant's registration application, the registrar shall enter the date of and reason for the rejection on the application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER D. APPLICATION FILES**

**Sec. 13.101. ACTIVE APPLICATION FILE.** (a) The registrar shall maintain a file containing the approved registration applications of the registered voters of the county.

(b) The registrar shall maintain the file in alphabetical order by voter name on a countywide basis. However, the registrar may maintain the file in numerical order by registration number if the registrar regularly maintains a list of registered voters in alphabetical order by voter name on a countywide basis.

(c) Each application shall be retained on file during the time the registration is effective.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.102. INACTIVE APPLICATION FILE.** (a) The registrar shall maintain a file containing the rejected applications of applicants for registration.

(b) The registrar shall maintain a file, separate from the file maintained under Subsection (a), containing the applications of the voters whose registrations have been canceled.

(c) The registrar shall maintain each file in alphabetical order by applicant or voter name on a countywide basis.

(d) Each application shall be retained on file for two years after the date of rejection or cancellation.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.103. PLACE FOR KEEPING FILES; SECURITY.** (a) The registration application files maintained under this subchapter shall be kept in the registrar's office at all times in a place and manner ensuring their security.

(b) Applications may be removed from the registrar's office temporarily, in a manner ensuring their security, for use in preparing registration certificates, lists of registered voters, and other registration documents by electronic data-processing methods.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.104. OPTIONAL STORAGE METHOD.** (a) Instead of keeping the original registration applications and supporting

documentation as required by this title, the registrar may record the applications and documentation on an optical disk or other computer storage medium approved by the secretary of state.

(b) The storage medium must allow for the creation of a copy of an application or supporting documentation.

(c) The secretary of state shall prescribe any procedures necessary to implement this section.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 5, eff. Sept. 1, 1995.

## SUBCHAPTER E. OFFICIAL APPLICATION FORMS

**Sec. 13.121. OFFICIAL FORM FOR REGISTRATION BY MAIL.** (a) The officially prescribed application form for registration by mail must be in the form of a business reply postcard, unless another form or system is used under Subsection (b), with postage paid by the state. The secretary of state shall design the form to enhance the legibility of its contents.

(b) The secretary of state shall obtain a permit from the United States Postal Service for use of the postage-paid application form and shall arrange for payment of the postal charges with warrants issued by the comptroller of public accounts. The secretary may use any other form or system made available by the United States Postal Service if the form or system is less costly than the business reply system.

(c) The secretary of state shall have the official application forms for registration by mail printed and shall furnish the forms without charge to each registrar in a quantity the secretary determines sufficient for the proper conduct of voter registration.

(d) The secretary of state shall prescribe the procedures necessary to implement this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 3, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 1315, Sec. 2, eff. Jan. 1, 2004.

**Sec. 13.122. ADDITIONAL ELEMENTS ON OFFICIAL FORM.** (a) In addition to the other statements and spaces for entering information that appear on an officially prescribed registration application form, each official form must include:

(1) the statement: "I understand that giving false information to procure a voter registration is perjury and a crime under state and federal law.";

(2) a space for the applicant's registration number;

(3) a space for the applicant's Texas driver's license number or number of a personal identification card issued by the Department of Public Safety;

(4) a space for the applicant's telephone number;

(5) a space for the applicant's social security number;

(6) a space for the applicant's sex;

(7) a statement indicating that the furnishing of the applicant's telephone number and sex is optional;

(8) a space or box for indicating whether the applicant or voter is submitting new registration information or a change in current registration information;

(9) a statement instructing a voter who is using the form to make a change in current registration information to enter the voter's name and the changed information in the appropriate spaces on the form;

(10) a statement that if the applicant declines to register to vote, that fact will remain confidential and will be used only for voter registration purposes;

(11) a statement that if the applicant does register to vote, information regarding the agency or office to which the application is submitted will remain confidential and will be used only for voter registration purposes;

(12) a space or box for indicating whether the applicant is interested in working as an election judge;

(13) a statement warning that a conviction for making a false statement may result in imprisonment for up to the maximum amount of time provided by law, a fine of up to the maximum amount provided by law, or both the imprisonment and the fine; and

(14) any other voter registration information required by federal law or considered appropriate and required by the secretary of state.

(b) The term "residence address" may not be modified on an official registration application form by terms other than those comprising the specific elements of a residence address.

(c) If it becomes permissible under federal law to require an applicant for registration who has a social security number to furnish the number, the secretary of state may implement that requirement.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 6.03, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 442, Sec. 7, eff. Jan. 1, 1992; Acts 1991, 72nd Leg., ch. 559, Sec. 2, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 631, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 916, Sec. 30(b), eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 6, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 454, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 3, eff. Jan. 1, 2004; Acts 2005, 79th Leg., Ch. 1049 (H.B. 1268), Sec. 3, eff. January 1, 2006.

## SUBCHAPTER F. INITIAL REGISTRATION

**Sec. 13.141. REGISTRATION NUMBER.** The secretary of state shall prescribe a uniform system for assigning voter registration numbers.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1105 (H.B. 2280), Sec. 2, eff. January 1, 2006.

**Sec. 13.142. INITIAL REGISTRATION CERTIFICATE.** (a) After approval of a registration application, the registrar shall:

- (1) prepare a voter registration certificate and issue the original certificate to the applicant; and
- (2) enter the applicant's county election precinct number and registration number on the applicant's registration application.

(b) In this code, "initial certificate" means a registration certificate issued under this section.

(c) An initial certificate takes effect on the effective date of the registration and expires the following January 1 of an even-numbered year.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 1987, 70th Leg., ch. 436, Sec. 10, eff. Sept. 1, 1989; Acts 1987, 70th Leg., ch. 472, Sec. 53, eff. Sept. 1, 1989; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 13, eff. Sept. 1, 2021.

**Sec. 13.143. EFFECTIVE DATE OF REGISTRATION; PERIOD OF EFFECTIVENESS.** (a) Except as provided by Subsections (b) and (e), if an applicant's registration application is approved, the registration becomes effective on the 30th day after the date the application is submitted to the registrar or on the date the applicant becomes 18 years of age, whichever is later.

(b) A registration is effective for purposes of early voting if it will be effective on election day.

(c) A registration is effective until canceled under this code.

(d) For purposes of determining the effective date of a registration, an application submitted by:

(1) mail is considered to be submitted to the registrar on the date it is placed with postage prepaid and properly addressed in the United States mail; or

(2) telephonic facsimile machine is considered to be submitted to the registrar on the date the transmission is received by the registrar, subject to Subsection (d-2).

(d-1) The date indicated by the post office cancellation mark is considered to be the date the application was placed in the mail unless proven otherwise.

(d-2) For a registration application submitted by telephonic facsimile machine to be effective, a copy of the original registration application containing the voter's original signature must be submitted by personal delivery or mail and be received by the registrar not later than the fourth business day after the transmission by telephonic facsimile machine is received.

(e) If the 30th day before the date of an election is a Saturday, Sunday, or legal state or national holiday, an application is considered to be timely if it is submitted to the registrar on or before the next regular business day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 1989, 71st Leg., ch. 416, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.31; Acts 1991, 72nd Leg., ch. 554, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 916, Sec. 6, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 454, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 5, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 3, eff. September 1, 2013; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 14, eff. Sept. 1, 2021.

**Sec. 13.144. DELIVERY OF INITIAL CERTIFICATE TO VOTER.** (a) Not later than the 30th day after the date the registrar receives the application, the registrar shall deliver the original of an initial certificate:

(1) in person to the applicant or the applicant's agent appointed under Section 13.003; or

(2) by mail to the applicant.

(b) If delivery is by mail, the registrar shall send the certificate to the mailing address on the applicant's registration application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2007, 80th Leg., R.S., Ch. 844 (H.B. 1044), Sec. 1, eff. September 1, 2007. Acts 2007, 80th Leg., R.S., Ch. 844 (H.B. 1044), Sec. 4, eff. September 1, 2007.

**Sec. 13.145. UNLAWFUL DELIVERY OF CERTIFICATE.** (a) A voter registrar commits an offense if the registrar knowingly delivers a registration certificate to a person other than the applicant or the applicant's agent appointed under Section 13.003.

(b) An offense under this section is a felony of the third degree.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 13.146. CONFIRMATION NOTICE ON RETURN OF INITIAL CERTIFICATE.** (a) If an initial certificate

delivered to the applicant by mail is returned to the registrar undelivered, the registrar shall promptly deliver to the applicant a confirmation notice in accordance with Section 15.051.

(b) If the applicant fails to submit a response to the registrar in accordance with Section 15.053, the registrar shall enter the applicant's name on the suspense list.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 7, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 5.01, eff. Sept. 1, 1999.

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## **CHAPTER 14. RENEWAL OF REGISTRATION**

### **SUBCHAPTER A. ISSUANCE OF RENEWAL CERTIFICATE**

**Sec. 14.001. RENEWAL REGISTRATION CERTIFICATE.** (a) On or after November 15 but before December 6 of each odd-numbered year, the registrar shall issue a voter registration certificate to each voter in the county whose registration is effective on the preceding November 14 and whose name does not appear on the suspense list.

(b) In this code, "renewal certificate" means a registration certificate issued under this section.

(c) A renewal certificate is valid for two years beginning on January 1 following its issuance.

(d) At the time the registrar issues an initial certificate for a voter whose registration will be effective after November 14 of an odd-numbered year and before January 1 of the following year, the registrar shall also issue the voter a renewal certificate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 3, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 436, Sec. 11, eff. Sept. 1, 1989; Acts 1987, 70th Leg., ch. 472, Sec. 54, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 797, Sec. 8, eff. Sept. 1, 1995.

**Sec. 14.002. DELIVERY OF RENEWAL CERTIFICATE TO VOTER.** (a) Except as provided by Subsection (d), the registrar shall deliver a voter's renewal certificate by mail to the mailing address on the voter's registration application.

(b) The certificate, if mailed without an envelope, or the envelope containing the certificate must contain an instruction to the postal authorities not to forward it to any other address and to return it to the registrar if the addressee is no longer at the address to which the certificate was mailed.

(c) The registrar may not mail the certificate in the same envelope with a tax statement.

(d) The registrar shall deliver a renewal certificate issued under Section 14.001(d) with the voter's initial certificate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

### **SUBCHAPTER B. RETURN OF RENEWAL CERTIFICATE**

**Sec. 14.021. DISPOSITION OF RETURNED RENEWAL CERTIFICATE.** On the return to the registrar of an undelivered renewal certificate that was mailed to a voter, the registrar shall file the certificate with the voter's registration application and, not later than January 2 following the mailing of certificates, enter the voter's name on the suspense list.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Renumbered from Election Code Sec. 14.022 and amended by Acts 1995, 74th Leg., ch. 797, Sec. 9, eff. Sept. 1, 1995.

**Sec. 14.022. ERRONEOUS RETURN OF RENEWAL CERTIFICATE.** If the registrar determines that a voter's renewal certificate was returned undelivered solely because of postal service error, address reclassification, or the registrar's clerical error, the registrar shall delete the voter's name from the suspense list, make any other appropriate corrections in the registration records, and deliver the certificate to the voter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Renumbered from Election Code Sec. 14.023 and amended by Acts 1995, 74th Leg., ch. 797, Sec. 9, eff. Sept. 1, 1995.

**Sec. 14.023. CONFIRMATION NOTICE AFTER RETURN OF RENEWAL CERTIFICATE.** (a) After January 1 but not later than March 1 of each even-numbered year, the registrar shall deliver a confirmation notice in accordance with Section 15.051 to each voter whose name appears on the suspense list under this subchapter.

(b) If the voter fails to submit a response to the registrar in accordance with Section 15.053, the voter's name remains on the suspense list.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 9, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 5.02, eff. Sept. 1, 1999.



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## CHAPTER 15. GENERAL ADMINISTRATION OF REGISTRATION

### SUBCHAPTER A. FORM AND CONTENTS OF REGISTRATION CERTIFICATE; REPLACEMENT OF CERTIFICATE

**Sec. 15.001. REQUIRED CONTENTS.** (a) Each voter registration certificate issued must contain:

- (1) the voter's name in the form indicated by the voter, subject to applicable requirements prescribed by Section 13.002 and by rule of the secretary of state;
- (2) the voter's residence address or, if the residence has no address, the address at which the voter receives mail and a concise description of the location of the voter's residence;
- (3) the year of the voter's birth;
- (4) the number of the county election precinct in which the voter resides;
- (5) the voter's effective date of registration if an initial certificate;
- (6) the voter's registration number;
- (7) an indication of the period for which the certificate is issued;
- (8) a statement explaining the circumstances under which the voter will receive a new certificate;
- (9) a space for stamping the voter's political party affiliation;
- (10) a statement that voting with the certificate by a person other than the person in whose name the certificate is issued is a felony;
- (11) a space for the voter's signature;
- (12) a statement that the voter must sign the certificate personally, if able to sign, immediately on receipt;
- (13) a space for the voter to correct the information on the certificate followed by a signature line;
- (14) the statement: "If any information on this certificate changes or is incorrect, correct the information in the space provided, sign below, and return this certificate to the voter registrar.";
- (15) the registrar's mailing address and telephone number; and
- (16) the jurisdictional or distinguishing number for the following territorial units in which the voter resides, as determined by the voter registrar:
  - (A) congressional district;
  - (B) state senatorial district;
  - (C) state representative district;
  - (D) commissioners precinct;
  - (E) justice precinct;
  - (F) city election precinct; and
  - (G) school district election precinct.

(b) A certificate may not contain:

- (1) the voter's telephone number;
- (2) the voter's social security number; or
- (3) except as provided by Section 15.002, any other information not specified by Subsection (a).

(c) A certificate issued to a voter who meets the certification requirements of Section 13.002(i) must contain an indication that the voter is exempt from the requirement to present identification other than the registration certificate before being accepted for voting.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 436, Sec. 5, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 390, Sec. 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 797, Sec. 10, eff. Sept. 1, 1995; Acts 2007, 80th Leg., R.S., Ch. 532 (S.B. 932), Sec. 1, eff. June 16, 2007; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 2, eff. January 1, 2012; H.B. 3107, 87th Leg., R.S., Sec. 15, eff. Sept. 1, 2021.

**Sec. 15.002. OPTIONAL CONTENTS.** (a) A voter registration certificate may contain an explanation of the voter's rights or duties under this code, including:

- (1) the procedure by which the voter will receive a renewal certificate;
- (2) the necessity of notifying the registrar if the voter changes residence;
- (3) the necessity of applying for a new registration if the voter changes residence to another county;
- (4) the period during which the voter may vote a limited ballot after changing residence to another county;

- (5) the procedure for voting without a certificate; and
- (6) the procedure for obtaining a replacement for a lost or destroyed certificate.

(b) An explanation authorized by Subsection (a) may appear on a separate sheet accompanying the certificate when it is delivered.

(c) In addition to the territorial units required to be listed on a voter registration certificate under Section 15.001(a)(16), a certificate may contain up to seven jurisdictional or distinguishing numbers for any other territorial units in which the voter resides.

(d) A voter registration certificate may contain the voter's sex.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 8, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 11, eff. Sept. 1, 1995. Amended by: Acts 2007, 80th Leg., R.S., Ch. 532 (S.B. 932), Sec. 2, eff. June 16, 2007.

**Sec. 15.003. SIGNING CERTIFICATE BY VOTER.** (a) On receipt of a voter registration certificate issued under this title, the person to whom the certificate is issued must personally sign it in the appropriate space.

(b) This section does not apply to a person who cannot sign the certificate because of a physical disability or illiteracy.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 15.004. REPLACEMENT CERTIFICATE.** (a) A voter whose registration certificate is lost or destroyed may obtain a replacement certificate by:

- (1) delivering a written or electronic notice of the loss or destruction to the registrar; or
- (2) telephoning the registrar to request a replacement.

(b) A replacement certificate requested electronically under Subsection (a)(1) or by telephone under Subsection (a)(2) may be sent only to the mailing address on the voter's registration records.

(c) Subject to Subsection (b), not later than the 30th day after the date the registrar receives the notice or request, the registrar shall deliver to the voter a replacement certificate containing:

- (1) the registration number and other information on the lost or destroyed certificate; and
- (2) a notation that the certificate is a replacement.

(d) The registrar shall retain a written or electronic notice submitted under Subsection (a)(1) on file with the voter's registration application. If the voter requests a replacement registration certificate by telephone under Subsection (a)(2), the registrar shall make a written record of the request and keep the record on file with the voter's registration application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2007, 80th Leg., R.S., Ch. 844 (H.B. 1044), Sec. 2, eff. September 1, 2007; Acts 2013, 83rd Leg., R.S., Ch. 349 (H.B. 2263), Sec. 1, eff. June 14, 2013.

**Sec. 15.005. NOTICE OF IDENTIFICATION REQUIREMENTS.** (a) The voter registrar of each county shall provide notice of the identification requirements for voting prescribed by Chapter 63 and a detailed description of those requirements with each voter registration certificate issued under Section 13.142 or renewal registration certificate issued under Section 14.001.

(b) The secretary of state shall prescribe the wording of the notice to be included on the certificate under this section.  
Added by Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 3, eff. September 1, 2011.

## **SUBCHAPTER B. CORRECTION OF REGISTRATION INFORMATION**

**Sec. 15.021. NOTICE OF CHANGE IN REGISTRATION INFORMATION BY VOTER.** (a) If a voter discovers incorrect information on the voter's registration certificate or if any of the information becomes incorrect because of a change in circumstances, the voter shall promptly submit to the registrar a written, signed notice of the incorrect information and the corresponding correction.

(b) Except as provided by Subsection (d), the voter shall use the registration certificate or a registration application form as the notice, indicating the correct information in the appropriate space on the certificate or application form unless the voter does not have possession of the certificate or an application form at the time of giving the notice.

(c) The registrar shall retain the notice on file with the voter's registration application. If the correction is a change of the voter's name, the registrar shall file the application under the new name.

(d) A voter may correct information under this section by digital transmission of the information under a program administered by the secretary of state and the Department of Information Resources.

(d-1) If the notice indicates that a voter no longer resides in the county in which the voter is registered, the registrar shall forward the notice and the voter's application for registration to the registrar of the county in which the voter resides. The registrars shall coordinate to ensure that the voter's existing registration is canceled immediately after the voter is

registered in the county in which the voter resides in accordance with Subsection (d-2).

(d-2) A registrar who receives a voter's notice and application from another registrar under Subsection (d-1) shall treat it as an original application for registration under Section 13.002, and shall register the voter if the voter resides in the county and is otherwise eligible under Section 13.001.

(e) The secretary of state shall adopt rules to:

(1) approve technologies for submitting changes of registration information by digital transmission under this section; and

(2) prescribe additional procedures as necessary to implement a system for the digital transmission of changes in registration information.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 454, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 5.03, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1178, Sec. 1, eff. Jan. 1, 2002; Acts 2005, 79th Leg., Ch. 1105 (H.B. 2280), Sec. 3, eff. January 1, 2006; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 2.03, eff. Dec. 2, 2021.

**Sec. 15.0215. OMISSION OF ADDRESS FOR FEDERAL OR STATE JUDGE, FEDERAL OFFICIAL, AND FAMILY MEMBER.** (a) In this section, "family member" has the meaning assigned by Section 31.006, Finance Code.

(b) On receiving notice from the Office of Court Administration of the Texas Judicial System of the person's qualification for office as a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge and of the names of the judge's or federal official's family members, if applicable, the registrar of the county in which the judge resides shall:

(1) omit from the registration list the residence address of the judge or official and any family members of the judge or official; and

(2) prepare a memorandum of the notice, indicating the substance and date of the notification, and retain the memorandum on file with the application.

(c) A registered district voter who wishes to verify that an elected judge whose personal identifying information is confidential under Section 552.1175, Government Code, resides in the district may request in writing that the registrar certify the judge lives in the district. The registrar shall exercise due diligence in determining the residence of the judge and respond to the voter in writing not later than the 10th business day after the date the request is received on whether the judge resides in the district. The registrar may not release the address of the judge. The registrar is not required to certify the residence of the same judge more than once in a calendar year, but must provide copies of the certification to subsequent requestors.

Added by Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 3, eff. September 1, 2007. Amended by: Acts 2009, 81st Leg., R.S., Ch. 465 (S.B. 281), Sec. 3, eff. September 1, 2009; S.B. 42, 85<sup>th</sup> Leg., Sec. 22, eff. September 1, 2017; H.B. 2910, 86<sup>th</sup> Leg., Secs. 3, 10, eff. Sept. 1, 2019; S.B. 1134, 87<sup>th</sup> Leg., R.S., Secs. 4 & 5, eff. Sept. 1, 2021.

**Sec. 15.022. CORRECTION OF REGISTRATION RECORDS.** (a) The registrar shall make the appropriate corrections in the registration records, including, if necessary, deleting a voter's name from the suspense list:

(1) after receipt of a notice of a change in registration information under Section 15.021;

(2) after receipt of a voter's reply to a notice of investigation given under Section 16.033;

(3) after receipt of any affidavits executed under Section 63.006, following an election;

(4) after receipt of a voter's statement of residence executed under Section 63.0011;

(5) before the effective date of the abolishment of a county election precinct or a change in its boundary;

(6) after receipt of United States Postal Service information indicating an address reclassification;

(7) after receipt of a voter's response under Section 15.053;

(8) after receipt of a registration application or change of address under Chapter 20; or

(9) after notification of a data entry error of which the voter registrar is made aware under Section 63.0051.

(b) At least monthly, the registrar shall request from the United States Postal Service any available information indicating address reclassifications affecting the registered voters of the county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 916, Sec. 9, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 12, eff. Sept. 1, 1995; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 4, eff. January 1, 2012; Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 7, eff. January 1, 2012; Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 5.002, eff. September 1, 2013; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 16, eff. Sept. 1, 2021.

**Sec. 15.023. TIME FOR CERTAIN DELETIONS FROM SUSPENSE LIST.** If the name of a voter on the list of registered voters appears on the suspense list, the voter's name shall be deleted from the list on the date the voter provides:

(1) a completed application to register to vote in accordance with Section 13.002; or

(2) a correction of information under Section 15.021(d).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 13, eff. Sept. 1, 1995; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 17, eff. Sept. 1, 2021.

**Sec. 15.024. CORRECTED REGISTRATION CERTIFICATE.** (a) Except as provided by Subsection (b), after correcting the registration records with respect to a voter, if necessary, the registrar shall issue the voter a registration certificate containing the appropriate corrections and deliver it to the voter not later than the 30th day after the date the registrar receives notice of a correction.

(b) A corrected certificate is not required for a correction to the registration records under Section 15.022(a)(5).  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2007, 80th Leg., R.S., Ch. 844 (H.B. 1044), Sec. 3, eff. September 1, 2007.

**Sec. 15.025. EFFECTIVE DATE OF CERTAIN CHANGES IN REGISTRATION INFORMATION.** (a) Except as provided by Subsections (b) and (d), the registration of a voter described by this subsection whose information is changed on the registration records becomes effective as to the change on the 30th day after:

(1) the date the voter submits to the registrar a notice of a change in registration information under Section 15.021 or a response under Section 15.053, indicating the change; or

(2) the date the voter submits a statement of residence to an election officer under Section 63.0011 or a registration application or change of address to an agency employee under Chapter 20, indicating the change.

(b) A change in registration information covered by this section is effective for purposes of early voting if it will be effective on election day.

(c) For purposes of determining the effective date of a change in registration information covered by this section, a document submitted by mail is considered to be submitted to the registrar on the date it is placed with postage prepaid and properly addressed in the United States mail. The date indicated by the post office cancellation mark is considered to be the date the document was placed in the mail unless proven otherwise.

(d) If the 30th day before the date of an election is a Saturday, Sunday, or legal state or national holiday, the document is considered to be timely if it is submitted to the registrar on or before the next regular business day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 10, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 14, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1316, Sec. 7, eff. Sept. 1, 2003.

**Sec. 15.027. NOTICE TO VOTER OF PRECINCT BOUNDARY CHANGE.** (a) Before the effective date of the abolishment of a county election precinct or a change in its boundary, the registrar shall deliver written notice of that action to each affected registered voter.

(b) If the voter is not issued a corrected registration certificate, the notice shall inform the voter of the new precinct number and direct the voter to correct the precinct number on the voter's registration certificate and to retain the certificate for continued use.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 9, eff. Sept. 1, 1997.

**Sec. 15.028. NOTICE OF UNLAWFUL VOTING OR REGISTRATION.** If the registrar determines that a person who is not eligible to vote registered to vote or voted in an election, the registrar shall, within 72 hours not including weekends after making the determination, execute and deliver to the attorney general, the secretary of state, and the county or district attorney having jurisdiction in the territory covered by the election an affidavit stating the relevant facts.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 11, eff. Sept. 1, 1993; S.B. 1, 87th Leg., 2nd C.S., Sec. 2.04, eff. Dec. 2, 2021.

## **SUBCHAPTER C. CONFIRMATION OF RESIDENCE**

**Sec. 15.051. CONFIRMATION NOTICE.** (a) If the registrar has reason to believe that a voter's current residence is different from that indicated on the registration records, or that the voter's residence address is a commercial post office box or similar location that does not correspond to a residence, the registrar shall deliver to the voter a written confirmation notice requesting confirmation of the voter's current residence.

(b) The registrar shall include an official confirmation notice response form with each confirmation notice delivered to a voter.

(c) The confirmation notice shall be delivered by forwardable mail to the voter's last known address.

(d) The registrar shall maintain with the voter's record an indication that a confirmation notice was sent to the voter.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 15, eff. Sept. 1, 1995; H.B. 3107, 87th Leg., R.S., Sec. 18, eff. Sept. 1, 2021; S.B. 1111, 87th Leg., R.S., Sec. 2, eff. Sept 1, 2021..

**Sec. 15.052. OFFICIAL CONFIRMATION NOTICE AND CONFIRMATION NOTICE RESPONSE FORMS.** (a)

The officially prescribed form for a confirmation notice must include:

(1) a statement that, if the voter fails to submit to the registrar a written, signed response confirming the voter's current residence on or before the 30th day after the date the confirmation notice is mailed:

(A) the voter is subject to submission of a statement of residence before the voter may be accepted for voting in an election held after that deadline; or

(B) for a notice delivered under Section 14.023, the voter will remain subject to submission of a statement of residence before the voter may be accepted for voting in an election;

(2) a warning that the voter's registration is subject to cancellation if the voter fails to confirm the voter's current residence either by notifying the registrar in writing or voting on a statement of residence before November 30 following the second general election for state and county officers that occurs after the date the confirmation notice is mailed; and

(3) a statement that the voter must include all of the required information on the official confirmation notice response form.

(b) The official confirmation notice response form must:

(1) provide spaces for the voter to include all of the information that a person must include in an application to register to vote under Section 13.002;

(2) describe the requirements of Section 15.054, provide a space for the voter to indicate if the voter is exempt from those requirements, and provide a space to indicate the reason for an exemption, if any;

(3) provide the definition of residence under Section 1.015; and

(4) be postage prepaid and preaddressed for delivery to the registrar.

(c) The registrar may prescribe a different design from that prescribed by the secretary of state for an official form, if approved by the secretary.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 15, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 5.04, eff. Sept. 1, 1999; Acts 2009, 81st Leg., R.S., Ch. 927 (H.B. 3069), Sec. 1, eff. September 1, 2009; S.B. 1111, 87th Leg., R.S., Sec. 3, eff. Sept 1, 2021.

**Sec. 15.053. RESPONSE TO CONFIRMATION NOTICE.** (a) The voter shall submit to the registrar a written, signed response to the notice that confirms the voter's current residence. The response must contain:

(1) all of the information that a person must include in an application to register to vote under Section 13.002;

(2) a sworn affirmation of the voter's current residence as defined by Section 1.015; and

(3) if the voter's residence address is a commercial post office box or similar location that does not correspond to a residence, evidence of the voter's residence address as required by Section 15.054 or an indication that the voter is exempt from those requirements.

(b) The voter shall use an official confirmation notice response form for the response unless the voter does not have possession of the official form at the time of making the response.

(c) The registrar shall act on the response in accordance with Section 13.072 and retain the response on file with the voter's registration application.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 15, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 5.05, eff. Sept. 1, 1999; Acts 2009, 81st Leg., R.S., Ch. 927 (H.B. 3069), Sec. 2, eff. September 1, 2009; H.B. 3107, 87th Leg., R.S., Sec. 19, eff. Sept. 1, 2021; S.B. 1111, 87th Leg., R.S., Sec. 4, eff. Sept 1, 2021.

**Sec. 15.054. DOCUMENTATION OF RESIDENCE FOR PURPOSES OF CONFIRMATION NOTICE RESPONSE.**

(a) For purposes of Section 15.053, a voter's residence may be documented by providing a photocopy of the first document, beginning with Subdivision (1) and continuing through Subdivision (6), in the following list that corresponds to the voter's residence under Section 1.015:

(1) a driver's license issued to the voter by the Department of Public Safety that has not expired or, if the voter has notified the department of a change of address under Section 521.054, Transportation Code, an affidavit from the voter stating the new address contained in the notification;

(2) a personal identification card issued to the voter by the Department of Public Safety that has not expired or, if the voter has notified the department of a change of address under Section 521.054, Transportation Code, an affidavit from the voter stating the new address contained in the notification;

(3) a license to carry a concealed handgun issued to the voter by the Department of Public Safety that has not expired or, if the voter has notified the department of a change of address under Section 411.181, Government Code, an affidavit from the voter stating the new address contained in the notification;

(4) an appraisal district document showing the address the voter claims as a homestead in this state;

(5) a utility bill addressed to the voter's residence address; or

(6) an official tax document or Texas Department of Motor Vehicles document showing the registration address of a vehicle the voter owns.

(b) A voter whose residence in this state has no address may document residence under this section by executing an affidavit stating that the voter's residence in this state has no address, providing a concise description of the location of the voter's residence, and delivering the affidavit to the registrar with the voter's response to the confirmation notice.

(c) The address described by Subsection (a)(4) may not be a commercial post office box or similar location that does not correspond to a residence.

(d) This section does not apply to:

(1) a voter who is a member of the armed forces of the United States or the spouse or a dependent of a member;

(2) a voter enrolled as a full-time student who lives on campus at an institution of higher education;

(3) a voter whose address is confidential under Subchapter C, Chapter 56, Code of Criminal Procedure;

(4) a federal judge, state judge, or spouse of a federal or state judge whose driver's license includes the street address of a courthouse under Section 521.121, Transportation Code;

or

(5) a peace officer whose driver's license omits the officer's actual residence address under Section 521.1211, Transportation Code.

(e) Subsection (a)(1) does not apply to a voter who holds a commercial driver's license under Subchapter C, Chapter 522, Transportation Code.

(f) Notwithstanding the other provisions of this section, a voter enrolled as a full-time student who lives on campus at an institution of higher education may use the address of a post office box located on the campus of the institution or in a dormitory owned or operated by the institution to confirm the voter's residence.

(g) The secretary of state shall adopt rules as necessary to implement this section.

Added by S.B. 1111, 87<sup>th</sup> Leg., R.S., Sec. 5, eff. Sept 1, 2021.

## SUBCHAPTER D. SUSPENSE LIST

**Sec. 15.081. SUSPENSE LIST.** (a) The registrar shall maintain a suspense list containing the name of each voter:

(1) who fails to submit a response to the registrar in accordance with Section 15.053;

(2) whose renewal certificate is returned to the registrar in accordance with Subchapter B, Chapter 14; or

(3) who appears on the list of nonresidents of the county provided to the registrar under Section 62.114, Government Code.

(b) The list shall be arranged alphabetically by voter name and for each voter must contain the voter's name, residence address, date of birth, registration number, and date the name is entered on the list. The names shall be grouped according to county election precincts.

(c) The secretary of state may prescribe an alternative form or procedure for maintaining the list.

(d) Notwithstanding Subsection (b), the suspense list may not contain the residence address of a voter whose residence address is confidential under section 13.004.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 15, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 5.06, eff. Sept. 1, 1999; Acts 2005, 79th Leg., Ch. 559 (H.B. 1271), Sec. 3, eff. Sept. 1, 2005; Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 4, eff. Sept. 1, 2007; Acts 2009, 81st Leg., R.S., Ch. 465 (S.B. 281), Sec. 4, eff. Sept. 1, 2009; H.B. 2910, 86<sup>th</sup> Leg., Sec. 4, eff. Sept. 1, 2019.

**Sec. 15.082. AVAILABILITY OF REGISTRAR'S LIST.** (a) The registrar shall furnish a copy of the suspense list to any person requesting it or shall furnish that portion of the list requested.

(b) The list shall be provided in accordance with Chapter 552, Government Code.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 15, eff. Sept. 1, 1995; Amended by H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 20, eff. Sept. 1, 2021.

**Sec. 15.083. DELIVERY OF LIST TO SECRETARY OF STATE.** (a) The secretary of state may require the registrar to deliver a copy of the suspense list to the secretary in the form prescribed by the secretary.

(b) The registrar shall deliver the list within the period prescribed by the secretary of state.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 15, eff. Sept. 1, 1995.

**Sec. 15.084. AVAILABILITY OF SECRETARY OF STATE'S LIST.** (a) The secretary of state shall furnish a copy of a suspense list delivered under Section 15.083 to any person requesting it or shall furnish that portion of the list requested.

(b) The fee for each list or portion of a list furnished under this section may not exceed the actual expense incurred

in reproducing the list or portion for the person requesting it and shall be uniform for each type of copy furnished.

(c) The copy shall be furnished in the form in which the list is stored or, if practicable, in any other form requested.

(d) The secretary of state shall use fees collected under this section to defray expenses incurred in the preparation of the copy.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 15, eff. Sept. 1, 1995.

**Sec. 15.085. UNLAWFUL USE OF INFORMATION ON SUSPENSE LISTS.** (a) A person commits an offense if the person uses information in connection with advertising or promoting commercial products or services that the person knows was obtained under Section 15.082 or 15.084.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 15, eff. Sept. 1, 1995.

**Sec. 15.086. INTERNET ACCESS TO SUSPENSE INFORMATION.** Any Internet website maintained by the secretary of state that permits a person to determine the person's voter registration status shall, to the extent practicable, indicate if the person is or may be on the suspense list.

Added by Acts 2013, 83rd Leg., R.S., Ch. 356 (H.B. 2465), Sec. 1, eff. September 1, 2013.

## **SUBCHAPTER E. VOTING ON STATEMENT OF RESIDENCE**

**Sec. 15.111. NOTATION ON LIST OF REGISTERED VOTERS.** (a) The registrar shall enter the notation "S", or a similar notation approved by the secretary of state, on the list of registered voters beside each voter's name that also appears on the suspense list.

(b) The registrar shall delete the notation from the list if the voter's name is deleted from the suspense list.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 15, eff. Sept. 1, 1995.

**Sec. 15.112. AUTHORIZATION TO VOTE ON STATEMENT.** In an election held on or after the date the voter's name is entered on the suspense list and before November 30 following the second general election for state and county officers that occurs after the beginning of the period, a voter whose name appears on a precinct list of registered voters with the notation "S", or a similar notation, may vote in the election precinct in which the list is used if the voter satisfies the residence requirements prescribed by Section 63.0011 and submits a statement of residence in accordance with that section.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 15, eff. Sept. 1, 1995.



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## CHAPTER 16. CANCELLATION OF REGISTRATION

### SUBCHAPTER A. OFFICIAL NOTICE TO REGISTRAR

**Sec. 16.001. DEATH.** (a) Each month the local registrar of deaths shall prepare an abstract of each death certificate issued in the month for a decedent 18 years of age or older who was a resident of the state at the time of death. The local registrar of deaths shall file each abstract with the voter registrar of the decedent's county of residence and the secretary of state as soon as possible, but not later than the seventh day after the date the abstract is prepared.

(b) Each month the clerk of each court having probate jurisdiction shall prepare an abstract of each application for probate of a will, administration of a decedent's estate, or determination of heirship, and each affidavit under Chapter 205, Estates Code, that is filed in the month with a court served by the clerk. The clerk shall file each abstract with the voter registrar and the secretary of state as soon as possible, but not later than the seventh day after the date the abstract is prepared.

(c) Once each week, on a day specified by the secretary of state, the vital statistics unit shall furnish to the secretary of state available information relating to deceased residents of the state as provided by Section 191.011, Health and Safety, Code, in the form and manner specified by the secretary. Periodically, the secretary shall furnish to the appropriate voter registrars information obtained from the unit that will assist in identifying the deceased registered voters of each county.

(d) The secretary of state shall quarterly obtain from the United States Social Security Administration available information specified by the secretary relating to deceased residents of the state.

(e) The information required to be filed with the secretary of state under this section must be filed electronically. The secretary of state may waive this requirement on application for a waiver submitted by the appropriate entity.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1105 (H.B. 2280), Sec. 4, eff. January 1, 2006; Acts 2007, 80th Leg., R.S., Ch. 607 (H.B. 343), Sec. 1, eff. September 1, 2007; Acts 2011, 82nd Leg., R.S., Ch. 650 (S.B. 1046), Sec. 1, eff. June 17, 2011; Acts 2011, 82nd Leg., R.S., Ch. 683 (H.B. 174), Sec. 1, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 5.003, eff. September 1, 2013; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 4, eff. September 1, 2013; S.B. 1488, 85<sup>th</sup> Leg., R.S. Sec. 22.012, eff. September 1, 2017; H.B. 1264, 87<sup>th</sup> Leg., R.S. Sec. 1, eff. September 1, 2021; S.B. 545, 88<sup>th</sup> Leg., R.S., Sec. 3, eff. Sept. 1, 2023.

**Sec. 16.002. MENTAL INCAPACITY.** (a) Each month the clerk of each court having proper jurisdiction to adjudge a person mentally incapacitated shall prepare an abstract of each final judgment of a court served by the clerk, occurring in the month:

(1) adjudging a person 18 years of age or older who is a resident of the state to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(2) adjudging the mental capacity of a person 18 years of age or older who is a resident of this state to be completely restored; or

(3) modifying the guardianship of a person 18 years of age or older to include the right to vote.

(b) The clerk shall file each abstract with the voter registrar of the person's county of residence not later than the 10th day of the month following the month in which the abstract is prepared.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 25, eff. September 1, 2007; Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 26, eff. September 1, 2007.

**Sec. 16.003. FELONY CONVICTION.** Each weekday the Department of Public Safety is regularly open for business, the department shall:

(1) prepare an abstract of each final judgment received by the department convicting a person 18 years of age or older who is a resident of the state of a felony; and

(2) file each abstract with the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 12, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1366, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1178, Sec. 2, eff. Jan. 1, 2002.

Amended by: Acts 2005, 79th Leg., Ch. 1105 (H.B. 2280), Sec. 5, eff. January 1, 2006.

**Sec. 16.004. DISQUALIFICATION IN ELECTION CONTEST.** Not later than the 10th day after the date a judgment in an election contest in which a person is adjudged not to be a qualified voter becomes final, the district clerk shall prepare an abstract of the judgment, which shall include each disqualified person's name, and file it with the voter registrar of each county in which a person adjudged disqualified was registered on the date of the contested election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 16.005. PRESERVATION OF ABSTRACT.** If an abstract received under this subchapter affects a registered voter of the county, the registrar shall retain a copy of the abstract on file with the affected voter's registration application.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## SUBCHAPTER B. CANCELLATION

**Sec. 16.031. CANCELLATION ON OFFICIAL NOTICE OF INELIGIBILITY.** (a) The registrar shall cancel a voter's registration immediately on receipt of:

- (1) notice under Section 13.072(b), 15.021, or 18.0681(d) or a response under Section 15.053 that the voter's residence is outside the county;
- (2) an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b);
- (3) an abstract of a final judgment of the voter's total mental incapacity, partial mental incapacity without the right to vote, conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004;
- (4) notice under Section 112.012 that the voter has applied for a limited ballot in another county;
- (5) notice from a voter registration official in another state that the voter has registered to vote outside this state;
- (6) notice from the early voting clerk under Section 101.053 that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county; or
- (7) notice from the secretary of state that the voter has registered to vote in another county, as determined by the voter's driver's license number or personal identification card number issued by the Department of Public Safety or social security number.

(b) The registrar shall cancel a voter's registration immediately if the registrar:

- (1) determines from information received under Section 16.001(c) that the voter is deceased;
- (2) has personal knowledge that the voter is deceased;
- (3) receives from a person related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to the voter a sworn statement by that person indicating that the voter is deceased; or
- (4) receives notice from the secretary of state under Section 18.068 that the voter is deceased.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 436, Sec. 6, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 561, Sec. 14, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 797, Sec. 16, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 454, Sec. 6, eff. Sept. 1, 1997; Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 27, eff. September 1, 2007; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 6, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 650 (S.B. 1046), Sec. 2, eff. June 17, 2011; Acts 2011, 82nd Leg., R.S., Ch. 683 (H.B. 174), Sec. 2, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 5.004, eff. September 1, 2013; H.B. 4034, 85<sup>th</sup> Leg., R.S., Sec. 2, eff. June 12, 2017; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 21, eff. Sept. 1, 2021.

**Sec. 16.032. CANCELLATION FOLLOWING END OF SUSPENSE LIST PERIOD.** If on November 30 following the second general election for state and county officers that occurs after the date the voter's name is entered on the suspense list a registered voter's name appears on the suspense list, the registrar shall cancel the voter's registration unless the name is to be deleted from the list under Section 15.022 or 15.023.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1995, 74th Leg., ch. 797, Sec. 17, eff. Sept. 1, 1995; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 22, eff. Sept. 1, 2021.

**Sec. 16.033. CANCELLATION FOLLOWING INVESTIGATION BY REGISTRAR.** (a) The registrar may use any lawful means to investigate whether a registered voter is currently eligible for registration in the county. This section does not authorize an investigation of eligibility that is based solely on residence.

(b) If the registrar has reason to believe that a voter is no longer eligible for registration, the registrar shall deliver written notice to the voter indicating that the voter's registration status is being investigated by the registrar. The notice shall be delivered by forwardable mail to the mailing address on the voter's registration application and to any new address of the voter known to the registrar. If the secretary of state has adopted or recommended a form for a written notice under this section, the registrar must use that form.

(c) The notice must include:

- (1) a request for information relevant to determining the voter's eligibility for registration; and
- (2) a warning that the voter's registration is subject to cancellation if the registrar does not receive an appropriate reply on or before the 30th day after the date the notice is mailed.

- (d) Except as provided by Subsection (e), the registrar shall cancel a voter's registration if:
- (1) after considering the voter's reply, the registrar determines that the voter is not eligible for registration;
  - (2) no reply is received from the voter on or before the 30th day after the date the notice is mailed to the voter under Subsection (b); or
  - (3) each notice mailed under Subsection (b) is returned undelivered to the registrar with no forwarding information available.

(e) A voter's registration may not be canceled under Subsection (d) if the voter's name appears on the suspense list unless the notice mailed to the voter indicated that the registrar had reason to believe that the voter is not eligible for registration because of a ground other than a ground based on residence.

(f) The registrar shall retain a copy of the notice mailed to a voter under this section on file with the voter's registration application. If the voter's reply to the notice is in writing, the registrar shall also retain the reply on file with the application. If the reply is oral, the registrar shall prepare a memorandum of the reply, indicating the substance and date of the reply, and shall retain the memorandum on file with the application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 18, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1316, Sec. 8, eff. Sept. 1, 2003; Acts 2013, 83rd Leg., R.S., Ch. 1093 (H.B. 3593), Sec. 1, eff. September 1, 2013.

**Sec. 16.0331. CANCELLATION ON REQUEST BY VOTER.** (a) A voter desiring to cancel the voter's registration must submit to the registrar a written, signed request for the cancellation. A request may not be submitted by an agent.

(b) The registrar shall cancel a voter's registration immediately on receipt of a request under Subsection (a).

(c) The registrar shall retain the request on file with the voter's registration application.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 19, eff. Sept. 1, 1995.

**Sec. 16.0332. CANCELLATION BECAUSE OF CITIZENSHIP STATUS.** (a) After the registrar receives notification under Subsection (a-1) of this section, Section 18.068 of this code, or Section 62.113, Government Code, of persons excused or disqualified from jury service because of citizenship status or notification of persons who indicate a lack of citizenship status in connection with a motor vehicle or Department of Public Safety record as provided by Subsection (a-1), the registrar shall deliver to each registered voter whose name appears on the list a written notice requiring the voter to submit to the registrar proof of United States citizenship in the form of a certified copy of the voter's birth certificate, United States passport, or certificate of naturalization or any other form prescribed by the secretary of state. The notice shall be delivered by forwardable mail to the mailing address on the voter's registration application and to any new address of the voter known to the registrar.

(a-1) The secretary of state shall enter into an agreement with the Department of Public Safety under which information in the existing statewide computerized voter registration list is compared against information in the database of the Department of Public Safety on a monthly basis to verify the accuracy of citizenship status information previously provided on voter registration applications. In comparing information under this subsection, the secretary of state shall consider only a voter's information in the database of the Department of Public Safety that was derived from documents presented by the voter to the department after the person's current voter registration became effective, and may not consider information derived from documents presented by the voter to the department before the person's current voter registration became effective.

(b) If a voter fails to submit to the registrar proof of citizenship on or before the 30th day after the date the notice is mailed, the registrar shall cancel the voter's registration.

(c) The registrar shall retain a copy of the notice mailed to a voter under this section on file with the voter's registration application. The registrar shall also retain any proof of citizenship received under this section on file with the application.

(d) The secretary of state shall prescribe rules for the administration of this section.

(e) Not later than December 31 of each year, the secretary of state shall provide a report to the legislature of the number of voter registrations canceled under this section during the calendar year.

Added by Acts 1997, 75th Leg., ch. 640, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 9, eff. Sept. 1, 2003; Acts 2011, 82nd Leg., R.S., Ch. 683 (H.B. 174), Sec. 3, eff. September 1, 2011; S.B. 1, 87th Leg., 2nd C.S., Sec. 2.05, eff. Dec. 2, 2021.

**Sec. 16.034. RECORDING CANCELLATION.** On cancellation of a voter's registration, the registrar shall enter the date of and reason for the cancellation on the voter's registration application and duplicate registration certificate and make any other appropriate corrections in the registration records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 16.035. EFFECTIVE DATE OF CANCELLATION.** A cancellation of a voter's registration takes effect immediately.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 16.036. NOTICE OF CANCELLATION TO VOTER.** (a) Immediately after, but not later than the 30th day after the

date a voter's registration is canceled under Section 16.031(a)(3), 16.033, 16.0331, or 16.0332, the registrar shall deliver written notice of the cancellation to the voter.

(b) The notice shall be delivered by mail to the mailing address on the voter's registration application and to any new address known to the registrar.

(c) The notice must include:

(1) the date of cancellation;

(2) the reason for cancellation; and

(3) a brief explanation of the voter's right to challenge the cancellation and to appeal the registrar's decision.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 20, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1316, Sec. 10, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 568 (H.B. 1382), Sec. 1, eff. September 1, 2005.

**Sec. 16.037. REINSTATEMENT OF REGISTRATION.** (a) If the registrar determines after cancellation of a registration that the registration should not have been canceled, the registrar shall reinstate it.

(b) If, after canceling a voter's registration under Section 16.032, the registrar receives a statement of residence executed by the voter under Section 63.0011 at an election held before the date the voter's registration was required to be canceled, the registrar shall reinstate the registration.

(c) On reinstatement of a registration, the registrar shall enter the date of and reason for the reinstatement on the voter's registration application and duplicate registration certificate, make any appropriate corrections in the registration records, and take any other action necessary to give effect to the reinstatement.

(d) A reinstatement of a registration takes effect immediately.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 13, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 21, eff. Sept. 1, 1995.

**Sec. 16.038. NOTICE OF REINSTATEMENT TO VOTER.** (a) Immediately on reinstatement of a registration, the registrar shall deliver written notice of the reinstatement to the voter.

(b) The notice shall be delivered by mail to the mailing address on the voter's registration application and to any new address known to the registrar.

(c) The notice must include the date of and reason for the reinstatement.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 16.039. FAILURE BY REGISTRAR TO TIMELY PERFORM DUTY.** (a) If a registrar fails to timely perform a duty imposed on the registrar under this subchapter requiring the approval, change, or cancellation of a voter's registration, the secretary of state may withhold funds administered and distributed by the secretary under Chapter 19 or Section 31.009 from the registrar.

(b) Notwithstanding Subsection (a), the secretary of state shall distribute funds under Chapter 19 or Section 31.009 if the registrar performs the registrar's duty not later than 30 days after the funds are withheld.

S.B. 1113, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2021.

## **SUBCHAPTER C. CHALLENGE OF CANCELLATION**

**Sec. 16.061. RIGHT TO CHALLENGE CANCELLATION.** A person whose voter registration is canceled may challenge the cancellation at a hearing before the registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 16.062. REQUEST FOR HEARING ON CHALLENGE.** A person desiring to challenge the cancellation of the person's registration must file with the registrar a written, signed request for a hearing on the challenge.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 10, eff. Sept. 1, 1997.

**Sec. 16.063. REINSTATEMENT PENDING CHALLENGE.** (a) On the filing of a hearing request under Section 16.062, the registrar shall reinstate the challenging voter's registration pending determination of the challenge.

(b) Sections 16.037(c) and (d) apply to a reinstatement under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 16.064. HEARING ON CHALLENGE.** (a) On the filing of a hearing request, the registrar shall schedule a hearing on the challenge.

(b) The registrar shall conduct the hearing not later than the 10th day after the date the request is filed or on a later

date at the request of the challenging voter.

(c) The voter may appear personally at the hearing to offer evidence or argument. The voter may offer evidence or argument by affidavit without personally appearing if the voter submits the affidavit to the registrar before the hearing begins. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 16.065. NOTICE OF HEARING.** The registrar shall deliver written notice of the date, hour, and place set for the hearing on the challenge to the challenging voter not later than the second day after the date the hearing request is filed. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 16.066. DETERMINATION OF CHALLENGE.** (a) After hearing and considering the evidence or argument, the registrar shall promptly determine the challenge and issue a decision in writing.

(b) If the registrar determines that the registration should not have been canceled, the registration continues in effect.

(c) If the registrar determines that the cancellation of the registration was proper, the registrar shall cancel the registration on the 31st day after the date the registrar's decision is issued.

(d) The registrar shall retain a copy of the decision on file with the duplicate registration certificate of the challenging voter and shall deliver a copy to the voter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER D. CHALLENGE OF REGISTRATION**

**Sec. 16.091. RIGHT TO CHALLENGE REGISTRATION.** Except as otherwise provided by this subchapter, a registered voter may challenge the registration of another voter of the same county at a hearing before the registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 22, eff. Sept. 1, 1995.

**Sec. 16.092. SWORN STATEMENT REQUIRED.** A voter desiring to challenge a registration must file with the registrar a sworn statement of the grounds for the challenge that:

(1) identifies the voter whose registration is being challenged; and

(2) states a specific qualification for registration that the challenged voter has not met based on the personal knowledge of the voter desiring to challenge the registration.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1165, Sec. 1, eff. Sept. 1, 2003.

**Sec. 16.0921. CONFIRMATION NOTICE ON CHALLENGE BASED ON RESIDENCE.** (a) Except as provided by Subsection (c), on the filing of a sworn statement under Section 16.092 alleging a ground based on residence, the registrar shall promptly deliver to the voter whose registration is challenged a confirmation notice in accordance with Section 15.051, unless the residential address provided in the challenge for the voter is different from the voter's current residential address indicated on the registration records.

(b) If the voter fails to submit a response to the registrar in accordance with Section 15.053, the registrar shall enter the voter's name on the suspense list.

(c) The registrar may not deliver a confirmation notice resulting from a sworn statement filed after the 75th day before the date of the general election for state and county officers until after the date of that election. This subsection does not apply to a person who submits a registration application after the 75th day and prior to the 30th day before the general election for state and county officers.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 23, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 5.07, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1166, Sec. 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.07, eff. September 1, 2005; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 23, eff. Sept. 1, 2021.

**Sec. 16.093. HEARING ON CHALLENGE.** (a) On the filing of a sworn statement under Section 16.092 alleging a ground other than residence, the registrar shall schedule a hearing on the challenge. The hearing procedure does not apply to an allegation of a ground based on residence.

(b) The registrar shall conduct the hearing not later than the 20th day after the date the statement is filed or on a later date requested by either party and agreed to by both parties.

(c) A party may appear personally at the hearing to offer evidence or argument. A party may offer evidence or argument by affidavit without personally appearing if the party submits the affidavit to the registrar before the hearing begins.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 24, eff. Sept. 1, 1995.

**Sec. 16.094. NOTICE OF HEARING.** (a) The registrar shall deliver written notice of the hearing on the challenge to each

party to the controversy not later than the 15th day before the date of the hearing.

(b) The notice must include:

- (1) the date, hour, and place set for the hearing; and
- (2) a brief explanation of the right to appeal the registrar's decision.

(c) The notice delivered to the voter whose registration is challenged must be accompanied by a copy of the sworn statement of the grounds for the challenge.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 16.095. DETERMINATION OF CHALLENGE.** (a) After hearing and considering the evidence or argument, the registrar shall promptly determine the challenge and issue a decision in writing.

(b) If the registrar determines that the voter's registration should not be canceled, the registration continues in effect.

(c) If the registrar determines that the voter's registration should be canceled, the registrar shall cancel the registration on the 31st day after the date the registrar's decision is issued.

(d) The registrar shall retain a copy of the decision on file with the duplicate registration certificate of the voter whose registration was challenged and shall deliver a copy to each party to the challenge.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **CHAPTER 17. JUDICIAL REVIEW**

**Sec. 17.001. RIGHT OF APPEAL BY APPLICANT FOR REGISTRATION.** An applicant for voter registration is entitled to appeal an adverse decision issued by the registrar under Section 13.079.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 17.002. RIGHT OF APPEAL BY REGISTERED VOTER.** A party to a challenge under Subchapter C or D of Chapter 16 is entitled to appeal an adverse decision issued by the registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 17.003. PETITION FOR REVIEW.** (a) A party desiring to appeal under this chapter must file a petition for review in the district court not later than the 30th day after the date the adverse decision is issued.

(b) Citation is issued and served in the manner provided by law for civil suits generally.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 17.004. COPY FILED WITH REGISTRAR.** (a) Not later than the deadline for filing a petition for review, the petitioner must deliver a copy of the petition to the registrar who issued the adverse decision.

(b) A petition delivered by mail is considered to be delivered at the time of its receipt by the registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 17.005. CANCELLATION DELAYED PENDING APPEAL.** If a voter's registration is to be canceled following a decision from which an appeal is taken, the registrar shall delay canceling the registration, pending the outcome of the appeal, on the timely delivery of the copy of the petition for review.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 17.006. VENUE.** Venue of an appeal under this chapter is in the county served by the registrar who issued the decision from which the appeal is taken.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 17.007. SCOPE OF REVIEW.** (a) Review by the district court under this chapter is by trial de novo.

(b) The district court shall try all issues of fact and law raised by the pleadings in the manner applicable to civil suits generally.

(c) The court may not admit in evidence the fact of prior action by the registrar, except to the extent necessary to establish its jurisdiction.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 17.008. DECISION NOT APPEALABLE.** A decision of the district court under this chapter is not appealable.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.



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## **CHAPTER 18. PROCEDURES FOR IDENTIFYING REGISTERED VOTERS**

### **SUBCHAPTER A. REGISTRATION LISTS**

**Sec. 18.001. ORIGINAL LIST OF REGISTERED VOTERS.** (a) Before the beginning of early voting for the first election held in a county in each voting year, the registrar shall prepare for each county election precinct a certified list of the registered voters in the precinct. The list must contain the name of each voter whose registration will be effective on the date of the first election held in the county in the voting year.

(b) On request of the authority responsible for procuring election supplies for an election authorized by law to be held in the county during the voting year for which the lists are prepared, the registrar shall furnish to the authority a list for each county election precinct wholly in the territory covered by the election. On request of the authority for an election in which a county election precinct is partly in the political subdivision or partly in a territorial unit of the political subdivision from which a member of the subdivision's governing body is elected by only the voters residing in that unit, the registrar shall furnish for each partly included county election precinct a list that contains only the names of voters who reside in the political subdivision or territorial unit, as applicable. The request for restricted lists must be accompanied by a description or map of the applicable boundary of the political subdivision or territorial unit that is in sufficient detail to enable the registrar to prepare the requested lists. The request must be delivered early enough to afford the registrar reasonable time to prepare timely lists.

(c) Except as otherwise provided by this code, the list shall be used throughout the voting year.

(d) An additional copy of each list shall be furnished for use in early voting.

(e) In this code, "original list of registered voters" means a list prepared under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.32; Acts 1991, 72nd Leg., ch. 554, Sec. 3, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 3, eff. Sept. 1, 1993.

**Sec. 18.002. SUPPLEMENTAL LIST OF REGISTERED VOTERS.** (a) For each election held in the county in a voting year, on request of the authority responsible for procuring election supplies, the registrar shall prepare and furnish to the authority a certified list supplementing each original list furnished to the authority. The list must contain the name of each voter whose registration will be effective on election day but whose name does not appear on the original list.

(b) For a runoff election, as an alternative to the list required by Subsection (a), the registrar may furnish for each county election precinct wholly or partly in the territory covered by the runoff a certified list containing the name of each voter whose registration will be effective on runoff election day but whose name does not appear on the original list or on a list furnished under Subsection (a) for the main election.

(c) An additional copy of each list shall be furnished for use in early voting and as needed in order to ensure all voters eligible to vote in an election appear correctly on the original list.

(d) In this code, "supplemental list of registered voters" means a list prepared under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.33; Acts 1991, 72nd Leg., ch. 554, Sec. 4, eff. Sept. 1, 1991; H.B. 3107, 87th Leg., R.S., Sec. 24, eff. Sept. 1, 2021 .

**Sec. 18.003. REGISTRATION CORRECTION LIST.** (a) For each election held in the county in a voting year, the registrar shall prepare and furnish to the authority responsible for procuring election supplies a certified list of corrections.

(b) The list must contain:

(1) the name of each person for whom the information on a list of registered voters furnished under Section 18.001 or 18.002 has changed because of cancellation or correction; and

(2) an indication that the person's registration has been canceled or the corrected registration information.

(c) An additional copy of each list shall be furnished for use in early voting and as needed in order to ensure all voters eligible to vote in an election appear correctly on the original list.

(d) In this code, "registration correction list" means a list prepared under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.34; Acts 1991, 72nd Leg., ch. 554, Sec. 5, eff. Sept. 1, 1991; H.B. 3107, 87th Leg., R.S., Sec. 25, eff. Sept. 1, 2021.

**Sec. 18.004. REVISED ORIGINAL LIST.** (a) As an alternative to furnishing a supplemental list of registered voters and a correction list for an election, the registrar may furnish a certified revised original list.

(b) A revised list must contain the name of each voter whose registration will be effective on election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 18.005. FORM AND CONTENTS OF LIST.** (a) Each original and supplemental list of registered voters must:

- (1) contain the voter's name, date of birth, and registration number as provided by the statewide computerized voter registration list;
- (2) contain the voter's residence address, except as provided by Subsections (b) and (c);
- (3) be arranged alphabetically by voter name; and
- (4) contain the notation required by Section 15.111.

(b) If the voter's residence has no address, the list must contain a concise description of the location of the voter's residence.

(c) The original or supplemental list of registered voters may not contain the residence address of a voter whose residence address is confidential under Section 13.004.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 436, Sec. 7, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 797, Sec. 25, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1315, Sec. 4, eff. Jan. 1, 2004; Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 5, eff. September 1, 2007; Acts 2007, 80th Leg., R.S., Ch. 1295 (S.B. 74), Sec. 5, eff. June 15, 2007; Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 8.001, eff. September 1, 2009; Acts 2009, 81st Leg., R.S., Ch. 465 (S.B. 281), Sec. 5, eff. September 1, 2009; H.B. 2910, 86<sup>th</sup> Leg., Sec. 5, eff. Sept. 1, 2019; ; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 26, eff. Sept. 1, 2021.

**Sec. 18.006. DELIVERY OF LISTS TO ELECTION AUTHORITIES.** The registrar shall deliver the lists furnished under this subchapter, including the lists furnished under Section 18.007, to the appropriate authority as soon as practicable after the request but in every case in time for receipt before the beginning of early voting by mail for the election in which the lists are to be used. If those lists do not contain the names of all voters who will be eligible to vote as of the beginning of early voting by personal appearance, another set of the appropriate lists shall be delivered before the beginning of early voting by personal appearance. If those lists do not contain the names of all voters whose registrations will be effective on election day, another set of the appropriate lists shall be delivered as soon as practicable after the registrar has processed the remaining applications. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 436, Sec. 7, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 501, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.35; Acts 1991, 72nd Leg., ch. 554, Sec. 6, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 916, Sec. 14, eff. Sept. 1, 1993.

**Sec. 18.007. LISTS FURNISHED FOR PRECINCT CONVENTIONS.** In a voting year in which a political party holds precinct conventions in the county under Title 10, the registrar, on request of the party's county chair, shall furnish to the chair for use in qualifying individuals for participation in the conventions one of each of the original, supplemental, and correction lists prescribed by this subchapter. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 11, eff. Sept. 1, 1997.

**Sec. 18.008. COPIES FURNISHED ON REQUEST.** (a) The registrar shall furnish a copy of any list prepared under this subchapter to any person requesting it. The copy shall be furnished without the names of voters whose names appear on a list with the notation "S", or a similar notation, if requested in that form.

(b) The list shall be furnished as soon as practicable after the request but not later than the 15th day after the date the registrar receives the request or completes preparation of the list from which the copy is to be made, whichever is later.

(c) Repealed by H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 99, eff. September 1, 2021.

(d) The copy must be accompanied by a written notice of the criminal penalty prescribed by Section 18.009.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 15, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 26, eff. Sept. 1, 1995.

**Sec. 18.009. UNLAWFUL USE OF INFORMATION ON REGISTRATION LIST.** (a) A person commits an offense if the person uses information in connection with advertising or promoting commercial products or services that the person knows was obtained under Section 18.008.

(b) An offense under this section is a Class A misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 12, eff. Sept. 1, 1997.

**Sec. 18.010. FEES.** (a) The registrar may not charge a fee for furnishing lists required to be furnished under this subchapter except as authorized by this section.

(b) The fee for each list furnished under Section 18.008 may not exceed the actual expense incurred in reproducing the list for the person requesting it and shall be uniform for each type of copy furnished.

(c) The registrar shall use fees collected under this section to defray expenses incurred in the preparation of the copy.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 18.011. FILE OF LISTS FOR COUNTYWIDE ELECTION.** (a) The registrar shall maintain a file containing one of each of the lists prepared under this subchapter for each countywide election.

(b) The registrar shall retain each list on file for two years after election day except a list used in a presidential election, which shall be retained for four years after election day.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 18.012. SECRETARY OF STATE TO APPROVE COMPUTER SERVICES CONTRACTS.** (a) A county may not contract with a computer service company or other private business entity for services related to the lists required under this subchapter unless the programs, equipment, or other materials to be covered by the contract are approved by the secretary of state. The secretary may rescind approval of the programs, equipment, or other materials at any time, and on that action the contract is nullified to the extent that it depends on the disapproved items.

(b) A computer service company or other private business entity may not use modified programs, equipment, or other materials under the contract unless the modifications are approved by the secretary of state.

(c) A person commits an offense if the person violates Subsection (b). An offense under this subsection is a Class A misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 16, eff. Sept. 1, 1993.

**Sec. 18.0121. CONTRACT TO INVESTIGATE VOTER ELIGIBILITY.** A list of potentially ineligible voters produced for a county by a private business entity may not be made available to the public or otherwise used by the registrar unless the registrar has verified the accuracy of the information on the list through available public records.

Added by Acts 2001, 77th Leg., ch. 555, Sec. 1, eff. Sept. 1, 2001.

**Sec. 18.013. POLITICAL SUBDIVISION LIST IN CERTAIN COUNTIES.** (a) On the written request of any resident of a political subdivision of which more than one-half of the political subdivision's territory is situated in a county with a population of 25,000 or less, the registrar of a county in which the political subdivision is wholly or partly situated shall prepare and furnish to the person a list containing the registered voters of that county who reside in the political subdivision or, if requested, who reside in a territorial unit of the political subdivision from which a member of the subdivision's governing body is elected by only the voters residing in the territorial unit.

(b) A request under Subsection (a) must be accompanied by a description or map, if a map is available, of the boundary of the political subdivision or territorial unit. The boundary information must be of sufficient detail to enable the registrar to prepare the requested list.

(c) The list must contain the name of each voter whose registration is effective on the date the list is furnished and must comply with the requirements as to form and content prescribed by Section 18.005.

(d) The list shall be furnished as soon as practicable after the request but not later than the 30th day after the date the registrar receives the request and boundary description or map.

(e) The registrar may charge a fee for the list not to exceed the actual expense incurred in preparing the list. The fees shall be used to defray expenses incurred in preparing the lists.

(f) Section 18.009 applies to the use of information obtained under Subsection (a).

(g) Except as provided by this section, this subchapter does not apply to a list furnished under this section.

Added by Acts 1991, 72nd Leg., ch. 517, Sec. 1, eff. Sept. 1, 1991.

## **SUBCHAPTER B. REGISTRATION STATEMENTS**

**Sec. 18.043. STATEMENT REQUIRED UNDER FEDERAL LAW.** (a) At the times prescribed by the secretary of state, the registrar shall deliver to the secretary a statement containing the voter registration information determined by the secretary to be necessary to comply with reporting requirements prescribed under federal law.

(b) The secretary of state shall prescribe the form, content, and procedure for each statement required under this section.

(c) The registrar shall maintain the information required for the statements in accordance with procedures prescribed by the secretary of state.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 29, eff. Sept. 1, 1995.

## **SUBCHAPTER C. STATEWIDE VOTER REGISTRATION LIST**

**Sec. 18.061. STATEWIDE COMPUTERIZED VOTER REGISTRATION LIST.** (a) The secretary of state shall implement and maintain a statewide computerized voter registration list that serves as the single system for storing and

managing the official list of registered voters in the state.

(b) The statewide computerized voter registration list must:

- (1) contain the name and registration information of each voter registered in the state;
- (2) assign a unique identifier to each registered voter; and
- (3) be available to any county election official in the state through immediate electronic access.

(c) Under procedures prescribed by the secretary of state, each voter registrar shall provide to the secretary of state on an expedited basis the information necessary to maintain the registration list established under Subsection (a). The procedures shall provide for the electronic submission of the information and ensure that each voter registrar collects and reports the correct month, day, and year of birth for each registered voter.

(d) The secretary of state may contract with counties to provide them with electronic data services to facilitate the implementation and maintenance of the statewide computerized voter registration list. The secretary shall use funds collected under the contracts to defray expenses incurred in implementing and maintaining the statewide computerized voter registration list.

(e) The secretary of state shall prescribe procedures to ensure that when a voter registers in another county, as determined under Section 16.031(a)(6), the statewide computerized voter registration list is updated to reflect the voter's registration in the new county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1315, Sec. 6, eff. Jan. 1, 2006; Acts 2005, 79th Leg., Ch. 1105 (H.B. 2280), Sec. 7, eff. January 1, 2006; H.B. 4034, 85th Leg. R.S., Sec. 3, eff. June 12, 2017; H.B. 3107, 87th Leg., R.S., Sec. 27, eff. Sept. 1, 2021.

**Sec. 18.062. INTERSTATE VOTER REGISTRATION CROSSCHECK PROGRAM.** (a) To maintain the statewide voter registration list and to prevent duplication of registration in more than one state or jurisdiction, the secretary of state shall:

(1) cooperate with other states and jurisdictions to develop systems to compare voters, voter history, and voter registration lists to identify voters;

- (A) whose addresses have changed;
- (B) who are not qualified under Section 11.002(a)(4); or
- (C) who are registered to vote in more than one state; or

(2) identify and contract with the provider of a private sector data system to identify voters:

- (A) whose addresses have changed;
- (B) who are registered to vote in more than one state;
- (C) who are deceased; or
- (D) who are not qualified under Section 11.002(a)(4).

(a-1) A private sector data system under Subsection (a)(2) must have demonstrated an ability to work with registered voter identification and matching systems.

(b) A system developed under this section and any vendor involved with the system must comply with:

(1) the National Voter Registration Act (52 U.S.C. Section 20501 et seq.) and the Help America Vote Act of 2002 (52 U.S.C. Section 20901 et seq.); and

(2) all state and federal laws relating to the protection of personal information.

(c) The cost to begin operations with a system under Subsection (a)(2) may not exceed \$100,000.

(d) The cost of continuing operations with a system under Subsection (a)(2) may not exceed one dollar for each voter identified under Subsection (a)(2).

(e) The secretary of state may not provide to a system under Subsection (a)(2) any information that is not:

- (1) found in a voter roll; and
- (2) necessary to identify voters under Subsection (a)(2).

(f) The secretary of state shall record information related to the system under Subsection (a)(2) and shall submit to the legislature a report on that information not later than the first day of each quarter of the state's fiscal year.

(g) A contract with a system under Subsection (a)(2) may not require any additional duty of the state not required by this section.

(h) The secretary of state may not contract with a private sector data system under Subsection (a)(2) unless the system:

- (1) requires a background check for each employee of a potential vendor for the system; and
- (2) uses data from the National Change of Address database.

(i) In addition to using a system described by Subsection (a), the secretary of state shall use data from the National Change of Address database to identify voters whose addresses have changed for the purpose of preventing duplication of registration in more than one state or jurisdiction.

Added by Acts 2015, 84th Leg., R.S., Ch. 473 (S.B. 795), Sec. 1, eff. September 1, 2015; S.B. 1070, 88th Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 18.064. SANCTION FOR NONCOMPLIANCE.** If a registrar fails to substantially comply with Section 15.083, 16.032, or 18.061 or with rules adopted by the secretary of state implementing the statewide computerized voter registration list, the registrar is not entitled to receive state funds for financing voter registration in the county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 114, Sec. 3, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 916, Sec. 19, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1315, Sec. 7, eff. Jan. 1, 2006; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 3, eff. September 1, 2011.

**Sec. 18.065. SECRETARY OF STATE TO MONITOR REGISTRAR'S COMPLIANCE.** (a) The secretary of state shall monitor each registrar for substantial compliance with Sections 15.083, 16.032, and 18.061 and with rules implementing the statewide computerized voter registration list.

(b) On determining that a registrar is not in substantial compliance, the secretary shall deliver written notice of the noncompliance to the registrar and include in the notice a description of the violation and an explanation of the action necessary for substantial compliance and of the consequences of noncompliance.

(c) On determining that a noncomplying registrar has corrected the violation and is in substantial compliance, the secretary shall deliver written notice to the registrar that the registrar is in substantial compliance.

(d) The secretary shall retain a copy of each notice the secretary delivers under this section for two years after the date the notice is delivered.

(e) If the secretary of state determines that a voter registrar is not in substantial compliance with a requirement imposed on the registrar by a provision or rule described in Subsection (a), the secretary of state shall:

(1) for the first violation, require the registrar to attend a training course under Subsection (h);

(2) for the second violation, audit the voter registration list for the county in which the registrar serves to determine the actions needed to achieve substantial compliance under Subsection (a) and provide the results of the audit to the registrar; or

(3) for a third or subsequent violation, if the secretary of state determines that the registrar has not performed any overt actions in pursuance of compliance with the actions identified under Subdivision (2) as necessary for the registrar to achieve substantial compliance under Subsection (a) within 14 days of receiving the results of the audit conducted under that subsection, inform the attorney general that the county which the registrar serves may be subject to a civil penalty under Subsection (f).

(f) A county is liable to this state for a civil penalty of \$1,000 for each day after the 14th day following the receipt of the results of the audit conducted under Subsection (e)(2) that the county's voter registrar fails to take overt action to comply with the actions identified under that subsection as necessary for the registrar to achieve substantial compliance under Subsection (a). The attorney general may bring an action to recover a civil penalty imposed under this section.

(g) A civil penalty collected by the attorney general under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(h) The secretary of state shall develop and implement a training course for registrars on substantial compliance with Sections 15.083, 16.032, and 18.061 and with rules implementing the statewide computerized voter registration list.

(i) The secretary of state shall adopt rules and prescribe procedures for the implementation of this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 114, Sec. 4, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 916, Sec. 20, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1315, Sec. 8, eff. Jan. 1, 2006; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 4, eff. September 1, 2011; Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 15.01, eff. September 28, 2011; S.B. 1, 87th Leg., 2nd C.S., Sec. 2.06, eff. Dec. 2, 2021.

**Sec. 18.066. AVAILABILITY OF STATEWIDE COMPUTERIZED VOTER REGISTRATION LIST INFORMATION.** (a) The secretary of state shall furnish information in the statewide computerized voter registration list to any person on request not later than the 15th day after the date the request is received.

(b) Information furnished under this section may not include:

(1) a voter's social security number; or

(2) the residence address of a voter whose residence address is confidential under Section 13.004.

(c) The secretary shall furnish the information in the form and order in which it is stored or if practicable in any other form or order requested.

(d) To receive information under this section, a person must submit an affidavit to the secretary stating that the person will not use the information obtained in connection with advertising or promoting commercial products or services.

(e) The secretary may prescribe a schedule of fees for furnishing information under this section. A fee may not exceed the actual expense incurred in reproducing the information requested.

(f) The secretary shall use fees collected under this section to defray expenses incurred in the furnishing of the information.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1315, Sec. 9, 10, eff. Jan. 1, 2006; Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 6, eff. September 1, 2007; Acts 2009, 81st Leg., R.S., Ch. 465 (S.B. 281), Sec. 6, eff. September 1, 2009; H.B. 2910, 86<sup>th</sup> Leg., Sec. 6, eff. Sept. 1, 2019.

**Sec. 18.067. UNLAWFUL USE OF STATEWIDE COMPUTERIZED VOTER REGISTRATION LIST.** (a) A person commits an offense if the person uses information in connection with advertising or promoting commercial products or services that the person knows was obtained under Section 18.066.

(b) An offense under this section is a Class A misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 13, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 11, eff. Jan. 1, 2006.

**Sec. 18.068. COMPARISON OF INFORMATION REGARDING INELIGIBILITY.** (a) The secretary of state shall quarterly compare the information received under Section 16.001 of this code and Sections 62.113 and 62.114, Government Code, to the statewide computerized voter registration list. If the secretary determines that a voter on the registration list is deceased or has been excused or disqualified from jury service because the voter is not a citizen or a resident of the county in which the voter is registered to vote, the secretary shall send notice of the determination to the voter registrar of the counties considered appropriate by the secretary.

(a-1) The secretary of state is not required to send notice under Subsection (a) for a voter who is subject to an exemption from jury service under Section 62.106, Government Code, if that exemption is the only reason the voter is excused from jury service.

(b) The secretary of state shall by rule determine what information combinations identified as common to a voter and to an individual who is deceased constitute a weak match or a strong match in order to:

- (1) produce the least possible impact on Texas voters; and
- (2) fulfill its responsibility to manage the voter rolls.

(c) The secretary of state may not determine that a voter is deceased based on a weak match. The secretary of state may inform the county of the voter's residence that a weak match exists.

(d) On receiving notification from the secretary of state under Subsection (c) that a weak match of identifying information exists for a county voter and an individual who is deceased, the county shall investigate whether the voter is the individual who is deceased.

(e) The secretary of state may determine that a voter is deceased based on a strong match.

(f) The secretary of state may obtain, for purposes of determining whether a voter is deceased, information from other state agency databases relating to a voter that is the same type of information that the secretary of state or a voter registrar collects or stores for voter registration purposes.

Added by Acts 2011, 82nd Leg., R.S., Ch. 683 (H.B. 174), Sec. 4, eff. September 1, 2011. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1093 (H.B. 3593), Sec. 2, eff. September 1, 2013; .S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 2.07, eff. Dec. 2, 2021.

**Sec. 18.0681. SECRETARY OF STATE AUTHORITY TO ELIMINATE DUPLICATE REGISTRATION RECORDS.**

(a) The secretary of state shall periodically compare the information regarding voters maintained as part of the statewide computerized voter registration list to determine whether any voters have more than one voter registration record on file.

(b) The secretary of state shall by rule determine what information combinations identified as common to more than one registration record constitute a weak match or a strong match in order to:

- (1) produce the least possible impact on Texas voters; and
- (2) fulfill its responsibility to manage the voter rolls.

(c) The secretary of state may not determine that a voter has more than one registration record based on a weak match. The secretary of state may inform the county of the voter's residence that a weak match exists.

(d) If the secretary of state determines that a voter on the registration list has more than one registration record on file based on a strong match, the secretary shall send notice of the determination to the voter registrar of the county with the oldest registration record in which the voter is registered to vote. If the voter records identified are:

- (1) located in the same county, the voter registrar may merge the records following a determination that each record belongs to the same voter using the procedure for the correction of registration records under Section 15.022;

or

(2) located in more than one county, the registrar of the county with the oldest record may deliver a written confirmation notice in accordance with Section 15.051 or cancel the registration of the voter in accordance with Section 16.031(a)(1), provided that the voter's record in the county with the newest registration record is not on the suspense list.

Added by H.B. 4034, 85<sup>th</sup> Leg. R.S., Sec. 4, eff. June 12, 2017; amended by H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 28, eff. Sept. 1, 2021.

**Sec. 18.069. VOTING HISTORY.** Not later than the 30th day after the date of the primary, runoff primary, or general election or any special election ordered by the governor, the general custodian of election records shall electronically submit to the secretary of state the record of each voter participating in the election. The record must include a notation of whether the voter voted on election day, voted early by personal appearance, voted early by mail under Chapter 86, or voted early by mail under Chapter 101.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 5, eff. September 1, 2011. Redesignated from Election Code, Section 18.068 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(14), eff. September 1, 2013. Amended by: Acts 2015, 84th Leg., R.S., Ch. 294 (H.B. 2050), Sec. 1, eff. September 1, 2015; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 29, eff. Sept. 1, 2021.



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## **CHAPTER 19. FINANCING VOTER REGISTRATION**

**Sec. 19.001. STATEMENT OF REGISTRATIONS SUBMITTED TO SECRETARY OF STATE.** (a) Before May 15 of each year, the registrar shall prepare and submit to the secretary of state a statement containing:

- (1) the total number of initial registrations for the previous voting year;
- (2) the total number of registrations canceled under Sections 16.031(a)(1), 16.033, and 16.0332 for the previous voting year; and
- (3) the total number of registrations for which information was updated for the previous voting year.

(b) In each even-numbered year, the registrar shall include in the statement the total number of voters on the lists of registered voters on the date of the first election held in the county in the voting year.

(c) The registrar shall certify that the information in the statement is accurate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 454, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 11, eff. Sept. 1, 2003; Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 15.02, eff. September 28, 2011; Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 5.005, eff. September 1, 2013.

**Sec. 19.002. PAYMENTS.** (a) Each registrar is entitled to receive the sum of the following amounts:

- (1) 25 cents multiplied by the number of initial registrations certified under Section 19.001(a)(1);
- (2) 40 cents multiplied by the number of canceled registrations certified under Section 19.001(a)(2);
- (3) 40 cents multiplied by the number of updated registrations under Section 19.001(a)(3); and
- (4) in each even-numbered year, 40 cents multiplied by the difference between the number of registered voters and the number of initial registrations certified for the two previous voting years.

(b) After June 1 of each year, the secretary of state shall make payments pursuant to vouchers submitted by the registrar and approved by the secretary of state in amounts that in the aggregate do not exceed the registrar's entitlement. The secretary of state shall prescribe the procedures necessary to implement this subsection.

(c) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 4, Sec. 15.08, eff. September 28, 2011.

(d) The secretary of state may not make a payment under Subsection (b) if on June 1 of the year in which the payment is to be made the registrar is not in substantial compliance with Section 15.083, 16.031, 16.032, or 18.065 or with rules implementing the registration service program.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 472, Sec. 4, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 114, Sec. 5, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 916, Sec. 21, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 454, Sec. 8, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 6, eff. September 1, 2011; Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 15.03, eff. September 28, 2011; Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 15.04, eff. September 28, 2011; Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 15.05, eff. September 28, 2011; Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 15.08, eff. September 28, 2011; H.B. 2837, 85<sup>th</sup> Leg. R.S., Sec. 1, eff. September 1, 2017; H.B. 4034, 85<sup>th</sup> Leg. R.S., Sec. 5, eff. September 1, 2017.

**Sec. 19.0025. ELECTRONIC ADMINISTRATION OF VOUCHERS AND PAYMENTS.** (a) The secretary of state shall establish and maintain an online electronic system for administering vouchers submitted and payments made under Section 19.002.

(b) A registrar must electronically submit a voucher to the secretary of state using the online electronic system maintained by the secretary.

(c) The online electronic system shall provide for the direct deposit of a disbursement made under this chapter in a registrar's account.

(d) The secretary of state shall prescribe procedures necessary to implement this section.

Added by Acts 2005, 79th Leg., Ch. 619 (H.B. 2322), Sec. 1, eff. September 1, 2005. Amended by: Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 15.06, eff. September 28, 2011; Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 15.07, eff. September 28, 2011.

**Sec. 19.003. DISBURSEMENT OF STATE FUNDS.** Only funds from the General Revenue Fund may be appropriated for the disbursements required by this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 19.004. USE OF STATE FUNDS RESTRICTED.** (a) Except as provided by Subsection (d), state funds disbursed under this chapter may be used only to:

- (1) defray expenses of the registrar's office in connection with voter registration, including additional expenses related to:

(A) implementation of the National Voter Registration Act of 1993 (52 U.S.C. Section 20501 et

seq.);

(B) complying with weekly updating requirements; and

(C) the employment of temporary voter registration personnel for not more than 39 weeks in a state fiscal year; and

(2) if the registrar's county has a population of less than 55,000, defray the cost to the registrar's county of keeping the polling places in the county open during the early voting period as required under Sections 85.005(c), 85.006(e), and 85.064(d).

(b) The secretary of state shall specify the procedures that result in additional expenses and that are required under this section.

(c) Any funds authorized under this chapter that lapse to the state after the expiration of the two-year period in which they may be used shall be placed in a special fund administered by the secretary of state. The secretary of state shall issue money from this fund to counties with limited technological resources to upgrade voter registration technology. The secretary of state shall prescribe procedures necessary to implement this section.

(d) If the secretary of state determines that federal matching funds are available under the federal Help America Vote Act of 2002, the secretary of state shall certify to the comptroller the amount of state funds required to qualify for the maximum amount of federal matching funds. On receipt of the certification, the comptroller shall deposit from funds otherwise available under this chapter an amount equal to the certified amount in the election improvement fund established under Section 31.011.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 472, Sec. 5, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 797, Sec. 32, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1178, Sec. 4, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 1315, Sec. 12, eff. Jan. 1, 2004; Acts 2009, 81st Leg., R.S., Ch. 194 (H.B. 3061), Sec. 1, eff. September 1, 2009; H.B. 1217, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 19.005. STATE FUNDS NOT FEES OF OFFICE.** State funds disbursed under this chapter are not and may not be treated as fees of office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 472, Sec. 5, eff. Sept. 1, 1987.

**Sec. 19.006. STATE FUNDS NOT PART OF COUNTY BUDGET.** The commissioners court may not consider the availability of state funds under this chapter in adopting the county budget for the office of the voter registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## CHAPTER 20. VOTER REGISTRATION AGENCIES

### SUBCHAPTER A. GENERAL PROVISIONS

**Sec. 20.001. DESIGNATION OF VOTER REGISTRATION AGENCIES.** (a) The following state agencies are designated as voter registration agencies:

- (1) Health and Human Services Commission;
- (2) Department of Aging and Disability Services;
- (3) Department of Assistive and Rehabilitative Services;
- (4) Department of State Health Services; and
- (5) any other agency or program as determined by the secretary of state that primarily provides:
  - (A) public assistance; or
  - (B) services to persons with disabilities.

(b) The Department of Public Safety is designated as a voter registration agency.

(c) Each public library, including any branch or other service outlet, is designated as a voter registration agency. In this chapter, "public library" means a library that:

- (1) is regularly open for business for more than 30 hours a week;
- (2) is operated by a single public agency or board;
- (3) is open without charge to all persons under identical conditions; and
- (4) receives its financial support wholly or partly from public funds.

(d) Each marriage license office of the county clerk is designated as a voter registration agency.

(e) The secretary of state shall designate other agencies or offices as voter registration agencies as necessary for compliance with federal law.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

Amended by: Acts 2005, 79th Leg., Ch. 1090 (H.B. 2068), Sec. 1, eff. September 1, 2005.

**Sec. 20.002. AGENCY-PREScribed REGISTRATION APPLICATION FORM.** Instead of using the official voter registration application form prescribed by the secretary of state, a voter registration agency may use an official form prescribed by the agency, if approved by the secretary of state.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.003. OFFICIAL DECLINATION OF REGISTRATION FORM.** The officially prescribed form for a declination of a voter registration must include:

- (1) spaces for the person's signature and printed name and the date of signing;
- (2) the following question, followed by appropriate boxes preceding "YES" and "NO": "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";
- (3) if the agency provides public assistance, the statement: "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";
- (4) the statement: "IF YOU HAVE NOT CHECKED EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";
- (5) the statement: "If you would like help filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.";
- (6) the statement: "If you believe that someone has interfered with your right to register or to decline to register to vote or with your right to privacy in deciding whether to register or in applying to register to vote, you may file a complaint with the Elections Division of the Office of the Secretary of State, P.O. Box 12060, Austin, Texas 78711.";
- (7) a statement that if the applicant declines to register to vote, that fact will remain confidential and will be used only for voter registration purposes;
- (8) a statement that if the applicant does register to vote, information regarding the agency or office to which the application is submitted will remain confidential and will be used only for voter registration purposes; and
- (9) a space for indicating that the applicant refused to sign the declination or kept the application to personally submit it to the voter registrar.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.004. AGENCY COORDINATOR.** (a) A voter registration agency shall designate one or more persons to coordinate the agency's voter registration program. The agency shall notify the secretary of state of the name of each coordinator.

(b) The registration coordinator shall conduct training for agency employees in voter registration procedures with the assistance of the secretary of state.

(c) The agency shall submit to the secretary of state a plan to implement voter registration procedures under this chapter.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.005. DEGREE OF ASSISTANCE.** A voter registration agency shall provide the same degree of assistance, including any necessary bilingual assistance, to a person in completing a voter registration form as is provided to a person in completing the agency's forms, unless the assistance is refused.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.006. DETERMINATION OF ELIGIBILITY.** (a) An employee of a voter registration agency may not make a determination about a person's eligibility for registration other than a determination of whether the person is of voting age or is a United States citizen.

(b) A person's age or citizenship may be determined by the employee only if the age or citizenship can be readily determined from information filed with the agency by the person for purposes other than voter registration.

(c) A person shall be offered voter registration assistance as provided by this chapter even if the person's age or citizenship cannot be determined.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.007. PROHIBITED ACTS.** An employee of a voter registration agency may not:

(1) seek to influence an applicant's political party preference;

(2) display any political party preference or allegiance; or

(3) make any statement or take any action the purpose or effect of which is to:

(A) discourage the applicant from registering to vote; or

(B) lead the applicant to believe that a decision of whether to register has any bearing on the availability of services or benefits.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.008. ASSISTANCE BY SECRETARY OF STATE OR REGISTRAR.** If a question arises concerning voter registration that an agency employee cannot answer, the employee shall provide the person:

(1) the toll-free telephone number of the Elections Division of the Office of the Secretary of State; and

(2) the telephone number of the voter registrar to whom registration applications are submitted.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.009. ADDITIONAL PROCEDURES.** The secretary of state shall prescribe any additional procedures necessary for the orderly and proper administration of voter registration procedures under this chapter.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

## **SUBCHAPTER B. REGISTRATION ASSISTANCE GENERALLY**

**Sec. 20.031. FORM PROVIDED.** A voter registration agency shall provide a voter registration application form to each person who is of voting age and a United States citizen in connection with the person's application for initial services, and also in connection with any recertification, renewal, or change of address, unless the person declines in writing to register to vote.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.032. REGISTRATION PROCEDURES.** (a) An appropriate agency employee shall routinely inform each person who applies in person for agency services of the opportunity to complete a voter registration application form and on request shall provide nonpartisan voter registration assistance to the applicant.

(b) An agency that provides services at a person's residence shall provide the opportunity to complete the form and the assistance under Subsection (a) at the residence.

(c) On receipt of a registration application, the appropriate agency employee shall review it for completeness in the

applicant's presence. If the application does not contain all the required information and the required signature, the agency employee shall return the application to the applicant for completion and resubmission.

(d) Information regarding the agency or office to which an application is submitted is confidential and may be used only for voter registration purposes.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.033. EFFECT OF SUBMISSION OF APPLICATION TO EMPLOYEE.** The date of submission of a completed registration application to the agency employee is considered to be the date of submission to the voter registrar for the purpose of determining the effective date of registration only.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.034. SUBMISSION TO REGISTRAR BY APPLICANT.** (a) The applicant may keep the registration application form or the completed application to submit the application personally to the voter registrar.

(b) The agency employee shall enter on the declination of registration form a notation that after being given the opportunity to register, the applicant kept the application or application form for personal submission of the application to the registrar.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.035. DELIVERY OF APPLICATIONS TO REGISTRAR.** (a) The agency shall deliver to the voter registrar of the county in which the agency office is located each completed registration application submitted to an agency employee.

(b) An application shall be delivered to the registrar not later than the fifth day after the date the application is submitted to the employee.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.036. DECLINATION OF REGISTRATION.** (a) If the applicant does not wish to complete a voter registration application form, the agency employee shall request that the applicant complete and sign an official declination of registration form unless the employee determines that the applicant has previously completed and signed the form.

(b) If the applicant refuses to sign the declination form, the agency employee shall enter on the form a notation of that fact.

(c) The agency shall preserve each declination for at least 22 months after the date of signing. The declination may be retained in the applicant's file at the agency or in a separate declination file.

(d) A declination is confidential and may be used only for voter registration purposes.

(e) The secretary of state shall prescribe the procedures necessary to eliminate the filing of multiple declinations by an applicant.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.037. TELEPHONE OR MAIL SERVICES.** (a) A voter registration agency that allows a person to apply for services by mail shall deliver to an applicant by mail a voter registration application form on the approval of services for the applicant.

(b) An agency shall deliver to an applicant by mail a voter registration application form if:

(1) the agency automatically notifies an applicant to renew or recertify a service by mailing a form to the applicant; or

(2) the applicant requests services by telephone and the agency provides services in that manner.

(c) An application form delivered by mail must be accompanied by a notice informing the applicant that the application may be submitted in person or by mail to the voter registrar of the county in which the applicant resides or in person to a volunteer deputy registrar for delivery to the voter registrar of the county in which the applicant resides.

(d) The agency may maintain a written record indicating that a registration application was delivered to an applicant.

(e) The agency is not required to deliver a declination of registration form under this section.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

## **SUBCHAPTER C. DEPARTMENT OF PUBLIC SAFETY**

**Sec. 20.061. APPLICABILITY OF OTHER PROVISIONS.** The other provisions of this chapter apply to the Department of Public Safety except provisions that conflict with this subchapter.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.062. DEPARTMENT FORMS AND PROCEDURE.** (a) The Department of Public Safety shall prescribe and use a form and procedure that combines the department's application form for a license or card with an officially prescribed voter registration application form.

(b) The department shall prescribe and use a change of address form and procedure that combines department and voter registration functions. The form must allow a licensee or cardholder to indicate whether the change of address is also to be used for voter registration purposes.

(c) The design, content, and physical characteristics of the department forms must be approved by the secretary of state.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.063. REGISTRATION PROCEDURES.** (a) The Department of Public Safety shall provide to each person who applies in person at the department's offices for an original or renewal of a driver's license, a personal identification card, or a duplicate or corrected license or card an opportunity to complete a voter registration application form.

(b) When the department processes a license or card for renewal by mail, the department shall deliver to the applicant by mail a voter registration application form.

(c) A change of address that relates to a license or card and that is submitted to the department in person or by mail serves as a change of address for voter registration unless the licensee or cardholder indicates that the change is not for voter registration purposes. The date of submission of a change of address to a department employee is considered to be the date of submission to the voter registrar for the purpose of determining the effective date of registration only.

(d) If a completed voter registration application submitted to a department employee does not include the applicant's correct driver's license number or personal identification card number, a department employee shall enter the appropriate information on the application. If a completed application does not include the applicant's correct residence address or mailing address, a department employee shall obtain the appropriate information from the applicant and enter the information on the application.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 454, Sec. 9, eff. Sept. 1, 1997.

**Sec. 20.064. DECLINATION FORM NOT REQUIRED.** The Department of Public Safety is not required to comply with the procedures prescribed by this chapter relating to the form for a declination of voter registration.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.065. DELIVERY OF APPLICATIONS AND CHANGES OF ADDRESS.** (a) At the end of each day a Department of Public Safety office is regularly open for business, the manager of the office shall deliver by mail or in person to the voter registrar of the county in which the office is located each completed voter registration application and applicable change of address submitted to a department employee.

(b) Each weekday the department is regularly open for business, the department shall electronically transfer to the secretary of state the name of each person who completes a voter registration application submitted to the department. The secretary shall prescribe procedures necessary to implement this subsection.

(c) On the weekday the secretary of state is regularly open for business following the date the secretary receives information under Subsection (b), the secretary shall inform the appropriate voter registrar of the name of each person who completes a voter registration application submitted to the department. The registrar may verify that the registrar has received each application as indicated by the information provided by the secretary under this subsection.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1178, Sec. 5, eff. Jan. 1, 2002; Acts 2005, 79th Leg., Ch. 1105 (H.B. 2280), Sec. 8, eff. January 1, 2006.

**Sec. 20.066. REGISTRATION PROCEDURES.** (a) If a person completes a voter registration application as provided by Section 20.063, the Department of Public Safety shall:

(1) input the information provided on the application into the department's electronic data system; and

(2) inform the applicant that the applicant's electronic signature provided to the department will be used for submitting the applicant's voter registration application.

(b) Not later than the fifth day after the date a person completes a voter registration application and provides an electronic signature to the department, the department shall electronically transfer the applicant's voter registration data, including the applicant's signature, to the secretary of state.

(c) The secretary of state shall prescribe additional procedures as necessary to implement this section.

(d) Expired.

(e) Expired.

Added by Acts 2001, 77th Leg., ch. 1136, Sec. 1, eff. Sept. 1, 2001.  
Amended by: Acts 2005, 79th Leg., Ch. 1105 (H.B. 2280), Sec. 9, eff. January 1, 2006.

## **SUBCHAPTER D. PUBLIC LIBRARY**

**Sec. 20.091. APPLICABILITY OF OTHER PROVISIONS.** The other provisions of this chapter apply to a public library except provisions that conflict with this subchapter.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.092. REGISTRATION PROCEDURE.** (a) A public library shall provide to each person of voting age who applies in person for an original or renewal of a library card an opportunity to complete a voter registration application form.

(b) A public library shall use the official form prescribed by the secretary of state.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.093. DECLINATION FORM NOT REQUIRED.** A public library is not required to comply with the procedures prescribed by this chapter relating to the form for a declination of voter registration.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

## **SUBCHAPTER E. MARRIAGE LICENSE OFFICE**

**Sec. 20.121. APPLICABILITY OF OTHER PROVISIONS.** The other provisions of this chapter do not apply to a marriage license office of the county clerk unless expressly provided otherwise by the other provision or by rule of the secretary of state.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.122. REGISTRATION PROCEDURES.** (a) When an original marriage license is returned to the licensees after being recorded, the county clerk shall also deliver to the licensees by mail two voter registration application forms.

(b) The county clerk shall use the official form prescribed by the secretary of state.

(c) The application forms must be accompanied by a notice informing the licensees that the applications may be submitted in person or by mail to the voter registrar of the county in which they reside or in person to a volunteer deputy registrar for delivery to the voter registrar of the county in which they reside.

(d) The county clerk may maintain a written record indicating that a registration application was delivered to a licensee.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.

**Sec. 20.123. DECLINATION FORM NOT REQUIRED.** The county clerk is not required to comply with the procedures prescribed by this chapter relating to the form for a declination of voter registration.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 33, eff. Sept. 1, 1995.



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# TITLE 3. ELECTION OFFICERS AND OBSERVERS

## CHAPTER 31. OFFICERS TO ADMINISTER ELECTIONS

### SUBCHAPTER A. SECRETARY OF STATE

**Sec. 31.001. CHIEF ELECTION OFFICER.** (a) The secretary of state is the chief election officer of the state.

(b) The secretary shall establish in the secretary's office an elections division with an adequate staff to enable the secretary to perform the secretary's duties as chief election officer. The secretary may assign to the elections division staff any function relating to the administration of elections that is under the secretary's jurisdiction.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 14, eff. Sept. 1, 1997.

**Sec. 31.002. OFFICIAL FORMS.** (a) The secretary of state shall prescribe the design and content, consistent with this code, of the forms necessary for the administration of this code other than Title 15. The design and content must enhance the ability of a person to understand the applicable requirements and to physically furnish the required information in the space provided.

(b) The secretary shall furnish samples of the forms to:

- (1) the appropriate authorities who have administrative duties under this code; and
- (2) other persons who request a form for duplication.

(c) The samples of forms shall be furnished without charge.

(d) An authority having administrative duties under this code shall use an official form in performing the administrative functions, except in an emergency in which an official form is unavailable or as otherwise provided by this code. Other persons are not required to use an official form unless expressly required to do so by this code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1995, 74th Leg., ch. 797, Sec. 34, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1349, Sec. 6, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 5.08, eff. Sept. 1, 1999.

**Sec. 31.0021. CERTAIN OFFICIAL FORMS: INCLUSION OF NEPOTISM INFORMATION.** (a) On forms designed and furnished by the secretary of state for an application for a place on the ballot, the secretary shall include a brief summary of:

- (1) the nepotism prohibition imposed by Chapter 573, Government Code; and
- (2) a list of the specific kinds of relatives that are included within the prohibited degrees of relationship prescribed by Chapter 573, Government Code.

(b) Any other authority that designs and furnishes an application for a place on the ballot shall include on that form the same summary included on forms prescribed by the secretary of state under Subsection (a).

Added by Acts 1987, 70th Leg., ch. 427, Sec. 3, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(25), eff. Sept. 1, 1995.

Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.09, eff. September 1, 2005.

**Sec. 31.003. UNIFORMITY.** The secretary of state shall obtain and maintain uniformity in the application, operation, and interpretation of this code and of the election laws outside this code. In performing this duty, the secretary shall prepare detailed and comprehensive written directives and instructions relating to and based on this code and the election laws outside this code. The secretary shall distribute these materials to the appropriate state and local authorities having duties in the administration of these laws.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.004. ASSISTANCE AND ADVICE.** (a) The secretary of state shall assist and advise all election authorities with regard to the application, operation, and interpretation of this code and of the election laws outside this code.

(b) The secretary shall maintain an informational service for answering inquiries of election authorities relating to the administration of the election laws or the performance of their duties.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.005. PROTECTION OF VOTING RIGHTS; ENFORCEMENT.** (a) The secretary of state may take appropriate action to protect the voting rights of the citizens of this state from abuse by the authorities administering the state's electoral

processes.

(b) The secretary of state may order a person performing official functions in the administration of any part of the electoral processes to correct offending conduct if the secretary determines that the person is exercising the powers vested in that person in a manner that:

- (1) impedes the free exercise of a citizen's voting rights; or
- (2) unless acting under an order of a court of competent jurisdiction, delays or cancels an election that the person does not have specific statutory authority to delay or cancel.

(c) If a person described by Subsection (b) fails to comply with an order from the secretary of state under this section, the secretary may seek enforcement of the order by a temporary restraining order or a writ of injunction or mandamus obtained through the attorney general.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; amended by H.B. 3107, 87th Leg., R.S., Sec. 30 & 31, eff. Sept. 1, 2021.

**Sec. 31.0055. VOTING RIGHTS HOTLINE.** (a) The secretary of state shall establish a toll-free telephone number to allow a person to report an existing or potential abuse of voting rights.

(b) A notice informing voters of the telephone number and the purpose for the number shall be included in the notice of voters' rights publicized under Section 62.0115.

Added by Acts 2001, 77th Leg., ch. 556, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2005, 79th Leg., Ch. 510 (H.B. 719), Sec. 1, eff. September 1, 2005.

**Sec. 31.006. REFERRAL TO ATTORNEY GENERAL.** (a) If, after receiving or discovering information indicating that criminal conduct in connection with an election has occurred, the secretary of state determines that there is reasonable cause to suspect that criminal conduct occurred, the secretary shall promptly refer the information to the attorney general. The secretary shall deliver to the attorney general all pertinent documents and information in the secretary's possession.

(b) The documents and information submitted under Subsection (a) are not considered public information until:

- (1) the secretary of state makes a determination that the information received does not warrant an investigation; or
- (2) if referred to the attorney general, the attorney general has completed the investigation or has made a determination that the information referred does not warrant an investigation.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 4, eff. Sept. 1, 1993.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 7, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 5, eff. September 1, 2013; S.B. 1, 87th Leg., 2nd C.S., Sec. 2.08, eff. Dec. 2, 2021.

**Sec. 31.007. SUSPENSION OF PROVISIONS IMPLEMENTING NATIONAL VOTER REGISTRATION ACT.** (a) If under federal law, order, regulation, or other official action the National Voter Registration Act of 1993 is not required to be implemented or enforced in whole or in part, an affected state law or rule is suspended to the extent that the law or rule was enacted or adopted to implement that Act, and it is the intent of the legislature that the applicable law in effect immediately before the enactment or adoption be reinstated and continued in effect pending enactment of corrective state legislation.

(b) On a finding by the secretary of state that a suspension of a law or rule has occurred under Subsection (a), the secretary may modify applicable procedures as necessary to give effect to the suspension and to reinstatement of the procedures of the former law.

(c) The secretary of state may adopt rules to implement this section as necessary.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 35, eff. Sept. 1, 1995.

**Sec. 31.008. COLLECTION OF INFORMATION: FORUM ON ELECTION COST SAVINGS.** (a) The secretary of state shall collect and maintain information on the number of elections held in this state and the administrative costs associated with the elections.

(b) The secretary of state shall conduct an annual forum to allow election officials from political subdivisions to exchange ideas on the administration of elections, including issues related to cost savings and efficiency in the conduct of elections. The election officials shall be given the opportunity at the forum to make recommendations on proposed changes in the election laws.

Added by Acts 1997, 75th Leg., ch. 1219, Sec. 1, eff. June 20, 1997.

**Sec. 31.009. DISTRIBUTION OF CERTAIN FUNDS.** (a) If federal funds are made available to assist the state in the administration of elections, including assistance for the phasing out or prohibition of the use of punch-card ballot voting systems in this state, or state funds are made available to reimburse political subdivisions for expenses incurred in conducting a special election that is held statewide, the secretary of state shall administer and distribute the funds as appropriate to most effectively

facilitate the purposes for which the funds are made available.

(b) The secretary of state shall prescribe any necessary rules and take any appropriate action to implement this section.

Added by Acts 2001, 77th Leg., ch. 537, Sec. 1, eff. June 11, 2001.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 1182 (H.B. 556), Sec. 1(a), eff. June 15, 2007; Acts 2007, 80th Leg., R.S., Ch. 1182 (H.B. 556), Sec. 1(b), eff. June 15, 2007.

**Sec. 31.010. IMPLEMENTATION OF FEDERAL HELP AMERICA VOTE ACT.** (a) The secretary of state may adopt rules as necessary to implement the federal Help America Vote Act of 2002.

(b) The secretary of state shall adopt rules establishing state-based administrative complaint procedures to remedy grievances that meet the requirements of Section 402(a) of the federal Help America Vote Act of 2002.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 13, eff. Sept. 1, 2003.

**Sec. 31.011. ELECTION IMPROVEMENT FUND.** (a) The election improvement fund is created as a dedicated account in the general revenue fund and consists of federal funds designated for election improvement, matching funds from the state or a political subdivision, and depository interest earned on the assets of the fund.

(b) Money in the fund may be appropriated only to provide funding for the following purposes:

- (1) to improve election administration at the state and local level;
- (2) to make grants to local governments for the improvement or replacement of voting systems;
- (3) to create a single uniform official centralized interactive voter registration database; and
- (4) to comply with other election requirements of the federal government.

(c) The fund is exempt from the application of Section 403.095, Government Code.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 13, eff. Sept. 1, 2003.

**Sec. 31.012. VOTER EDUCATION.** (a) The secretary of state and the voter registrar of each county that maintains a website shall provide notice of the identification requirements for voting prescribed by Chapter 63 and that straight ticket voting has been eliminated pursuant to H.B. 25, Acts of the 85th Legislature, Regular Session, 2017 on each entity's respective website in each language in which voter registration and election materials are available. The secretary of state shall prescribe the wording of the notice to be included on the websites.

(b) The secretary of state shall conduct a statewide effort to educate voters regarding the identification requirements for voting prescribed by Chapter 63.

(b-1) As soon as practicable after September 1, 2020, the secretary of state shall distribute electronically to each county election administrator and the county chair of each political party notice that straight ticket voting has been eliminated pursuant to H.B. 25, Acts of the 85th Legislature, Regular Session, 2017.

(c) The county clerk of each county shall post in a prominent location at the clerk's office a physical copy of the notice prescribed under Subsection (a) in each language in which voter registration materials are available.

(d) The secretary of state shall adopt rules and establish procedures as necessary for the implementation of the elimination of straight-party voting to ensure that voters and county election administrators are not burdened by the implementation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 5, eff. September 1, 2011; H.B. 25, 85<sup>th</sup> Leg., R.S., Secs. 1 & 2, eff. Sept. 1, 2020.

**Sec. 31.013. MOBILE LOCATIONS FOR OBTAINING IDENTIFICATION.** (a) The secretary of state shall establish a program using mobile units to provide election identification certificates to voters for the purpose of satisfying the requirements of Section 63.001(b). A mobile unit may be used at special events or at the request of a constituent group.

(b) In establishing the program, the secretary of state shall consult with the Department of Public Safety on the creation of the program, security relating to the issuance of an election identification certificate, best practices in issuing an election identification certificate, and equipment required to issue an election identification certificate.

(c) The secretary of state may not charge a fee to a group that requests a mobile unit established under this section.

(d) If the secretary of state cannot ensure the required security or other necessary elements of the program, the secretary of state may deny a request for a mobile unit established under this section.

(e) The secretary of state shall adopt rules necessary for the implementation of this section.

Added by S.B. 5, 85<sup>th</sup> Leg., Sec. 1, eff. January 1, 2018.

**Sec. 31.014. CERTIFICATION OF ELECTRONIC DEVICES TO ACCEPT VOTERS.** (a) The secretary of state shall prescribe specific requirements and standards, consistent with this code, for the certification of an electronic device used to accept voters under Chapter 63 that require the device to:

- (1) produce an electronic copy of the list of voters who were accepted to vote for delivery to the election

judge after the polls close;

- (2) display the voter's original signature in accordance with Section 63.002;
- (3) accept a voter for voting even when the device is off-line;
- (4) provide the full list of voters registered in the county with an indication of the jurisdictional or distinguishing number for each territorial unit in which each voter resides;
- (5) time-stamp when each voter is accepted at a polling place, including the voter's unique identifier;
- (6) if the county participates in the countywide polling place program under Section 43.007 or has more than one early voting polling place, transmit a time stamp when each voter is accepted, including the voter's unique identifier, to all polling place locations;
- (7) time-stamp the receipt of a transmission under Subdivision (6); and
- (8) produce in an electronic format compatible with the statewide voter registration list under Section 18.061 data for retention and transfer that includes:
  - (A) the polling location in which the device was used;
  - (B) the dated time stamp under Subdivision (5); and
  - (C) the dated time stamp under Subdivision (7).

(b) A device described by this section must be certified annually by the secretary of state.

(c) The secretary of state shall adopt rules that require a device described by this section used during the early voting period or under the countywide polling place program under Section 43.007 to update data in real time. If a county uses a device that does not comply with the rule in two consecutive general elections for state and county officers, the secretary of state shall assess a noncompliance fee. The noncompliance fee shall be set at an amount determined by secretary of state rule. Added by H.B. 4130, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 31.016. VOTING INFORMATION ON SECRETARY OF STATE'S WEBSITE.** (a) The secretary of state shall prescribe procedures requiring the county officer responsible for administering elections to submit contact information of the county election office to the secretary of state for inclusion on the secretary of state's Internet website, including:

- (1) the street address and zip code;
- (2) the mailing address if different from the address provided in Subdivision (1);
- (3) telephone number;
- (4) facsimile number; and
- (5) e-mail address.

(b) The secretary of state shall prescribe procedures requiring each entity designating the location of a polling place, including an early voting polling place, to submit information on the location to the secretary of state for inclusion on the secretary of state's Internet website.

(c) For each polling place the information submitted must include:

- (1) the name of the building in which the polling place is located, if available;
- (2) the street address and zip code of the polling place; and
- (3) the days and hours of voting at each location.

(d) The polling information under Subsection (c) shall be posted on the secretary of state's Internet website in a downloadable format.

(e) The secretary of state:

(1) may solicit and accept gifts, grants, and donations from any public or private source for the creation and maintenance of the Internet website; and

(2) shall adopt rules as necessary to implement this section.

Added by H.B. 933, 86<sup>th</sup> Leg., Sec. 3, eff. Sept. 1, 2019.

**Sec. 31.017. IMPLEMENTATION OF ADMINISTRATIVE OVERSIGHT OF COUNTY ELECTION.** (a) In a county with a population of more than 4 million, the secretary of state's office may order administrative oversight of a county office administering elections or voter registration in the county if:

(1) an administrative election complaint is filed with the secretary of state by a person who participated in the relevant election as:

- (A) a candidate;
- (B) a county chair or state chair of a political party;
- (C) a presiding judge;
- (D) an alternate presiding judge; or
- (E) the head of a specific-purpose political committee that supports or opposes a measure;

(2) the secretary of state has provided notice to the county election official with authority over election administration or voter registration under Section 31.018; and

(3) the secretary of state, after conducting an investigation under Section 31.019, has good cause to believe that a recurring pattern of problems with election administration or voter registration exists in the county, including any recurring:

(A) malfunction of voting system equipment that prevents a voter from casting a vote;

(B) carelessness or official misconduct in the distribution of election supplies;

(C) errors in the tabulation of results that would have affected the outcome of an election;

(D) violations of Section 66.053;

(E) discovery of properly executed voted ballots after the canvass of an election that were not counted; or

(F) failure to conduct maintenance activities on the lists of registered voters as required under this code.

(b) The secretary of state shall make a determination on whether to implement administrative oversight under Subsection (a) not later than the 30th day after the earliest of:

(1) the day a response by the county election official with authority over election administration or voter registration is received by the secretary of state under Section 31.018;

(2) the last day the county election official with authority over election administration or voter registration could provide a response to the secretary of state under Section 31.018; or

(3) the day the report on the findings of an investigation is provided to the county election official with authority over election administration or voter registration under Section 31.019.

S.B. 1933, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 31.018. NOTICE OF COMPLAINT.** (a) In a county with a population of more than 4 million and not later than the 30th day after receiving an administrative election complaint under Section 31.017(a)(1), the secretary of state shall provide notice of the complaint to the applicable county election official with authority over election administration or voter registration, including the specific allegations against the election official in the complaint.

(b) Subject to Subsection (c), not later than the 30th day after receiving notice of the administrative election complaint under Subsection (a), the county election official with authority over election administration or voter registration may provide a response with any supporting documentation relating to the complaint or the allegations in the complaint to the secretary of state.

(c) If the administrative election complaint filed under Section 31.017(a)(1) concerns an election for which voting by personal appearance has begun and the final canvass has not been completed, the county election official with authority over election administration or voter registration must provide a response under Subsection (b) not later than 72 hours after receiving notice of the complaint under Subsection (a).

S.B. 1933, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 31.019. INVESTIGATION OF COMPLAINT.** (a) In a county with a population of more than 4 million, the secretary of state may direct personnel in the secretary of state's office to conduct an investigation on an administrative election complaint received under Section 31.017(a)(1) and must consider any response or supporting documentation provided by the county election official with authority over election administration or voter registration under Section 31.018, if applicable.

(b) If the secretary of state decides to conduct an investigation under Subsection (a), the secretary must provide the county election official with authority over election administration or voter registration notice of the determination to conduct the investigation.

(c) After completing an investigation under this section, the secretary of state must provide a report on the findings of the investigation to:

(1) the county election official with authority over election administration or voter registration; and

(2) the individual who filed the administrative election complaint under Section 31.017(a)(1).

S.B. 1933, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 31.020. COUNTY ELECTION OFFICE OVERSIGHT BY SECRETARY.** (a) If the secretary of state implements administrative oversight under Section 31.017, the secretary shall provide written notice to the county election official with authority over election administration or voter registration and the county judge of the determination by the secretary to implement administrative oversight in the county. The notice must include the specific recurring pattern of problems with election administration or voter registration identified by the secretary under Section 31.017(a)(3).

(b) The authority of administrative oversight over a county granted to the secretary of state under this subchapter must include:

(1) requiring the approval and review by the secretary of state of any policies or procedures regarding the administration of elections issued by the county; and

(2) authorizing all appropriate personnel in the secretary of state's office to conduct in-person observations of the county election office's activities, including any activities related to election preparation, early voting, election day, and post-election day procedures.

(c) The county election office being overseen by the secretary of state shall provide sufficient access to the appropriate personnel in the secretary of state's office to perform their duties under Subsection (b).

(d) Once each quarter during the period when the secretary of state is overseeing elections in a county under Subsection (a), the secretary shall submit a report regarding the activities of the oversight personnel to the members of the county election commission and the county attorney.

(e) The secretary of state shall deliver the report required by Subsection (d) in person to the county commissioners court if requested by the commissioners court.

(f) The secretary of state shall conduct the administrative oversight of a county until the earlier of:

(1) December 31 of the even-numbered year following the first anniversary of the date the complaint was received under Section 31.017(a)(1); or

(2) the date on which the secretary of state determines that the recurring pattern of problems with election administration or voter registration is rectified.

S.B. 1933, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 31.021. REMOVAL OR TERMINATION OF COUNTY ELECTION OFFICIAL AFTER ADMINISTRATIVE OVERSIGHT.** (a) At the conclusion of administrative oversight under this subchapter, if the recurring pattern of problems with election administration or voter registration is not rectified or continues to impede the free exercise of a citizen's voting rights in the county, the secretary of state may file a petition for the removal under Section 87.015, Local Government Code, of the applicable county officer with authority over election administration or voter registration.

(b) At the conclusion of administrative oversight under this subchapter, the secretary of state may enter a written order to terminate the employment of a county elections administrator, in a county that has the position, under Section 31.037(b).

S.B. 1933, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 31.022. RULES.** The secretary of state may adopt rules necessary to implement the administrative oversight of a county as provided under this subchapter.

S.B. 1933, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

## **SUBCHAPTER B. COUNTY ELECTIONS ADMINISTRATOR IN CERTAIN COUNTIES**

**Sec. 31.031. CREATION OF POSITION.** (a) The commissioners court of a county with a population of 3.5 million or less by written order may create the position of county elections administrator for the county.

(b) The order must state the date the creation of the position of administrator is effective. The effective date may not be later than 12 months after the date the order is adopted.

(c) To facilitate the orderly transfer of duties on the effective date, the order may authorize the commissioners court to employ the administrator-designate not earlier than the 90th day before the effective date of the creation of the position, at a salary not to exceed that to be paid to the administrator.

(d) Not later than the third day after the date the order is adopted, the county clerk shall deliver a certified copy of the order to:

(1) the secretary of state; and

(2) each member of the county election commission.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by S.B. 893, 86<sup>th</sup> Leg., Sec. 3, eff. Sept. 1, 2019; S.B. 1750, 88<sup>th</sup> Leg., R.S., Sec. 1 & 2, eff. Sept. 1, 2023.

**Sec. 31.032. APPOINTMENT OF ADMINISTRATOR; COUNTY ELECTION COMMISSION.** (a) The position of county elections administrator is filled by appointment of the county election commission, which consists of:

(1) the county judge, as chair;

- (2) the county clerk, as vice chair;
- (3) the county tax assessor-collector, as secretary; and
- (4) the county chair of each political party that made nominations by primary election for the last general election for state and county officers preceding the date of the meeting at which the appointment is made.

(b) The affirmative vote of a majority of the commission's membership is necessary for the appointment of an administrator.

(c) Each appointment must be evidenced by a written resolution or order signed by the number of commission members necessary to make the appointment. Not later than the third day after the date an administrator is appointed, the officer who presided at the meeting shall file a signed copy of the resolution or order with the county clerk. Not later than the third day after the date the copy is filed, the county clerk shall deliver a certified copy of the resolution or order to the secretary of state.

(d) The initial appointment may be made at any time after the adoption of the order creating the position.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 15, eff. Sept. 1, 1997.

**Sec. 31.033. COMMISSION MEETINGS.** (a) The county election commission shall meet at the call of the chair. However, the vice chair or any three members of the commission may call a meeting if the calling authority considers a meeting to be necessary or desirable and the chair fails to call the meeting after being requested to do so.

(b) The authority calling a meeting shall set the date, hour, and place for the meeting and shall deliver written notice of the time and place to each other commission member not later than the fourth day before the meeting date.

(c) Each member who is present at a meeting is entitled to vote on any matter that is put to a vote.

(d) Meetings of the county election commission are subject to Chapter 551, Government Code. In addition to posting notice as required by Chapter 551, Government Code, the commission shall provide personal written notice of a commission meeting to the county elections administrator in the time prescribed by Section 551.043, Government Code, for providing public notice.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 16, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 283 (H.B. 1678), Sec. 2, eff. June 17, 2011.

**Sec. 31.034. ELIGIBILITY.** To be eligible for appointment as county elections administrator, a person must be a qualified voter of the state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.035. RESTRICTIONS ON POLITICAL ACTIVITIES.** (a) A county elections administrator may not be a candidate for a public office or an office of a political party, hold a public office, or hold an office of or position in a political party. At the time an administrator becomes a candidate or accepts an office or position in violation of this subsection, the administrator vacates the position of administrator.

(b) A county elections administrator commits an offense if the administrator makes a political contribution or political expenditure, as defined by the law regulating political funds and campaigns, or publicly supports or opposes a candidate for public office or a measure to be voted on at an election. An offense under this subsection is a Class A misdemeanor. On a final conviction, the administrator's employment is terminated, and the person convicted is ineligible for future appointment as county elections administrator.

(c) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 17, eff. Sept. 1, 1997.

**Sec. 31.036. RESIGNATION.** The county election commission is the proper authority to receive and act on a resignation from the position of county elections administrator.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.037. SUSPENSION OR TERMINATION OF EMPLOYMENT.** (a) The employment of the county elections administrator may be suspended, with or without pay, or terminated at any time for good and sufficient cause on the four-fifths vote of the county election commission and approval of that action by a majority vote of the commissioners court.

(b) In a county with a population of more than 4 million, the secretary of state may enter a written order to terminate the employment of a county elections administrator at the conclusion of administrative oversight of the county elections administrator's office under Subchapter A if the recurring pattern of problems with election administration or voter registration is not rectified or continues to impede the free exercise of a citizen's voting rights in the county.



Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 9, eff. June 17, 2011; S.B. 1933, 88th Leg., R.S., Sec. 3, eff. Sept. 1, 2023.

**Sec. 31.038. FILLING VACANCY.** (a) A vacancy in the position of county elections administrator is filled by appointment of the county election commission.

(b) An appointment to fill an anticipated vacancy arising from a resignation to take effect at a future date may be made at any time after the resignation is accepted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.039. SALARY; STAFF; OPERATING EXPENSES.** (a) The commissioners court shall set the number of deputies and other persons that the county elections administrator may employ.

(b) Repealed by Acts 2005, 79th Leg., Ch. 1272, Sec. 1, eff. June 18, 2005.

(c) The commissioners court may allow the automobile expense that it considers necessary to the administrator and to any of the administrator's employees in the performance of their official duties.

(d) The commissioners court shall provide the administrator with suitable office space and with the equipment and operating expenses needed for the proper conduct of the office.

(e) The amount initially appropriated by the commissioners court for the operating expenses of the administrator's office may not be less than the total amount last appropriated to the county clerk and the county tax assessor-collector for the functions assigned to the administrator.

(f) Except as provided by Subsection (g), a person employed on a full-time basis by the administrator's office is subject to Section 31.035 in the same manner as the administrator.

(g) Section 31.035(b) does not apply to a person employed on a full-time basis by the administrator's office in a county with a population of 1.2 million or less that has an election administrator.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1999, 76th Leg., ch. 536, Sec. 1, eff. Sept. 1, 1999; Acts 2005, 79th Leg., Ch. 1272 (H.B. 2199), Sec. 1, eff. June 18, 2005; Acts 2009, 81st Leg., R.S., Ch. 448 (H.B. 2401), Sec. 1, eff. September 1, 2009; H.B. 4559, 88th Leg., R.S., Sec. 26, eff. Sept. 1, 2023.

**Sec. 31.040. BOND.** (a) Before assuming the duties of a county elections administrator, the person appointed to the position must give a bond that is in an amount set by the commissioners court, not to exceed \$20,000, payable to the county judge, approved by the commissioners court, and conditioned on the faithful performance of the duties of the position.

(b) The commissioners court or the administrator may require any or all of the administrator's deputies, other than unpaid volunteer deputy registrars, to give a bond similar to that required of the administrator in an amount not exceeding the amount of the administrator's bond.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.041. SEAL.** The county elections administrator shall have an official seal, on which shall be inscribed a star with five points surrounded by the words "County Elections Administrator, \_\_\_\_\_ County, Texas", for use in certifying documents required to be impressed with the seal of the certifying officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.042. TRANSFER OF RECORDS.** As soon as practicable after the effective date of the creation of the position of county elections administrator, the officer formerly serving as the voter registrar shall transfer to the administrator all records pertaining to voter registration, and the county officer formerly required to conduct elections shall transfer to the administrator all voting equipment and supplies of which the officer has custody and all records in the officer's possession that pertain to an uncompleted election. The commissioners court shall determine which records of prior elections are to be transferred to the administrator and which are to remain with the officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.043. DUTIES OF ADMINISTRATOR GENERALLY.** The county elections administrator shall perform:

(1) the duties and functions of the voter registrar;

(2) the duties and functions placed on the county clerk by this code;

(3) the duties and functions relating to elections that are placed on the county clerk by statutes outside this code, subject to Section 31.044; and

(4) the duties and functions placed on the administrator under Sections 31.044 and 31.045.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.044. DIVISION OF CERTAIN DUTIES BETWEEN COUNTY CLERK AND ADMINISTRATOR.** (a) With

respect to meetings of the commissioners court, including meetings at which the only business conducted pertains to elections, the county clerk shall perform the clerk's regularly prescribed duties in giving notice of and preparing the agenda for the meetings, attending the meetings and making a record of the proceedings, preparing and maintaining the minutes of the court, and filing and preserving copies of the court's orders, except as provided by Subsection (b). The county elections administrator shall cooperate with the county clerk in supplying information on election matters that are to be brought before the court and shall attend or be represented at the meetings of the court at which election matters are considered. The county clerk shall furnish the administrator with a copy of each order of the court that pertains to or affects an election, and the administrator shall maintain the copies on file.

(b) The administrator is responsible for providing the clerical assistance needed by the commissioners court in canvassing precinct election returns. The administrator shall maintain the official file of the court's tabulation of election results, and the county clerk need not maintain a file of copies of the tabulations.

(c) In an election on a measure in which the commissioners court is the final canvassing authority, if a statute requires the county clerk to record an order of the court in its minutes declaring whether the measure carried or failed, the county clerk shall perform that duty. A copy of the order shall also be filed in the office of the administrator. If a statute requires the county clerk to certify the result of the election to some other authority, the clerk shall perform that duty.

(d) If a statute provides for the ordering of an election on a measure by the commissioners court, the county judge, or another county authority on submission of a petition requesting the election, the administrator shall perform the duties that the statute places on the county clerk in connection with filing the petition, determining its validity, and any other matters preceding the ordering of the election.

(e) If a statute prescribing the procedure for creating a political subdivision provides for the ordering of an election by a county authority as a step in the creation process, the administrator shall perform the duties that the statute places on the county clerk in connection with matters preceding the entry of the order on whether the election will be ordered, including the filing of a petition for the creation, the holding of any hearing on the proposal, the filing of any report or other document that is a step in the procedure, and the taking of any appeal from the order on whether the election is to be ordered. If the holding of an election ordered by a county authority is not one of the steps in the creation process, the county clerk shall perform the duties placed on that officer in connection with the creation of a political subdivision.

(f) If a statute provides that the return of an election notice for an election ordered by a county authority is to be recorded in the minutes of the commissioners court, the return shall be filed in the office of the administrator.

(g) The county clerk is the proper officer to receive and post copies of proposed constitutional amendments under Article XVII, Section 1, of the Texas Constitution. However, the secretary of state shall also send a copy of each proposed amendment to the administrator for the administrator's information.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 18, eff. Sept. 1, 1997.

**Sec. 31.045. CLASSIFICATION OF DUTIES BY SECRETARY OF STATE.** (a) The secretary of state shall adopt rules consistent with Sections 31.043 and 31.044 that classify the duties and functions placed on the county clerk by statutes outside this code according to whether they are to be performed by the county elections administrator or by the county clerk.

(b) If the administrator or county clerk of a county having the position of administrator is uncertain as to which person should perform a duty or function that the secretary has not classified, the person shall request the secretary to classify that duty or function, and the secretary shall comply with the request as soon as practicable.

(c) The secretary shall deliver a copy of each rule proposed under this section to the administrator and to the county clerk of each county having the position of administrator not later than the fifth day after the date notice of the proposal is published in the Texas Register and shall deliver a copy of each adopted rule to those persons not later than the fifth day after the date the certified copy of the rule is filed in the secretary's office. Failure to comply with this subsection does not affect the validity of a rule.

(d) On receiving notice of the creation of the position of administrator in a county, the secretary shall deliver to the county clerk a current set of the rules adopted under this section. On receiving notice of the initial appointment of the administrator, the secretary shall deliver a set of the rules to the administrator.

(e) The secretary may, on 30 days' notice, adopt a rule classifying a duty or function if the rule is needed in a shorter time than provided by the regular rulemaking process. The rule is considered an emergency rule for purposes of Chapter 2001, Government Code. The secretary is not required to give notice of the proposed rule under Subsection (c), but the secretary must give notice of the rule's adoption under that subsection.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

**Sec. 31.046. MISDIRECTION OF DOCUMENT.** (a) If a document that should be filed with or submitted to the county elections administrator is mailed to the county clerk or vice versa, the person receiving the document shall note on the document

or the envelope in which it is received the time of its receipt and shall promptly deliver it to the proper person. If the statute under which the document is filed or submitted does not specify that the filing or submission is to be made with the administrator in a county having that position, the timeliness of the filing or submission is determined, as appropriate:

- (1) by the time of mailing; or
- (2) by the time of receipt by the person to whom the document is addressed.

(b) If a document that should be filed with or submitted to the county elections administrator is delivered in person to the county clerk or vice versa, the person to whom the delivery is made shall direct the person making the delivery to the proper office.

(c) If a statute specifies that a document is to be filed with or submitted to the county clerk without specifying that the filing or submission is to be made with the county elections administrator in a county having that position and the office to accept the filing or submission is changed to the administrator under this subchapter, a filing or submission made with the county clerk has the same legal effect as if made with the administrator if the clerk accepts and files the document.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.047. ACTION BY WRONG OFFICER.** If a statute specifies that an action is to be taken by the county clerk without specifying that it is to be taken by the county elections administrator in a county having that position, an action taken by the county clerk without objection from the administrator has the same legal effect as if taken by the administrator.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.048. ABOLISHING POSITION.** (a) The commissioners court by written order may abolish the position of county elections administrator at any time.

(b) After the effective date of an order abolishing the position of administrator, the county tax assessor-collector is the voter registrar, and the duties and functions of the county clerk that were performed by the administrator revert to the county clerk, unless a transfer of duties and functions occurs under Section 12.031 or 31.071.

(c) Not later than the third day after the date an order abolishing the position of administrator is adopted, the county clerk shall deliver a certified copy of the order to the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by S.B. 893, 86<sup>th</sup> Leg., Sec. 4, eff. Sept. 1, 2019.

**Sec. 31.049. CRIMINAL PENALTIES.** A statute prescribing a criminal penalty against the county clerk or the clerk's deputies or other employees for conduct relating to duties or functions transferred to the county elections administrator applies to the administrator or to the administrator's deputies or employees as appropriate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 19, eff. Sept. 1, 1997.

**Sec. 31.050. ABOLISHMENT OF POSITION AND TRANSFER OF DUTIES IN CERTAIN COUNTIES.** On September 1, 2023, all powers and duties of the county elections administrator of a county with a population of more than 3.5 million under this subchapter are transferred to the county tax assessor-collector and county clerk. The county tax assessor-collector shall serve as the voter registrar, and the duties and functions of the county clerk that were performed by the administrator revert to the county clerk, unless a transfer of duties and functions occurs under Section 12.031 or 31.071.

S.B. 1750, 88<sup>th</sup> Leg., R.S., Sec. 3, eff. Sept. 1, 2023.

## **SUBCHAPTER C. TRANSFER OF ELECTION DUTIES TO COUNTY TAX ASSESSOR-COLLECTOR**

**Sec. 31.071. TRANSFER OF DUTIES.** (a) The commissioners court by written order may transfer to the county tax assessor-collector the duties and functions of the county clerk in connection with the conduct of elections if the county tax assessor-collector and county clerk agree to the transfer.

(b) The order must state the effective date of the transfer of duties and functions.

(c) Not later than the third day after the date the order is adopted, the county clerk shall deliver a certified copy of the order to the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by S.B. 893, 86<sup>th</sup> Leg., Sec. 5, eff. Sept. 1, 2019.

**Sec. 31.072. APPLICABILITY OF OTHER SECTIONS.** To the extent practicable, Sections 31.043-31.047 and Section 31.049 apply to the transfer of election duties and functions under this subchapter. For this purpose, the references in those sections to the creation of the position of county elections administrator mean the transfer of duties and functions under this subchapter, and the references in those sections to the county elections administrator mean the county tax assessor-collector.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.073. TRANSFER OF RECORDS.** As soon as practicable after the effective date of a transfer of duties and functions under Section 31.071, the county clerk shall transfer to the county tax assessor-collector all voting equipment and supplies of which the clerk has custody and all records in the clerk's possession that pertain to an uncompleted election. The commissioners court shall determine which records of prior elections are to be transferred to the county tax assessor-collector and which are to remain with the county clerk.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.074. APPROPRIATION BY COMMISSIONERS COURT.** The amount initially appropriated by the commissioners court for the duties and functions to be performed by the county tax assessor-collector under this subchapter may not be less than the amount last appropriated to the county clerk for the same purpose.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.075. GUIDELINES.** The secretary of state shall prepare advisory budgetary guidelines for the performance of the duties and functions of the county tax assessor-collector that are consolidated after implementation of this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.076. RESCISSION OF TRANSFER ORDER.** (a) The commissioners court by written order may rescind an order adopted under Section 31.071 at any time after two years have elapsed from the date the order was adopted, to become effective on a date stated in the order.

(b) Not later than the third day after the date the rescission order is adopted, the county clerk shall deliver a certified copy of the order to the secretary of state.

(c) On the effective date of the rescission, the county clerk shall perform the duties and functions previously transferred to the county tax assessor-collector unless the position of county elections administrator is created.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by S.B. 893, 86<sup>th</sup> Leg., Sec. 6, eff. Sept. 1, 2019.

## **SUBCHAPTER D. CONTRACT FOR ELECTION SERVICES**

**Sec. 31.091. DEFINITIONS.** In this subchapter: (1) "County election officer" means the county elections administrator in counties having that position, the county tax assessor-collector in counties in which the county clerk's election duties and functions have been transferred to the tax assessor-collector, and the county clerk in other counties.

(2) "Election services contract" means a contract executed under this subchapter.

(3) "Contracting authority" means the governing body of a political subdivision or the county executive committee of a political party that enters into a contract under this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.092. CONTRACT FOR ELECTION SERVICES AUTHORIZED.** (a) The county election officer may contract with the governing body of a political subdivision situated wholly or partly in the county served by the officer to perform election services, as provided by this subchapter, in any one or more elections ordered by an authority of the political subdivision.

(b) Transferred to Section 31.093(c), Election Code, H.B. 1735, 85<sup>th</sup> Leg. R.S., Sec. 2.

(c) An election services contract need not be submitted to the commissioners court for approval.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1076 (H.B. 1614), Sec. 1, eff. September 1, 2005; Acts 2005, 79th Leg., Ch. 1091 (H.B. 2069), Sec. 1, eff. September 1, 2005; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.10, eff. September 1, 2005; Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(20), eff. September 1, 2007; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 8, eff. September 1, 2011; H.B. 1735, 85<sup>th</sup> R.S., Sec. 2, eff. September 1, 2017.

**Sec. 31.0925. REQUEST FOR SERVICES REQUIRED.** (a) This section applies only to a political subdivision:

(1) that is located entirely in a county:

(A) with a population of more than 500,000 that is served by a county elections administrator; and

(B) that does not contain a municipality with a population of more than 150,000; and (2) that is not an irrigation district created under the authority of Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution.

(b) The governing body of a political subdivision shall request an election services contract with the county elections administrator to perform all duties and functions of the political subdivision in relation to an election that may be transferred under this subchapter if the political subdivision receives a petition requesting the contract signed by a number of registered

voters residing in the political subdivision that is equal to or exceeds one percent of all votes cast in the most recent general election held by the political subdivision.

(c) A petition under this section must be submitted to the clerk of the political subdivision before January 1 of the year in which the election to be administered under the requested election services contract will be held.

Added by Acts 2009, 81st Leg., R.S., Ch. 802 (S.B. 1402), Sec. 1, eff. June 19, 2009.

**Sec. 31.093. DUTY TO CONTRACT.** (a) Subject to Section 41.001(d), if requested to do so by a political subdivision, the county elections administrator shall enter into a contract to furnish the election services requested, in accordance with a cost schedule agreed on by the contracting parties.

(b) A county elections administrator may but is not required to enter into a contract to conduct a training program for election judges and clerks.

(c) On request of the county chair of a political party holding a primary election in the county, the county election officer shall contract with the county executive committee of the party to perform election services, as provided by this subchapter, in the party's general primary election and runoff primary election in accordance with a cost schedule agreed on by the contracting parties.

(d) In a contract required by Subsection (c), the county election officer may not prevent the county chair or the chair's designee from supervising the conduct of the primary election, including the tabulation of results, as required by Chapter 172. A county election officer who violates this subsection commits an offense. An offense under this subsection is a Class B misdemeanor.

(e) A county election officer must offer to contract on the same terms with the county executive committee of each political party holding a primary election in the county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 9, eff. September 1, 2011; H.B. 1735, 85th R.S., Secs. 2 & 3, eff. September 1, 2017; H.B. 3107, 87th Leg., R.S., Sec. 32, eff. Sept. 1, 2021.

**Sec. 31.094. SERVICES PERFORMABLE UNDER CONTRACT.** Subject to Sections 31.096 and 31.097, an election services contract may provide for the county election officer to perform or to supervise the performance of any or all of the corresponding duties and functions that the officer performs in connection with a countywide election ordered by a county authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.095. DELEGATION TO DEPUTIES.** (a) The county election officer may assign deputies to perform any of the contracted services.

(b) In a county not having the office of county elections administrator, the county clerk or county tax assessor-collector, as appropriate, may delegate to the deputy in charge of the officer's elections division the authority to enter into election services contracts and to supervise their performance.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.096. NONTRANSFERABLE FUNCTIONS.** An election services contract may not change:

- (1) the authority with whom applications of candidates for a place on a ballot are filed;
- (2) the authority with whom documents are filed under Title 15; or
- (3) the political subdivision's requirement to maintain office hours under Section 31.122.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; amended by H.B. 3107, 87th Leg., R.S., Sec. 33, eff. Sept. 1, 2021.

**Sec. 31.097. EARLY VOTING.** (a) An election services contract may provide that the county election officer's deputies may serve as deputy early voting clerks even if the officer is not to serve as the early voting clerk or supervise early voting.

(b) If the county election officer is to serve as the early voting clerk or is to provide deputies to serve as deputy early voting clerks, the officer's written order appointing a permanent or temporary deputy of the officer as a deputy early voting clerk is sufficient, without the necessity for an appointment by any other authority.

(c) A permanent deputy of the county election officer is not subject to the eligibility requirements of this subsection. For a temporary deputy of the officer to be eligible for appointment as a deputy early voting clerk, the deputy must have the qualifications for appointment as a presiding election judge except that:

- (1) an appointee is not required to be a qualified voter of any particular territory other than the county served by the county election officer or the political subdivision in which the election is held; and
- (2) if an employee of the contracting political subdivision is appointed, the appointee's status as an employee does not disqualify the appointee from serving in an election in which an officer of the political subdivision is a candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.36; Acts 1991, 72nd Leg., ch. 554, Sec. 7, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 20, eff. Sept. 1, 1997.

**Sec. 31.098. PAYMENT OF ELECTION EXPENSES.** (a) An election services contract may authorize the county election officer to contract with third persons for election services and supplies and may provide that the officer will pay the claims for those election expenses or that the contracting authority will make the payments directly to the claimants.

(b) If a contract provides that the contracting authority is to pay the claims of third persons, the county election officer becomes the agent of the authority and may contract with third persons in the name of the authority with respect to election expenses within the scope of the officer's duties, and the officer is not liable for the authority's failure to pay a claim.

(c) If a contract provides that the county election officer is to pay the expenses, the contracting authority is not liable for the officer's failure to pay a claim.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.099. FILING COPIES OF CONTRACT.** (a) Not later than the 10th day after the date an election services contract is executed, the county election officer shall file a copy of the contract with:

(1) the county treasurer or, in a county not having a treasurer, the county judge; and

(2) the county auditor or, in a county not having an auditor, the county judge.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.100. DISPOSITION OF CONTRACT MONEY; PAYMENT OF CONTRACTING OFFICER'S EXPENSES.**

(a) Money paid to a county election officer under an election services contract shall be deposited in a separate fund in the county treasury. The county election officer may make expenditures from the fund without budgeting or appropriation by the commissioners court. However, claims against the fund shall be audited and approved in the same manner as other claims against the county before they are paid.

(b) Only actual expenses directly attributable to an election services contract may be paid from the election services contract fund, and the county election officer may not charge for performing any duties that the officer is required by law to perform.

(c) An election services contract must include an itemized list of estimated election expenses. If the estimated expenses, not including the fee charged under Subsection (d), exceed the actual expenses, the amount of the difference shall be refunded to the contracting authority.

(d) The county election officer may not be personally compensated for election services performed under an election services contract. A fee charged by the officer for general supervision of the election may not exceed 10 percent of the total amount of the contract, but may not be less than \$75.

(e) Salaries of personnel regularly employed by the county election officer shall be paid from funds regularly budgeted and appropriated for that purpose, except that those employees may be paid from the election services contract fund for contractual duties performed outside of normal business hours. Salaries and wages paid to persons temporarily employed to perform duties under an election services contract shall be paid out of the election services contract fund. The amount paid from the fund may not exceed the normal rate of pay in that locality for the same or similar services.

(f) A surplus in the election services contract fund may be used only to defray expenses of the county election officer's office in connection with election-related duties or functions. The secretary of state shall prescribe regulations for the use of any surplus in a fund.

(g) The commissioners court may not consider the availability of the election services contract fund in adopting the county budget for the office of the county election officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 622, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 7, eff. Sept. 1, 1997.

## SUBCHAPTER E. MISCELLANEOUS PROVISIONS

**Sec. 31.121. PRESIDING OFFICER FAILING TO ACT.** Two or more members of the governing body of a political subdivision may perform a duty placed by this code on the presiding officer of the governing body if the office is vacant or the presiding officer fails to perform the duty unless:

(1) a single member of the governing body designated by law to act in place of the presiding officer performs the duty; or

(2) this code specifies that the duty is to be performed by another authority acting in place of the presiding officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 31.122. OFFICE HOURS OF ELECTION AUTHORITY DURING ELECTION PERIOD.** (a) Except as provided by Section 31.123, each county clerk, city secretary, or secretary of the governing body of a political subdivision other than a county or city or the authority performing the duties of a secretary under this code shall keep that officer's office open for election duties for at least three hours each day, during regular office hours, on regular business days during the period:

- (1) beginning not later than the 50th day before the date of each general election of the political subdivision or the third day after the date a special election is ordered by an authority of the political subdivision; and
- (2) ending not earlier than the 40th day after election day.

(b) If the political subdivision is an independent school district, a regular business day means a day on which the school district's main business office is regularly open for business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 5, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1219, Sec. 2, eff. June 20, 1997.

**Sec. 31.123. APPOINTMENT OF AGENT DURING ELECTION PERIOD.** (a) If the secretary of the governing body of a political subdivision other than a county or city or the authority performing the duties of a secretary under this code does not maintain an office during the hours and days required by Section 31.122, the secretary or other authority shall appoint another officer or employee of the political subdivision as the secretary's or authority's agent to perform the duties provided by this section. The appointment is subject to the approval of the political subdivision's governing body.

(b) The agent shall maintain office hours, as directed by the appointing authority, for at least the hours and days required by Section 31.122, in the agent's regular office, the office of the appointing authority, or an office designated by the governing body of the political subdivision served by the authority.

(c) The agent shall maintain in the agent's office the documents, records, and other papers relating to the election that:

- (1) by law are placed in the custody of the authority appointing the agent; and
- (2) are public information.

(d) The agent shall:

- (1) receive any personally delivered document relating to the election that the appointing authority is authorized or required to receive; and
- (2) make available for inspection and copying, in accordance with applicable regulations, the documents, records, and other papers that are required to be maintained in the agent's office under Subsection (c).

(e) The appointing authority may authorize the agent to perform any other ministerial duties in connection with the election that may lawfully be performed by an employee of the appointing authority.

(f) The appointing authority shall post, on the bulletin board used for posting notice of meetings of the political subdivision's governing body, a notice containing the agent's name, the location of the agent's office, the agent's office hours, and duration of the agent's appointment. The notice shall remain continuously posted during the minimum period for maintaining the agent's office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 21, eff. Sept. 1, 1997.

**Sec. 31.124. PROVISION OF NOTICE TO COUNTY CHAIRS BY ELECTION AUTHORITY.** (a) A county election officer of each county shall hold a meeting with the county chair of each political party to discuss, as appropriate, the following for each primary election or general election for state and county officers:

- (1) the lists provided by each political party under Section 85.009;
- (2) the lists provided by each political party under Section 87.002(c);
- (3) the implementation of Subchapters A, B, C, and D, Chapter 87; and
- (4) holding a joint primary, entering into an election services contract, and polling place locations.

(b) A county election officer of each county shall deliver written notice of the time and place of the meeting required by Subsection (a) not later than 72 hours before the meeting date to the county chair of each political party that made nominations by primary election for the general election for state and county officers preceding the date of the meeting.

(c) The notice required by Subsection (b) may be delivered by United States mail, electronic mail, or other method of written communication, as determined by the county election officer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 255 (H.B. 1136), Sec. 1, eff. June 17, 2011; amended by H.B. 3107, 87th Leg., R.S., Sec. 34, eff. Sept. 1, 2021.

**Sec. 31.125. COUNTY WEBSITE.** (a) The county officer responsible for administering elections shall post on the county's Internet website contact information for the county election office including:

- (1) the street address and zip code;
- (2) the mailing address if different from the address provided in Subdivision (1);

- (3) telephone number;
  - (4) facsimile number; and
  - (5) e-mail address.
- (b) For each polling place located in the county, the county shall post on the county's Internet website:
- (1) the name of the building in which the polling place is located, if available;
  - (2) the street address and zip code of the polling place; and
  - (3) the days and hours of voting at each location.
- (c) This section applies only to a county that maintains an Internet website.

Added by H.B. 933, 86th Leg., Sec. 4, eff. Sept. 1, 2019.

**Sec. 31.126. PROHIBITED CONTRIBUTIONS.** (a) Without the written consent of the secretary of state, the joint elections commission, county election commission, and county election board may not:

- (1) accept a contribution of \$1,000 or more, including the value of in-kind donations, offered by:
    - (A) a private individual;
    - (B) a business entity, including a:
      - (i) corporation;
      - (ii) partnership; or
      - (iii) trust; or
    - (C) another third party; or
  - (2) use a contribution described by Subdivision (1) to perform a function of administering elections.
- (b) The secretary of state may grant consent under Subsection (a) only if:
- (1) the secretary consults with the governor, the lieutenant governor, and the speaker of the house of representatives on the proposed donation; and
  - (2) the governor, the lieutenant governor, and the speaker of the house of representatives unanimously agree to the secretary's grant of consent.
- (c) The joint elections commission, county election commission, and county election board may accept a contribution of less than \$1,000 only with written consent from the relevant political subdivision.
- (d) This section does not prohibit the acceptance of:
- (1) an in-kind contribution of food or beverage for election workers during the administration of an election;
  - (2) any state or federal funds administered or distributed by the secretary of state, including funds administered and distributed under Section 31.009, or other state or federal funds made available to political subdivisions to perform a function related to elections; or
  - (3) an offer for use, without charge or for a reduced fee, of a public or private building or a portion of a building for the purposes of conducting an election, including for use as a polling place designated under Chapter 43.

Added by H.B. 2283, 87th Leg., Sec. 1, eff. Sept. 1, 2021.

**Sec. 31.127. TRAINING.** (a) In this section, "county election officer" has the meaning assigned by Section 31.091(1).

(b) The secretary of state shall provide a standardized training program and materials for county election officers in the same manner it provides such a program to election judges and clerks under Subchapter F, Chapter 32.

Added by S.B. 231, 87th Leg., Sec. 1, eff. Sept. 1, 2021.

**Sec. 31.128. RESTRICTION ON ELIGIBILITY.** (a) In this section, "election official" does not include a chair of a county political party holding a primary election or a runoff primary election.

(b) A person may not serve as an election official if the person has been finally convicted of an offense under this code.

Added by S.B. 1, 87th Leg., 2nd C.S., Sec. 8.01, eff. Dec. 2, 2021.

**Sec. 31.129. CIVIL PENALTY.** (a) In this section, "election official" has the meaning assigned by Section 31.128.

- (b) An election official may be liable to this state for a civil penalty if the official:
  - (1) is employed by or is an officer of this state or a political subdivision of this state; and
  - (2) violates a provision of this code.

(c) A civil penalty imposed under this section may include termination of the person's employment and loss of the person's employment benefits..

Added by S.B. 1, 87th Leg., 2nd C.S., Sec. 8.01, eff. Dec. 2, 2021.

**Sec. 31.130. SUIT AGAINST ELECTION OFFICER.** An action, including an action for a writ of mandamus, alleging that



an election officer violated a provision of this code while acting in the officer's official capacity may only be brought against the officer in the officer's official capacity.

Added by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 8.01, eff. Dec. 2, 2021.

## SUBCHAPTER F. JOINT ELECTIONS ADMINISTRATOR

**Sec. 31.151. DEFINITION.** In this subchapter, "participating entity" means a political subdivision for whom the joint elections administrator conducts elections under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.152. CREATION OF POSITION.** (a) A political subdivision seeking to create the position of joint elections administrator shall send notice requesting creation of that position to:

(1) if the political subdivision seeking creation is a county:

(A) at least one political subdivision located wholly or partly in the county; or (B) at least one adjacent county; or

(2) if the political subdivision seeking creation is not a county, the commissioners court of a county in which the political subdivision is wholly or partly located. (b) Notice under Subsection (a)(2) may also be sent to any other political subdivision wholly or partly located in the same county.

(c) A county receiving notice under Subsection (a)(1)(B) may provide a copy of the notice to any political subdivision wholly or partly located in that county.

(d) The position of joint elections administrator is created for a single county if the commissioners court of a county and the governing body of one or more political subdivisions located in that county separately adopt a written order creating the position in the manner in which that body approves orders.

(e) The position of joint elections administrator is created for multiple counties if the commissioners courts of two or more adjacent counties and, if applicable, the governing body of one or more political subdivisions located in either county separately adopt a written order creating the position in the manner in which that body approves orders. A political subdivision may not adopt a written order creating the position of joint elections administrator unless a county in which the political subdivision is wholly or partly located adopts a written order creating the position.

(f) An order adopted under Subsection (d) or (e) must state the date the creation of the position of joint elections administrator is effective. The effective date may not be later than 12 months after the date the required orders are adopted.

(g) To facilitate the orderly transfer of duties on the effective date, the order may authorize the employment of the joint elections administrator-designate not earlier than the 90th day before the effective date of the creation of the position, at a salary not to exceed that to be paid to the county clerk of the most populous county sharing the joint elections administrator.

(h) Not later than the third day after the date the order is adopted, the chair of the joint elections commission shall deliver a certified copy of the order to:

(1) the secretary of state;

(2) each member of the county election commission, if any; and

(3) a representative from each participating entity.

(i) A political subdivision located in more than one county may not create a joint elections administrator with more than one county if the counties do not share a joint elections administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007. Amended by S.B. 893, 86<sup>th</sup> Leg., Sec. 7, eff. Sept. 1, 2019.

**Sec. 31.153. JOINT ELECTIONS COMMISSION.** (a) The joint elections commission consists of:

(1) from each county that has adopted an order to have its elections conducted by the joint elections administrator, the county judge, county clerk, and county tax assessor-collector;

(2) from each county described in Subdivision (1), the county chair of each political party that made nominations by primary election for the last general election for state and county officers preceding the date of the meeting at which the appointment is made; and

(3) a representative from each participating entity other than a county.

(b) The members of the joint elections commission shall annually designate:

(1) a chair, who must be a county judge;

(2) a vice chair, who must be a county clerk; and

(3) a secretary, who must be a county tax assessor-collector.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.154. APPOINTMENT OF JOINT ELECTIONS ADMINISTRATOR.** (a) The position of joint elections administrator is filled by appointment of the joint elections commission.

(b) To be appointed, a joint elections administrator must receive the affirmative vote of a majority of the joint elections commission's membership. Each member voting in favor of the appointment must sign the resolution or order appointing the administrator.

(c) Not later than the third day after the date a joint elections administrator is appointed, the officer who presided at the meeting shall file a signed copy of the resolution or order with the secretary of the joint elections commission. Not later than the third day after the date the copy is filed, the secretary of the commission shall deliver a certified copy of the resolution or order to the secretary of state.

(d) The initial appointment may be made at any time after the adoption of the order creating the position.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.155. COMMISSION MEETINGS.** (a) The joint elections commission shall meet at the call of the chair. However, the vice chair or any three members of the commission may call a meeting if the calling authority considers a meeting to be necessary or desirable and the chair fails to call the meeting after being requested to do so.

(b) The authority calling a meeting shall set the date, hour, and place for the meeting and shall deliver written notice of the time and place to each other joint elections commission member not later than the fourth day before the meeting date.

(c) Each member who is present at a meeting is entitled to vote on any matter that is put to a vote.

(d) Meetings of the joint elections commission are subject to Chapter 551, Government Code. In addition to posting notice as required by Chapter 551, Government Code, the commission shall provide personal written notice of a commission meeting to the joint elections administrator in the time prescribed by Section 551.043, Government Code, for providing public notice.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 283 (H.B. 1678), Sec. 3, eff. June 17, 2011.

**Sec. 31.156. ELIGIBILITY.** To be eligible for appointment as joint elections administrator, a person must be a qualified voter of this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.157. RESIGNATION.** The joint elections commission is the proper authority to receive and act on a resignation from the position of joint elections administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.158. TERMINATION OF EMPLOYMENT.** The employment of the joint elections administrator may be terminated at any time for good and sufficient cause on:

(1) the vote of not less than four-fifths of the members of the joint elections commission; and

(2) the approval of that action by a majority vote of the governing bodies of a majority of the participating entities.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.159. FILLING VACANCY.** (a) A vacancy in the position of joint elections administrator is filled by appointment of the joint elections commission.

(b) An appointment to fill an anticipated vacancy arising from a resignation to take effect at a future date may be made at any time after the resignation is accepted.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.160. SALARY; STAFF; OPERATING EXPENSES.** (a) The joint elections commission shall set the number of deputies and other persons that the joint elections administrator may employ.

(b) The joint elections commission may allow the automobile expense that it considers necessary to the joint elections administrator and to any of the administrator's employees in the performance of their official duties.

(c) The joint elections commission shall provide the joint elections administrator with suitable office space and with the equipment and operating expenses needed for the proper conduct of the office.

(d) The participating entities shall share the cost of the operating expenses of the joint elections administrator's office, as determined by the participating entities. The total amount initially appropriated by the governing bodies of the participating entities for the operating expenses of the administrator's office may not be less than the total amount last appropriated to the least populous participating county's county clerk and county tax assessor-collector for the functions assigned to the administrator.

(e) The joint elections administrator for a county with a population of 1.2 million or more that has an elections administrator is subject to Section 31.035 in the same manner as a county elections administrator. A person employed on a full-time basis by the joint elections administrator's office for that county is subject to Section 31.035 in the same manner as the joint elections administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007; H.B. 4559, 88<sup>th</sup> Leg., R.S., Sec. 27, eff. Sept. 1, 2023.

**Sec. 31.161. BOND.** (a) Before assuming the duties of a joint elections administrator, the person appointed to the position must give a bond that is in an amount set by the joint elections commission, not to exceed \$20,000, payable to the commission chair, approved by the commission, and conditioned on the faithful performance of the duties of the position.

(b) The joint elections commission or the joint elections administrator may require any or all of the administrator's deputies, other than unpaid volunteer deputy registrars, to give a bond similar to that required of the administrator in an amount not exceeding the amount of the administrator's bond.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.162. SEAL.** The joint elections administrator shall have an official seal, on which shall be inscribed a star with five points surrounded by the words "Joint Elections Administrator, \_\_\_\_\_ County, Texas", for use in certifying documents required to be impressed with the seal of the certifying officer. The seal must include the name of each participating county.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.163. TRANSFER OF RECORDS.** As soon as practicable after the effective date of the creation of the position of joint elections administrator, the officer formerly serving as the voter registrar shall transfer to the administrator all records pertaining to voter registration, and the officers of the participating entities formerly required to conduct elections shall transfer to the administrator all voting equipment and supplies of which the officer has custody and all records in the officer's possession that pertain to an uncompleted election. The joint elections commission shall determine which records of prior elections are to be transferred to the administrator and which are to remain with the officer.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.164. DUTIES OF ADMINISTRATOR GENERALLY.** (a) The joint elections administrator shall perform:

- (1) the duties and functions of the voter registrar, except as provided by Subsection (b);
- (2) the duties and functions relating to elections placed by this code on an officer of a participating entity formerly required to conduct elections;
- (3) the duties and functions relating to elections placed by statutes outside this code on an officer of a participating entity formerly required to conduct elections, subject to Section 31.165; and
- (4) the duties and functions placed on the administrator under Sections 31.165 and 31.166.

(b) The joint elections administrator may serve as the voter registrar only in the county or counties that created the administrator's position. For territory of a participating entity located in another county, the officer designated under Section 12.001 as the voter registrar for that county retains the duties of the voter registrar.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.165. DIVISION OF CERTAIN DUTIES BETWEEN OFFICER AND ADMINISTRATOR.** (a) With respect to meetings of the governing body of a participating entity, including meetings at which the only business conducted pertains to elections, the officer of the participating entity formerly required to conduct elections shall perform the officer's regularly prescribed duties in giving notice of and preparing the agenda for the meetings, attending the meetings and making a record of the proceedings, preparing and maintaining the minutes of the governing body, and filing and preserving copies of the governing body's orders, except as provided by Subsection (b). The joint elections administrator shall cooperate with the officer in supplying information on election matters that are to be brought before the governing body and shall attend or be represented at the meetings of the governing body at which election matters are considered. The officer shall furnish the administrator with a copy of each order of the governing body that pertains to or affects an election, and the administrator shall maintain the copies on file.

(b) The joint elections administrator is responsible for providing the clerical assistance needed by the governing body in canvassing precinct election returns. The administrator shall maintain the official file of the governing body's tabulation of election results, and the officer need not maintain a file of copies of the tabulations.

(c) In an election on a measure in which the governing body is the final canvassing authority, if a statute requires the officer to record an order of the governing body in its minutes declaring whether the measure carried or failed, the officer shall perform that duty. A copy of the order shall also be filed in the office of the joint elections administrator. If a statute requires

the officer to certify the result of the election to some other authority, the officer shall perform that duty.

(d) If a statute provides for the ordering of an election on a measure by the governing body, the presiding officer of that body, or another authority of the entity on submission of a petition requesting the election, the joint elections administrator shall perform the duties that the statute places on the participating entity's officer in connection with filing the petition, determining its validity, and any other matters preceding the ordering of the election.

(e) If a statute prescribing the procedure for creating a political subdivision provides for the ordering of an election by a participating entity as a step in the creation process, the joint elections administrator shall perform the duties that the statute places on an officer of that entity in connection with matters preceding the entry of the order on whether the election will be ordered, including the filing of a petition for the creation, the holding of any hearing on the proposal, the filing of any report or other document that is a step in the procedure, and the taking of any appeal from the order on whether the election is to be ordered. If the holding of an election ordered by a participating entity is not one of the steps in the creation process, the entity's officer shall perform the duties placed on that officer in connection with the creation of a political subdivision.

(f) If a statute provides that the return of an election notice for an election ordered by a participating entity is to be recorded in the minutes of the governing body of the entity, the return shall be filed in the office of the joint elections administrator.

(g) The county clerk is the proper officer to receive and post copies of proposed constitutional amendments under Section 1, Article XVII, Texas Constitution. However, the secretary of state shall also send a copy of each proposed amendment to the joint elections administrator for the administrator's information.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.166. CLASSIFICATION OF DUTIES BY SECRETARY OF STATE.** (a) The secretary of state shall adopt rules consistent with Sections 31.164 and 31.165 that classify the duties and functions placed on the officers of the participating entities by statutes outside this code according to whether they are to be performed by the joint elections administrator or by the officer.

(b) If the joint elections administrator or officer of a participating entity is uncertain as to which person should perform a duty or function that the secretary of state has not classified, the person shall request the secretary to classify that duty or function, and the secretary shall comply with the request as soon as practicable.

(c) The secretary of state shall deliver a copy of each rule proposed under this section to the joint elections administrator and to the officer of each participating entity in this state not later than the fifth day after the date notice of the proposal is published in the Texas Register and shall deliver a copy of each adopted rule to those persons not later than the fifth day after the date the certified copy of the rule is filed in the secretary's office. Failure to comply with this subsection does not affect the validity of a rule.

(d) On receiving notice of the creation of the position of joint elections administrator for a county, the secretary of state shall deliver to the county clerk a current set of the rules adopted under this section. On receiving notice of the initial appointment of the administrator, the secretary shall deliver a set of the rules to the administrator.

(e) The secretary of state may, on 30 days' notice, adopt a rule classifying a duty or function if the rule is needed in a shorter time than provided by the regular rulemaking process. The rule is considered an emergency rule for purposes of Chapter 2001, Government Code. The secretary is not required to give notice of the proposed rule under Subsection (c), but the secretary must give notice of the rule's adoption under that subsection.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.167. MISDIRECTION OF DOCUMENT.** (a) If a document that should be filed with or submitted to the joint elections administrator is mailed to an officer of a participating entity or vice versa, the person receiving the document shall note on the document or the envelope in which it is received the time of its receipt and shall promptly deliver it to the proper person. If the statute under which the document is filed or submitted does not specify that the filing or submission is to be made with the elections administrator of a political subdivision having that position, the timeliness of the filing or submission is determined, as appropriate:

(1) by the time of mailing; or

(2) by the time of receipt by the person to whom the document is addressed.

(b) If a document that should be filed with or submitted to the joint elections administrator is delivered in person to an officer of a participating entity or vice versa, the person to whom the delivery is made shall direct the person making the delivery to the proper office.

(c) If a statute specifies that a document is to be filed with or submitted to an officer without specifying that the filing or submission is to be made with the elections administrator of a political subdivision having that position and the office to accept the filing or submission is changed to the joint elections administrator under this subchapter, a filing or submission made

with the officer has the same legal effect as if made with the administrator if the officer accepts and files the document.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.168. ACTION BY WRONG OFFICER.** If a statute specifies that an action is to be taken by an officer without specifying that it is to be taken by the elections administrator of a political subdivision having that position, an action taken by the officer without objection from the administrator has the same legal effect as if taken by the administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.169. ADDITION OR WITHDRAWAL OF POLITICAL SUBDIVISIONS.** (a) A political subdivision that has not created the position of joint elections administrator and that has territory in or is a county adjacent to a county using a joint elections administrator may use the joint elections administrator to conduct the elections of the political subdivision as provided by this subchapter, if approved by the governing body of the political subdivision and the joint elections commission. Following approval by both entities under this subsection, the political subdivision is entitled to representation on the joint elections commission, as provided by Section 31.153(a)(3).

(b) A political subdivision, other than the county that sent notice seeking creation under Section 31.152(a)(1) or to which the notice was sent under Section 31.152(a)(2), may cease using the joint elections administrator to conduct the elections of the political subdivision under this subchapter, if approved by the governing body of the political subdivision. Following approval by the governing body under this subsection, the political subdivision is not entitled to representation on the joint elections commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

**Sec. 31.170. ABOLISHING POSITION.** (a) The joint elections commission or the commissioners court of each participating county by written order may abolish the position of joint elections administrator at any time.

(b) After the effective date of an order abolishing the position of joint elections administrator, the county tax assessor-collector is the voter registrar of the county, and the duties and functions of the officer of a participating entity that were performed by the administrator revert to the officer, unless a transfer of duties and functions occurs under Section 12.031 or 31.071.

(c) Not later than the third day after the date an order abolishing the position of joint elections administrator is adopted, the county clerk of the most populous participating county shall deliver a certified copy of the order to the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007. Amended by S.B. 893, 86<sup>th</sup> Leg., Sec. 8, eff. Sept. 1, 2019.

**Sec. 31.171. CRIMINAL PENALTIES.** A statute prescribing a criminal penalty against an officer of a participating entity or the officer's deputies or other employees for conduct relating to duties or functions transferred to the joint elections administrator applies to the administrator or to the administrator's deputies or employees as appropriate.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

## **CHAPTER 32. ELECTION JUDGES AND CLERKS**

### **SUBCHAPTER A. APPOINTMENT OF ELECTION JUDGES**

**Sec. 32.001. PRESIDING JUDGE AND ALTERNATE FOR EACH ELECTION PRECINCT.** (a) A presiding election judge and an alternate presiding judge shall be appointed for each election precinct in which an election is held.

(b) The alternate presiding judge shall serve as presiding judge for an election if the regularly appointed presiding judge cannot serve.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.002. JUDGES FOR COUNTY ELECTION.** (a) The commissioners court shall appoint the election judges for each regular county election precinct:

(1) at its July term in a county with a population of over 500,000; or

(2) at its August term in a county with a population of 500,000 or less.

(b) Judges appointed under Subsection (a) serve for a term of one year, except that the commissioners court by order recorded in its minutes may provide for a term of two years. A judge's term begins:

(1) August 1 following appointment in a county to which Subsection (a)(1) applies; or

(2) September 1 following appointment in a county to which Subsection (a)(2) applies.

(c) The presiding judge and alternate presiding judge must be affiliated or aligned with different political parties, subject to this subsection. Before July of each year in a county to which Subsection (a)(1) applies or before August of each year in a county to which Subsection (a)(2) applies, the county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election shall submit in writing to the commissioners court a list of names of persons in order of preference for each precinct who are eligible for appointment as an election judge. The county chair may supplement the list of names of persons until the 20th day before a general election or the 15th day before a special election in case an appointed election judge becomes unable to serve. The commissioners court shall appoint the first person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the highest number of votes in the precinct as the presiding judge and the first person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the second highest number of votes in the precinct as the alternate presiding judge. If the candidates for governor of two political parties received the same number of votes in the precinct, the first person meeting the applicable eligibility requirements from the list submitted by the party whose candidate for governor received the highest number of votes in the county shall be appointed as the presiding judge and the first person meeting the applicable eligibility requirements from the list submitted by the party whose candidate for governor received the second highest number of votes in the county shall be appointed as the alternate presiding judge. The commissioners court may reject the list if the persons whose names are submitted on the list are determined not to meet the applicable eligibility requirements.

(c-1) For purposes of this subsection, the county chair shall provide a list of names of persons eligible for appointment as election judges. Judges of countywide polling places established under Section 43.007 must be appointed from the list of names of persons submitted by the county chair in compliance with Subsection (c) except that in appointing a person from the list the commissioners court shall apportion the number of judges in direct proportion to the percentage of precincts located in each county commissioners precinct won by each party in the last gubernatorial election, the commissioners court is not required to make the appointments based on specific polling locations or precincts, a presiding judge or alternate presiding judge is not required to serve in a polling place located in the precinct in which the judge resides, and more than one presiding judge or alternate presiding judge may be selected from the same precinct to serve in polling places not located in the precinct in which the judges reside. The county chairs may submit, and the commissioners court may preapprove, the appointment of more presiding judges or alternate presiding judges than necessary to fill available positions. The county clerk may select an individual whose appointment was preapproved by the commissioners court to fill a vacancy in a position that was held by an individual from the same political party. Other than a judge's party affiliation, nothing in this subsection precludes a county clerk from placing an election officer at a countywide polling place based on the need for services at that location.

(d) The county clerk, after making a reasonable effort to consult with the party chair of the appropriate political party or parties, shall submit to the commissioners court a list of names of persons eligible for appointment as presiding judge and alternate presiding judge for each precinct in which an appointment is not made under Subsection (c). The commissioners court shall appoint an eligible person from the list who is affiliated or aligned with the appropriate party, if available.

(e) The commissioners court shall fill a vacancy in the position of presiding judge or alternate presiding judge for the

remainder of the unexpired term. An appointment to fill a vacancy may be made at any regular or special term of court. Not later than 48 hours after the county clerk becomes aware of a vacancy, the county clerk shall notify the county chair of the same political party with which the original judge was affiliated or aligned of the vacancy. Not later than the fifth day after the date of notification of the vacancy, the county chair of the same political party with which the original judge was affiliated or aligned shall submit to the commissioners court in writing the name of a person who is eligible for the appointment. If a name is submitted in compliance with this subsection, the commissioners court shall appoint that person to the unexpired term. If a name is not submitted in compliance with this subsection, the county clerk shall submit to the commissioners court a list of names of persons eligible as an appointee for the unexpired term. The commissioners court shall appoint an eligible person from the list who is affiliated or aligned with the same party, if available.

(f) Subject to Section 32.003, the judges appointed under this section shall serve in each election ordered by the governor or a county authority in which the regular county election precincts are required to be used.

(g) Following an oral warning to the election judge and with the concurrence of the county chair of the same political party with which the judge is affiliated or aligned, the county clerk may remove, replace, or reassign an election judge who causes a disruption in a polling location or wilfully disobeys the provisions of this code. A vacancy created under this subsection shall be filled in the same manner as an emergency appointment under Section 32.007.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 8, 9, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1009, Sec. 1, eff. Sept. 1, 1999; Acts 2005, 79th Leg., Ch. 89 (S.B. 896), Sec. 1, eff. September 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 351 (H.B. 1145), Sec. 1, eff. January 1, 2010; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 10, eff. September 1, 2011; H.B. 1735, 85<sup>th</sup> Leg. R.S., Sec. 4, eff. September 1, 2017.

**Sec. 32.003. JUDGES FOR CONSOLIDATED COUNTY ELECTION PRECINCTS.** If election precincts are consolidated in a special election in which the regular county election precincts are required to be used, the commissioners court shall appoint the election judges to serve in each consolidated precinct from among the judges appointed for the precincts comprising the consolidated precinct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.004. JUDGES FOR OTHER ELECTIONS ORDERED BY COUNTY AUTHORITY.** Except as otherwise provided by law, for an election ordered by a county authority in which use of the regular county election precincts is not required, the authority ordering the election shall appoint the election judges.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.005. JUDGES FOR ELECTIONS OF OTHER POLITICAL SUBDIVISIONS.** (a) The governing body of a political subdivision other than a county shall appoint the election judges for elections ordered by an authority of the political subdivision.

(b) The governing body shall determine whether appointments under Subsection (a) are for a single election or for a definite term not to exceed two years. If appointments are made for a term, the governing body shall set the duration and beginning date of the term and shall fill vacancies in unexpired terms.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.006. JUDGES FOR PRIMARY ELECTIONS.** (a) The county chair of a political party holding a primary election shall appoint for each primary the judges for each precinct in which the election will be held in the county and fill any vacancy that occurs in the position of presiding judge or alternate presiding judge.

(b) Repealed by H.B. 1735, 85<sup>th</sup> R.S., Sec. 63, eff. September 1, 2017.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 22, eff. Sept. 1, 1997; H.B. 1735, 85<sup>th</sup> Leg. R.S., Sec. 6, eff. September 1, 2017.

**Sec. 32.007. EMERGENCY APPOINTMENT.** (a) If neither the presiding judge nor the alternate presiding judge can serve in an election and their inability to serve is discovered after the 20th day before a general election or the 15th day before a special election, the presiding officer of the appointing authority or the authority if a single officer shall appoint a replacement judge to preside at the election, subject to Subsection (f). If the appointing authority is unavailable, the authority responsible for distributing the supplies for the election shall appoint the replacement judge.

(b) If a person authorized to act as presiding judge is not present at the polling place at the time for opening the polls, on receiving information of the absence, the authority authorized to appoint a replacement under Subsection (a) shall investigate the absence and appoint a replacement judge, subject to Subsection (f), unless the authority learns that a previously appointed judge will immediately report for duty.

(c) The appointing authority shall promptly give notice of the emergency appointment to the authority responsible

for distributing the supplies for the election. As soon as practicable but not later than the time for closing the polls for the election, the appointing authority shall prepare a written memorandum of the appointment and deliver a signed copy to the presiding officer of the local canvassing authority and to the general custodian of election records. The copies shall be preserved for the period for preserving the precinct election records.

(d) A judge appointed under this section serves only for the election for which the appointment is made.

(e) In this chapter, "emergency appointment" means an appointment made under this section.

(f) A person who is appointed as a replacement for a judge originally appointed under Section 32.002 must be affiliated or aligned with the same political party as was the original judge, if possible, and the appointing authority shall make a reasonable effort to consult with the party chair of the appropriate political party before making an appointment under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 10, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 89 (S.B. 896), Sec. 2, eff. September 1, 2005.

**Sec. 32.008. ORDER OF APPOINTMENT.** (a) The appointment of election judges must be made by written order.

(b) The order of appointment need not be recorded in the minutes of the appointing authority.

(c) An order making an appointment for a single election shall be preserved for the period for preserving the precinct election records. An order making an appointment for a term shall be preserved for the longer of:

(1) the term for which the appointment is made; or

(2) the period for preserving precinct election records in the last election in which an appointee serves under the order.

(d) This section does not apply to an emergency appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.009. NOTICE OF APPOINTMENT.** (a) Each presiding election judge and alternate presiding judge shall be given written notice of the appointment as provided by this section.

(b) The authority responsible for distributing the supplies for the election for which the judge is appointed shall prepare and deliver the notice not later than the 20th day after the date the appointment is made.

(c) The notice must state whether the appointment is for a single election or for a term. If the appointment is for a term, the notice must state the duration and beginning date of the term.

(d) A notice to a presiding judge must state the name, address, and any available telephone number and e-mail address of the alternate, and a notice to an alternate must state the name, address, and any available telephone number and e-mail address of the presiding judge..

(e) If an appointment is for a single election, the notice required by this section and the notice required by Section 4.007 may be combined and given by the authority responsible for giving either of the two notices, as agreed between the two authorities.

(f) This section does not apply to an emergency appointment or to an appointment for a primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by H.B. 1735, 85<sup>th</sup> Leg., R.S. Sec. 7, eff. Sept. 1, 2017. Section 63 of the same bill repealed Section 32.010.

**Sec. 32.011. CONFLICTS WITH OTHER LAW.** (a) A home-rule city charter supersedes this subchapter to the extent of any conflict.

(b) A law outside this subchapter that prescribes a different appointing authority for election judges supersedes this subchapter with respect to the appointing authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.012. PROVISION OF INFORMATION RELATING TO ELECTION JUDGES APPOINTED BY COMMISSIONERS COURT.** (a) After the commissioners court appoints a presiding election judge and an alternate presiding judge, the county clerk shall provide to the county chair of each political party a list of the individuals appointed by the commissioners court.

(b) The appointment list must be provided in writing.

H.B. 1735, 85<sup>th</sup> Leg., R.S. Sec. 8, eff. Sept. 1, 2017.



## SUBCHAPTER B. APPOINTMENT OF ELECTION CLERKS

**Sec. 32.031. PRESIDING JUDGE TO APPOINT CLERKS.** (a) The presiding judge for each election precinct shall appoint the election clerks to assist the judge in the conduct of an election at the polling place served by the judge.

(b) The appointment of an election clerk is for a single election only.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.032. ALTERNATE PRESIDING JUDGE AS CLERK.** In an election conducted by the regularly appointed presiding judge, the presiding judge shall appoint the alternate presiding judge as one of the clerks.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.033. NUMBER OF CLERKS.** (a) The authority that appoints the election judges shall prescribe the maximum number of clerks that each presiding judge may appoint for each election. The authority may prescribe different maximums for different types of elections.

(b) Except as provided by Subsection (c), the presiding judge shall appoint at least two clerks for each precinct in each election and may appoint as many additional clerks, within the prescribed limit, as are necessary for the proper conduct of the election.

(c) In each election ordered by the governor or a county authority in which the regular county election precincts are required to be used, the presiding judge shall appoint clerks for each precinct in the number, within the prescribed limit, the judge considers necessary for the proper conduct of the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 3(a), eff. Sept. 1, 1987.

**Sec. 32.034. CLERKS FOR ELECTIONS FOR FEDERAL, STATE, AND COUNTY OFFICES.** (a) The clerks for the general election for state and county officers or for a special election to fill a vacancy in an office regularly filled at the general election shall be selected from different political parties if possible.

(b) The county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election may, not later than the 25th day before a general election or the 10th day before a special election to which Subsection (a) applies, submit to a presiding judge a list containing the names of at least two persons who are eligible for appointment as a clerk. If a timely list is submitted, the presiding judge shall appoint at least one clerk from the list, except as provided by Subsection (c).

(c) If only one additional clerk is to be appointed for an election in which the alternate presiding judge will serve as a clerk, the clerk shall be appointed from the list of a political party with which neither the presiding judge nor the alternate judge is affiliated or aligned, if such a list is submitted. If two such lists are submitted, the presiding judge shall decide from which list the appointment will be made. If such a list is not submitted, the presiding judge is not required to make an appointment from any list.

(d) The presiding judge shall make an appointment under this section not later than the fifth day after the date the judge receives the list and shall deliver written notification of the appointment to the appropriate county chair.

(e) If a presiding judge has not been appointed at the time the county chair of a political party is required to submit a list of names for the appointment of a clerk under this section, the list of names shall be submitted to the county chair of the political party whose candidate for governor received the most votes in the precinct in the most recent gubernatorial election and to the commissioners court. The county chair, or the commissioners court in a county without a county chair, shall appoint clerks from the list in the same manner provided for a presiding judge to appoint clerks by this section.

(f) Following an oral warning to the election clerk and with the concurrence of the county chair of the same political party with which the election clerk is affiliated or aligned, the county clerk may remove, replace, or reassign an election clerk who causes a disruption in a polling location or wilfully disobeys the provisions of this code. A vacancy created under this subsection shall be filled by the presiding judge, who shall appoint a replacement election clerk who is affiliated or aligned with the same political party as the original clerk, if possible.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 24, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 89 (S.B. 896), Sec. 3, eff. September 1, 2005; H.B. 1735, 85<sup>th</sup> Leg. R.S., Sec. 9, eff. September 1, 2017.

**Sec. 32.035. CONFLICTS WITH CITY CHARTER.** (a) Except as provided by Subsection (b), a home-rule city charter supersedes this subchapter to the extent of any conflict.

(b) A home-rule city charter may not provide for fewer than three election officers for each election precinct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## SUBCHAPTER C. ELIGIBILITY

**Sec. 32.051. GENERAL ELIGIBILITY REQUIREMENTS.** (a) Except as provided by Subsection (b), to be eligible to serve as a judge of an election precinct, a person must:

- (1) be a qualified voter of the precinct; and
- (2) for a regular county election precinct for which an appointment is made by the commissioners court, satisfy any additional eligibility requirements prescribed by written order of the commissioners court.

(b) If the authority making an appointment of a presiding judge or alternate presiding judge cannot find an eligible qualified voter of the precinct who is willing to accept the appointment, the eligibility requirement for a clerk prescribed by Subsection (c) applies.

(c) Except as provided by Section 32.0511, to be eligible to serve as a clerk of an election precinct, a person must be a qualified voter:

- (1) of the county, in a countywide election ordered by the governor or a county authority or in a primary election;
- (2) of the part of the county in which the election is held, for an election ordered by the governor or a county authority that does not cover the entire county of the person's residence; or
- (3) of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1235, Sec. 26(2), eff. September 1, 2009.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1002, Sec. 6, eff. September 1, 2011.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 11, eff. Sept. 1, 1997; Acts 2009, 81st Leg., R.S., Ch. 517 (S.B. 1134), Sec. 1, eff. September 1, 2009; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 26(2), eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 5, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 6, eff. September 1, 2011.

**Sec. 32.0511. SPECIAL ELIGIBILITY REQUIREMENTS: STUDENT ELECTION CLERKS.** (a) In this section:

(1) "Educational institution" means:

- (A) a public secondary school; or
- (B) an accredited private or parochial secondary school.

(2) "Student" means a person enrolled in an educational institution or a home-schooled student.

(b) A student who is ineligible to serve as a clerk of an election precinct under Section 32.051(c) is eligible to serve as a clerk of an election precinct under this section if the student:

(1) at the time of appointment as an election clerk:

(A) is a student at an educational institution or attends a home school that meets the requirements of Section 25.086(a)(1), Education Code; and

(B) has the consent of:

- (i) the principal of the educational institution attended by the student; or
- (ii) in the case of a home-schooled student, a parent or legal guardian who is responsible for the student's education; and

(2) at the time of service as an election clerk:

(A) is 16 years of age or older;

(B) is a United States citizen; and

(C) has completed any training course required by the entity holding the election.

(c) A student election clerk serving under this section:

(1) is entitled to compensation under Section 32.091 in the same manner as other election clerks; and

(2) when communicating with a voter who cannot communicate in English, may communicate with the voter in a language the voter and the clerk understand as authorized by Subchapter B, Chapter 61.

(d) Not more than two student election clerks may serve at a polling place, except that not more than four student election clerks may serve at any countywide polling place.

(e) The secretary of state may initiate or assist in the development of a statewide program promoting the use of student election clerks appointed under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 517 (S.B. 1134), Sec. 2, eff. September 1, 2009.

**Sec. 32.052. INELIGIBILITY OF PUBLIC OFFICER.** (a) A person who holds an elective public office is ineligible to serve as an election judge or clerk in an election.

(b) For purposes of this section, a deputy or assistant serving under a public officer does not hold a public office.

**Sec. 32.053. INELIGIBILITY OF CANDIDATE FOR OFFICE.** (a) A person who is a candidate in an election for a contested public or party office is ineligible to serve, in an election to be held on the same day as that election, as an election judge or clerk in any precinct in which the office sought is to be voted on.

(b) This section does not apply to:

- (1) a county clerk; or
- (2) a precinct chair declared elected under Section 171.0221.

(c) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 167 (H.B. 567), Sec. 1, eff. September 1, 2009.

**Sec. 32.054. INELIGIBILITY OF EMPLOYEE OR RELATIVE OF CANDIDATE.** (a) A person is ineligible to serve as an election judge or clerk in an election if the person is employed by or related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an opposed candidate for a public office or a party office in any precinct in which the office appears on the ballot. For purposes of this subsection, a candidate whose name appears on the ballot is not considered to be opposed by a write-in candidate other than a declared write-in candidate under Chapter 146.

(b) For purposes of this section, a person is employed by a candidate if:

- (1) the candidate is an owner or officer of a business entity by which the person is employed;
- (2) the candidate is an officer of a governmental department or agency by which the person is employed; or
- (3) the person is under the candidate's supervision in public or private employment.

(c) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

(d) Notwithstanding Subsection (b), a person employed by a county solely as an early voting clerk appointed under Chapter 83 is not employed by a candidate for purposes of this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 561, Sec. 15, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 864, Sec. 25, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 984 (H.B. 2110), Sec. 1, eff. September 1, 2013; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 6, eff. September 1, 2013.

**Sec. 32.055. INELIGIBILITY OF CAMPAIGN TREASURER.** (a) A person is ineligible to serve as an election judge or clerk in an election if the person is the campaign treasurer of a candidate in that election.

(b) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.03, eff. Aug. 28, 1989.

**Sec. 32.0551. INELIGIBILITY OF CAMPAIGN MANAGER.** (a) A person is ineligible to serve as an election judge or clerk in an election if the person is a campaign manager of a candidate in that election.

(b) In this section:

(1) "Campaign manager" means:

(A) the person who directs, with or without compensation, the day-to-day operations of a candidate's election campaign; or

(B) each person who directs, with or without compensation, a substantial portion of the day-to-day operations of a candidate's election campaign if no single person performs that function.

(2) "Candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 6, eff. Sept. 1, 1993.

**Sec. 32.0552. INELIGIBILITY OF PERSON CONVICTED OF ELECTION OFFENSE.** A person is ineligible to serve as an election judge or clerk in an election if the person has been finally convicted of an offense in connection with conduct directly attributable to an election.

Added by Acts 1997, 75th Leg., ch. 1349, Sec. 12, eff. Sept. 1, 1997.

**Sec. 32.056. CITY CHARTER REQUIREMENTS.** Eligibility requirements or grounds of ineligibility in addition to those prescribed by this subchapter may be prescribed by a home-rule city charter for election officers serving in elections ordered by an authority of the city.

## SUBCHAPTER D. POWERS AND DUTIES

**Sec. 32.071. GENERAL RESPONSIBILITY OF PRESIDING JUDGE.** The presiding judge is in charge of and responsible for the management and conduct of the election at the polling place of the election precinct that the judge serves.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 26, eff. Sept. 1, 1997.

**Sec. 32.072. DUTIES AND WORKING HOURS OF CLERKS.** (a) The presiding judge shall designate the working hours of and assign the duties to be performed by the election clerks serving under the judge.

(b) Subject to Section 32.073, clerks may be assigned to work for different lengths of time and to begin work at different hours.

(c) With respect to designating the working hours of and assigning the duties to be performed by the election clerks, the presiding judge, to facilitate and protect the integrity of the voting process, shall treat all election clerks serving at the polling place uniformly.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 27, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 89 (S.B. 896), Sec. 4, eff. September 1, 2005.

**Sec. 32.073. ABSENCE OF ELECTION OFFICERS FROM POLLING PLACE.** (a) The presiding judge and the clerks who are on duty at the time of any manual count or examination of ballots before the time for closing the polls shall remain on duty without leaving the polling place while the polls are open. Clerks may be assigned to work for periods ending before any manual count or examination of ballots begins. The presiding judge may permit temporary absences for meals or other necessary activities.

(b) If the presiding judge does not permit the clerks to be absent for meals, the judge must permit meals to be brought or delivered to the polling place.

(c) With respect to regulating temporary absences from the polling place while the polls are open, the presiding judge shall treat all election officers serving at the polling place uniformly.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 6, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 28, eff. Sept. 1, 1997.

**Sec. 32.074. ADMINISTRATION OF OATHS.** An election judge or clerk may administer any oath required or authorized to be made at a polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.075. LAW ENFORCEMENT DUTIES AND POWERS.** (a) The presiding judge shall preserve order and prevent breaches of the peace and violations of this code in the polling place and in the area within which electioneering and loitering are prohibited from the time the judge arrives at the polling place on election day until the judge leaves the polling place after the polls close.

(b) In performing duties under Subsection (a), the presiding judge may appoint one or more persons to act as special peace officers for the polling place. A special peace officer may not enforce the prohibition against electioneering or loitering near the polling place unless the officer's appointment is approved by the presiding officer of the local canvassing authority.

(c) In performing duties under Subsection (a), a presiding judge has the power of a district judge to enforce order and preserve the peace, including the power to issue an arrest warrant. An appeal of an order or other action of the presiding judge under this section is made in the same manner as the appeal of an order or other action of a district court in the county in which the polling place is located.

(d) A person who is arrested at a polling place while voting or waiting to vote shall be permitted to vote, if entitled to do so, before being removed from the polling place.

(e) The presiding judge or a special peace officer appointed under this section may not enforce the prohibition against electioneering or loitering outside of the area within which electioneering and loitering are prohibited under Section 61.003 or 85.036.

(f) A person is eligible for appointment as a special peace officer under Subsection (b) only if the person is licensed as a peace officer by the Texas Commission on Law Enforcement.

(g) A presiding judge may not have a watcher duly accepted for service under Subchapter A, Chapter 33, removed from the polling place for violating a provision of this code or any other provision of law relating to the conduct of elections, other than a violation of the Penal Code, unless the violation was observed by an election judge or clerk.

(h) Notwithstanding Subsection (g), a presiding judge may call a law enforcement officer to request that a poll watcher be removed if the poll watcher commits a breach of the peace or a violation of law.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 29, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1094, Sec. 1, eff. June 20, 2003; Acts 2007, 80th Leg., R.S., Ch. 918 (H.B. 3143), Sec. 1, eff. June 15, 2007; Acts 2011, 82nd Leg., R.S., Ch. 504 (H.B. 1503), Sec. 1, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.17, eff. May 18, 2013; S.B. 1, 87th Leg., 2<sup>nd</sup> C.S., Sec. 4.01, eff. Dec. 2, 2021.

**Sec. 32.076. DISCLOSURE OF E-MAIL ADDRESS AND PHONE NUMBER RESTRICTED.** (a) Except as provided by Subsection (b), an e-mail address or personal phone number of an election judge or clerk collected or maintained by the authority conducting the election is confidential and does not constitute public information for purposes of Chapter 552, Government Code.

(b) An e-mail address or phone number described by Subsection (a) shall be made available on request to:

(1) any entity eligible to submit lists of election judges or clerks for that election; or

(2) the state executive committee of a political party with a county chair eligible to submit lists of election judges or clerks for that election.

Added by Acts 2015, 84th Leg., R.S., Ch. 1062 (H.B. 2160), Sec. 1, eff. September 1, 2015.

## SUBCHAPTER E. COMPENSATION

**Sec. 32.091. COMPENSATION FOR SERVICES AT POLLING PLACE.** (a) Except as provided by Subsection (c), an election judge or clerk is entitled to compensation for services rendered at a precinct polling place at an hourly rate not to exceed the amount fixed by the appropriate authority, which amount must be at least the federal minimum hourly wage. A judge or clerk may be compensated at that rate for services rendered under Section 62.014(c).

(b) A judge or clerk may not be paid for more than two hours of work before the polls open, except for payment made for work under Section 62.014(c). In a precinct in which voting machines are used, a judge or clerk may not be paid for more than two hours of work after the time for closing the polls or after the last voter has voted, whichever is later.

(c) For a primary or runoff primary election, the minimum hourly rate is the greater of the maximum rate provided by Subsection (a) or, if the election officer attended a training program as provided by Subchapter F, \$7.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 7, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 260, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1316, Sec. 12, eff. Sept. 1, 2003; S.B. 1052, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 32.092. COMPENSATION FOR DELIVERING ELECTION RECORDS AND SUPPLIES.** (a) The election judge or clerk who delivers the precinct election records, keys to ballot boxes or other election equipment, and unused election supplies after an election is entitled to compensation for that service in an amount not to exceed \$25.

(b) If more than one election officer delivers the records, keys, and unused supplies, the presiding judge shall determine how the amount fixed for the service is to be allocated among the officers.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.093. AUTHORITY FIXING COMPENSATION.** The compensation of election judges and clerks shall be fixed by the following authority:

(1) for an election ordered by the governor or a county authority, the commissioners court;

(2) for an election ordered by an authority of a political subdivision other than a county, the political subdivision's governing body; and

(3) for a primary election, the county executive committee of the political party holding the primary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 32.094. STATEMENT OF COMPENSATION.** (a) After each election, each presiding judge serving in the election shall prepare and sign, in duplicate, a statement containing the following information:

(1) the name and address of the presiding judge and each clerk who served under the judge;

(2) the number of hours that each election officer worked at the polling place or at another location under Section 62.014(c), excluding time for which payment may not be made; and

(3) the name of the election officer who delivered the election records, keys, and unused supplies, and, if more than one officer, the name of and the amount of compensation allocated to each officer.

(b) In addition to the information required by Subsection (a), the compensation statement must include the total hourly compensation earned by each officer if the authority responsible for distributing the election supplies directs the presiding judge

to include that information.

(c) The presiding judge shall follow the instructions of the authority responsible for distributing the election supplies with respect to:

(1) the time by which and the authority to whom the presiding judge is to deliver the compensation statement; and

(2) any other instructions that the authority considers appropriate to ensure that the election officers are paid.

(d) The time designated under Subsection (c)(1) for delivery of the compensation statement may not be later than 5 p.m. of the third day after election day.

(e) The original compensation statement shall be used for making payment for the services. The general custodian of election records shall preserve the duplicate for the period for preserving the precinct election records. If the presiding judge delivers the statement to an authority other than the general custodian of election records, the authority receiving the statement shall deliver the duplicate to the general custodian not later than the third day after the date of its receipt.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 30, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 14, eff. Sept. 1, 1997.

## SUBCHAPTER F. TRAINING

**Sec. 32.111. TRAINING STANDARDS FOR ELECTION JUDGES.** (a) The secretary of state shall:

(1) adopt standards of training in election law and procedure for presiding or alternate election judges;

(2) develop materials for a standardized curriculum for that training, including a published handbook, made available on the secretary of state's Internet website, free of charge; and

(3) distribute the materials as necessary to the governing bodies of political subdivisions that hold elections and to each county executive committee of a political party that holds a primary election.

(b) The training standards may include required attendance at appropriate training programs or the passage of an examination at the end of a training program.

(c) The training standards adopted under Subsection (a) must include provisions on the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 13, eff. Sept. 1, 2003; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 6, eff. Sept. 1, 2011; H.B. 1632, 88<sup>th</sup> R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 32.1111. ONLINE TRAINING.** (a) The secretary of state shall:

(1) make available a standardized training program developed under Section 32.111:

(A) entirely via the Internet; and

(B) at any time, without a requirement for prior registration;

(2) require the passage of an examination at the end of the training program; and

(3) provide an individual who completes the training with a certificate of completion.

(b) A certificate of completion provided under Subsection (a)(3) shall expire no later than one year following the date it was awarded.

(c) Completion of the training program under this section is not a prerequisite to eligibility for service in an election for:

(1) county election officials;

(2) presiding or alternate election judges;

(3) election clerks;

(4) members of the early voting ballot board;

(5) members of the signature verification committee; or

(6) central counting station officers.

H.B. 1632, 88<sup>th</sup> R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 32.112. EXPENSE OF TRAINING JUDGES.** The governing body of a political subdivision may appropriate funds to:

(1) compensate its election judges, early voting clerk, and deputy early voting clerks in charge of early voting polling places for attending a training program required under Section 32.111, at an hourly rate not to exceed the maximum rate of compensation of an election judge for services rendered at a precinct polling place or, if applicable, for attending a training program under Section 32.114; and

(2) pay the expenses of conducting the programs.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.37; Acts 1991, 72nd Leg., ch. 554, Sec. 8, eff.

Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1316, Sec. 14, eff. Sept. 1, 2003.

**Sec. 32.113. TRAINING PROGRAMS.** (a) The governing body of a political subdivision other than a county may, and the county executive committee of a political party shall, provide training for its election officers using the standardized training program and materials developed and provided by the secretary of state under Section 32.111.

(b) A political subdivision or county executive committee may conduct its training independently or jointly with other entities.

(c) A law outside this code providing for a training program in connection with a specified type of election supersedes this subchapter to the extent of any conflict.

(d) The governing body of the political subdivision shall notify the voter registrar of each county in which the political subdivision is situated of the date, hour, and place of each session of the training program.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 22, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1316, Sec. 15, eff. Sept. 1, 2003.

**Sec. 32.114. PUBLIC COUNTY TRAINING PROGRAM.** (a) The county clerk shall provide one or more sessions of training using the standardized training program and materials developed and provided by the secretary of state under Section 32.111 for the election judges and clerks appointed to serve in elections ordered by the governor or a county authority. Each election judge shall complete the training program. The training program must include specific procedures related to the early voting ballot board and the central counting station, as applicable. Each election clerk shall complete the part of the training program relating to the acceptance and handling of the identification presented by a voter to an election officer under Section 63.001.

(b) A training program provided under this section is open to the public free of charge.

(c) The county clerk shall:

(1) post a notice of the time and place of each session on the county's Internet website, if the county maintains an Internet website, and may post the notice on the bulletin board used for posting notice of meetings of the commissioners court and shall include on the notice a statement that the program is open to the public;

(1-a) post notice of the time and place of each session on the bulletin board used for posting notice of meetings of the commissioners court, if the county does not maintain an Internet website, and shall include on the notice a statement that the program is open to the public;

(2) notify each presiding judge appointed by the commissioners court of the time and place of each session and of the duty of each election judge to complete the training program;

(3) notify the county chair of each political party in the county of the time and place of each session; and

(4) notify the voter registrar of the date, hour, and place of each session.

(d) Each presiding judge receiving notice under Subsection (c)(2) shall notify the alternate presiding judge and other persons who serve as clerks for the judge's precinct of the time and place of each session.

(e) An election judge, early voting clerk, or deputy early voting clerk in charge of an early voting polling place is entitled to compensation for attending the training program at an hourly rate fixed by the appropriate authority in an amount that is equal to or greater than the federal minimum wage.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 23, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 31, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 16, eff. Sept. 1, 2003; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 7, eff. Sept. 1, 2011; H.B. 1735, 85<sup>th</sup> Leg. R.S., Sec. 10, eff. Sept. 1, 2017; H.B. 933, 86<sup>th</sup> Leg., Sec. 5, eff. Sept. 1, 2019; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 35, eff. Sept. 1, 2021.

**Sec. 32.115. SECRETARY OF STATE TO ASSIST IN TRAINING.** On request of a county executive committee or a county clerk, as appropriate, the secretary of state shall schedule and provide assistance for the training of election judges and clerks under Section 32.113 or 32.114. The secretary may provide similar training assistance to other political subdivisions.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## CHAPTER 33. WATCHERS

### SUBCHAPTER A. APPOINTMENT

**Sec. 33.001. WATCHER DEFINED.** In this code, "watcher" means a person appointed under this subchapter to observe the conduct of an election on behalf of a candidate, a political party, or the proponents or opponents of a measure.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 33.0015. CHAPTER PURPOSE AND WATCHER DUTY.** The purpose of this chapter is to preserve the integrity of the ballot box in accordance with Section 4, Article VI, Texas Constitution, by providing for the appointment of watchers. It is the intent of the legislature that watchers duly accepted for service under this chapter be allowed to observe and report on irregularities in the conduct of any election, but may not interfere in the orderly conduct of an election. To effect that purpose, a watcher appointed under this chapter shall observe without obstructing the conduct of an election and call to the attention of an election officer any observed or suspected irregularity or violation of law in the conduct of the election.

Added by S.B. 1, 87th Leg., 2nd C.S., Sec. 4.02, eff. Dec. 2, 2021.

**Sec. 33.0016. REFERENCES TO EARLY VOTING BALLOT BOARD IN THIS CHAPTER.** A reference in this chapter to an early voting ballot board includes a signature verification committee.

Added by S.B. 1, 87th Leg., 2nd C.S., Sec. 4.03, eff. Dec. 2, 2021.

**Sec. 33.002. APPOINTMENT BY CANDIDATE.** (a) Watchers may be appointed by each candidate whose name appears on the ballot or the list of declared write-in candidates in an election for:

- (1) a public office other than the office of vice-president of the United States; or
- (2) an office of a political party.

(b) In an election for an office of the state government that is filled by voters of more than one county, watchers may also be appointed by the candidate's campaign treasurer.

(c) In an election for an office of the federal government that is filled by voters of more than one county, watchers may also be appointed by the chair or treasurer of the candidate's principal campaign committee or by a designated agent of the chair or treasurer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 32, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 15, eff. Sept. 1, 1997.

**Sec. 33.003. APPOINTMENT BY POLITICAL PARTY.** (a) The county chair of each political party that has one or more nominees on the ballot may appoint watchers.

(b) If the county chair does not make an authorized appointment, any three members of the county executive committee may make the appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 33, eff. Sept. 1, 1997.

**Sec. 33.004. APPOINTMENT FOR WRITE-IN CANDIDATE.** (a) A group of registered voters may appoint watchers on behalf of a write-in candidate in an election in which a declaration of write-in candidacy is not required to be filed.

(b) To be eligible to participate in the appointment under this section of a watcher for a precinct polling place, a person must be a registered voter of the precinct. To be eligible to participate in the appointment under this section of a watcher for an early voting polling place, the meeting place of an early voting ballot board, or a central counting station, a person must be a registered voter of the territory served by that facility.

(c) The minimum number of voters required to make an appointment under this section is the lesser of:

- (1) 15; or
- (2) five percent of the registered voters of the appropriate territory as determined from the list of registered voters to be used for the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.38; Acts 1991, 72nd Leg., ch. 554, Sec. 9, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 16, eff. Sept. 1, 1997.

**Sec. 33.005. APPOINTMENT FOR ELECTION ON MEASURE.** (a) In an election on a measure, watchers may be appointed by the campaign treasurer or an assistant campaign treasurer of a specific-purpose political committee that supports or opposes the measure.

(b) This section does not apply to a referendum measure submitted at a primary election.



**Sec. 33.006. CERTIFICATE OF APPOINTMENT.** (a) For an appointment of a watcher to be effective, the appointing authority must issue a certificate of appointment to the appointee.

(b) A certificate of appointment must:

- (1) be in writing and signed by the appointing authority or, for an appointment for a write-in candidate under Section 33.004, by each of the voters making the appointment;
- (2) indicate the capacity in which the appointing authority is acting;
- (3) state the name, residence address, and voter registration number of the appointee and be signed by the appointee;
- (4) identify the election and the precinct polling place or other location at which the appointee is to serve;
- (5) in an election on a measure, identify the measure if more than one is to be voted on and state which side of the measure the appointee represents; and
- (6) contain an affidavit executed by the appointee stating that the appointee will not have possession of a device capable of recording images or sound or that the appointee will disable or deactivate the device while serving as a watcher.

(c) In addition to complying with Subsection (b), a certificate issued to a watcher appointed for a write-in candidate under Section 33.004 must:

- (1) include the residence address and voter registration number of eligible signers in the required number;
- (2) include the signed statement of the candidate, or a person who would be authorized to make appointments on the candidate's behalf if the candidate's name appeared on the ballot, that the appointment is made with the signer's consent; and
- (3) state the residence or office address of the signer under Subdivision (2) and the capacity in which the signer signs, if the statement is not signed by the candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 498, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 8, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 34, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 17, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 11, eff. September 1, 2011.

**Sec. 33.007. NUMBER AND PLACE OF SERVICE OF WATCHERS.** (a) Each appointing authority may appoint not more than two watchers for each precinct polling place, meeting place for an early voting ballot board, or central counting station involved in the election.

(b) Each appointing authority may appoint not more than seven watchers for each main or branch early voting polling place involved in the election. Not more than two watchers appointed by the same authority may be on duty at the same early voting polling place at the same time.

(c) In an election in which the election officers serving at a precinct polling place also serve as an early voting ballot board, a watcher who is appointed for the precinct polling place may observe the processing of early voting ballots by the early voting ballot board, or separate watchers may be appointed to observe only that activity.

(d) The number of watchers accepted for service on each side of a measure may not exceed the number authorized by this section. If the number of appointments exceeds the authorized number, the authority accepting the watchers for service shall accept the watchers in the order in which they present their certificates of appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.39; Acts 1991, 72nd Leg., ch. 554, Sec. 10, eff. Sept. 1, 1991.

**Sec. 33.008. TRAINING PROGRAM.** The secretary of state shall develop and maintain a training program for watchers. The training program must:

(1) be available:

- (A) entirely via the Internet; and
- (B) at any time, without a requirement for prior registration; and

(2) provide a watcher who completes the training with a certificate of completion.

Added by S.B. 1, 87th Leg., 2nd C.S., Sec. 4.04, eff. Dec. 2, 2021.

## SUBCHAPTER B. ELIGIBILITY

**Sec. 33.031. GENERAL ELIGIBILITY REQUIREMENTS.** (a) To be eligible to serve as a watcher, a person must be a qualified voter:

- (1) of the county in which the person is to serve, in an election ordered by the governor or a county authority or in a primary election;
- (2) of the part of the county in which the election is held, in an election ordered by the governor or a county authority that does not cover the entire county of the person's residence; and
- (3) of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(b) In addition to the requirements of Subsection (a), to be eligible to serve as a watcher, a person must complete training under Section 33.008

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 26(3), eff. September 1, 2009; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 4.05, eff. Dec. 2, 2021.

**Sec. 33.032. INELIGIBILITY OF CANDIDATE FOR PUBLIC OFFICE.** (a) A person is ineligible to serve as a watcher in an election if the person is a candidate for a public office in an election to be held on the same day.

(b) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 33.033. INELIGIBILITY OF EMPLOYEE OR RELATIVE OF ELECTION OFFICER.** (a) A person is ineligible to serve as a watcher at a particular location if the person is the employer of or is employed by or related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an election judge, an election clerk, an early voting clerk, or a deputy clerk serving at that location.

(b) For purposes of this section, a person is employed by an election officer in the same circumstances that a person is employed by a candidate under Section 32.054(b).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.40; Acts 1991, 72nd Leg., ch. 554, Sec. 11, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 561, Sec. 16, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995.

**Sec. 33.034. INELIGIBILITY OF PUBLIC OFFICER.** (a) A person who holds an elective public office is ineligible to serve as a watcher in an election.

(b) For purposes of this section, a deputy or assistant serving under a public officer does not hold a public office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 33.035. INELIGIBILITY OF PERSON CONVICTED OF ELECTION OFFENSE.** A person is ineligible to serve as a watcher in an election if the person has been finally convicted of an offense in connection with conduct directly attributable to an election.

Added by Acts 1997, 75th Leg., ch. 1349, Sec. 18, eff. Sept. 1, 1997.

## **SUBCHAPTER C. SERVICE**

**Sec. 33.051. ACCEPTANCE OF WATCHER.** (a) A watcher appointed to serve at a precinct polling place, a meeting place for an early voting ballot board, or a central counting station must deliver the following materials to the presiding judge at the time the watcher reports for service:

- (1) a certificate of appointment; and
- (2) a certificate of completion from training completed by the watcher under Section 33.008.

(a-1) A watcher appointed to serve at an early voting polling place must deliver the certificates under Subsection (a) to the early voting clerk or deputy clerk in charge of the polling place when the watcher first reports for service.

(b) The officer presented with a watcher's certificates shall require the watcher to countersign the certificate of appointment to ensure that the watcher is the same person who signed the certificate of appointment. Except as provided by Subsection (c), a watcher who presents himself or herself at the proper time with the certificates required under Subsection (a) shall be accepted for service unless the person is ineligible to serve or the number of appointees to which the appointing authority is entitled have already been accepted.

(c) A watcher may not be accepted for service if the watcher has possession of a device capable of recording images or sound unless the watcher agrees to disable or deactivate the device. The presiding judge may inquire whether a watcher has possession of any prohibited recording device before accepting the watcher for service.

(d) The certificates of a watcher serving at an early voting polling place shall be retained at the polling place until voting at the polling place is concluded. At each subsequent time that the watcher reports for service, the watcher shall inform

the clerk or deputy in charge. The officer may require the watcher to sign the watcher's name in the officer's presence, for comparison with the signature on the certificate of appointment, if the officer is uncertain of the watcher's identity.

(e) If a watcher is not accepted for service, the certificates shall be returned to the watcher with a signed statement of the reason for the rejection.

(f) On accepting a watcher for service, the election officer shall provide the watcher with a form of identification, prescribed by the secretary of state, to be displayed by the watcher during the watcher's hours of service at the polling place.

(g) An election officer commits an offense if the officer intentionally or knowingly refuses to accept a watcher for service when acceptance of the watcher is required by this section. An offense under this subsection is a Class A misdemeanor.

(h) Before accepting a watcher, the officer presented with a watcher's certificate of appointment shall require the watcher to take the following oath, administered by the officer: "I swear (or affirm) that I will not disrupt the voting process or harass voters in the discharge of my duties."

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 498, Sec. 2, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.41; Acts 1991, 72nd Leg., ch. 554, Sec. 12, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 9, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 35, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 12, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 188 (S.B. 160), Sec. 1, eff. September 1, 2013; S.B. 1, 87th Leg., 2nd C.S., Sec. 4.06, eff. Dec. 2, 2021.

**Sec. 33.052. HOURS OF SERVICE AT PRECINCT POLLING PLACE.** A watcher at a precinct polling place may begin service at any time after the presiding judge arrives at the polling place on election day and may remain at the polling place until the presiding judge and the clerks complete their duties there. A watcher may serve at the polling place during the hours the watcher chooses, except that if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 7, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 36, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 254, Sec. 1, 2, eff. Sept. 1, 2003; Acts 2007, 80th Leg., R.S., Ch. 697 (H.B. 1921), Sec. 3, eff. Sept. 1, 2007; Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(2), eff. September 1, 2009; H.B. 1631, 88th Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 33.053. HOURS OF SERVICE AT EARLY VOTING POLLING PLACE.** A watcher serving at an early voting polling place may be present at the polling place at any time it is open and until completion of the securing of any voting equipment used at the polling place that is required to be secured on the close of voting each day. The watcher may serve during the hours the watcher chooses.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.42; Acts 1991, 72nd Leg., ch. 554, Sec. 13, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 37, eff. Sept. 1, 1997.

**Sec. 33.054. HOURS OF SERVICE AT EARLY VOTING BALLOT BOARD MEETING OR SIGNATURE VERIFICATION COMMITTEE MEETING.** (a) A watcher serving at the meeting place of an early voting ballot board or signature verification committee may be present at any time the board or committee is processing or counting ballots and until the board or committee completes its duties. The watcher may serve during the hours the watcher chooses, except as provided by Subsection (b).

(b) A watcher serving at the meeting place of an early voting ballot board may not leave during voting hours on election day without the presiding judge's permission if the board has recorded any votes cast on voting machines or counted any ballots, unless the board has completed its duties and has been dismissed by the presiding judge.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.43; Acts 1991, 72nd Leg., ch. 554, Sec. 14, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 38, eff. Sept. 1, 1997; H.B. 3107, 87th Leg., R.S., Sec. 36, eff. Sept. 1, 2021.

**Sec. 33.055. HOURS OF SERVICE AT CENTRAL COUNTING STATION.** (a) A watcher serving at a central counting station may be present at any time the station is open for the purpose of processing or preparing to process election results and until the election officers complete their duties at the station. The watcher may serve during the hours the watcher chooses, except as provided by Subsection (b).

(b) A watcher may not leave during voting hours on election day without the presiding judge's permission if the counting of ballots at the central counting station has begun.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 39, eff. Sept. 1, 1997.

**Sec. 33.056. OBSERVING ACTIVITY GENERALLY.** (a) Except as provided by Section 33.057, a watcher is entitled to observe any activity conducted at the location at which the watcher is serving. A watcher is entitled to sit or stand near enough to see and hear the election officers conducting the observed activity, except as otherwise prohibited by this chapter.

(b) A watcher is entitled to sit or stand near enough to the member of a counting team who is announcing the votes to verify that the ballots are read correctly or to a member who is tallying the votes to verify that they are tallied correctly.

(c) A watcher is entitled to inspect the returns and other records prepared by the election officers at the location at

which the watcher is serving.

(d) A watcher may not be prohibited from making written notes while on duty. Before permitting a watcher who made written notes at a precinct polling place to leave while the polls are open, the presiding officer may require the watcher to leave the notes with another person on duty at the polling place, selected by the watcher, for retention until the watcher returns to duty.

(e) Except as provided by Section 33.057(b), a watcher may not be denied free movement where election activity is occurring within the location at which the watcher is serving.

(f) In this code, a watcher who is entitled to "observe" an election activity is entitled to sit or stand near enough to see and hear the activity.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Amended by .S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 4.07, eff. Dec. 2, 2021.

**Sec. 33.057. OBSERVING PREPARATION OF VOTER'S BALLOT.** (a) A watcher is entitled to be present at the voting station when a voter is being assisted by an election officer, and the watcher is entitled to examine the ballot before it is deposited in the ballot box to determine whether it is prepared in accordance with the voter's wishes.

(b) A watcher may not be present at the voting station when a voter is preparing the voter's ballot or is being assisted by a person of the voter's choice.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 40, eff. Sept. 1, 1997.

**Sec. 33.058. RESTRICTIONS ON WATCHER'S ACTIVITIES.** (a) While on duty, a watcher may not:

(1) converse with an election officer regarding the election, except to call attention to an irregularity or violation of law;

(2) converse with a voter; or

(3) communicate in any manner with a voter regarding the election.

(b) A watcher may call the attention of an election officer to any occurrence that the watcher believes to be an irregularity or violation of law and may discuss the matter with the officer. An officer may refer the watcher to the presiding officer at any point in the discussion. In that case, the watcher may not discuss the occurrence further with the subordinate officer unless the presiding officer invites the discussion.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 33.059. OBSERVING SECURING OF VOTING SYSTEM EQUIPMENT BEFORE ELECTION.** (a) A watcher appointed to serve at a polling place in an election using voting system equipment that is required to be delivered to the polling place in a secured condition is entitled to observe the inspection and securing of the equipment in the jurisdiction of the authority responsible for distributing election supplies to the polling place at which the watcher is appointed to serve.

(b) On request of a watcher, the authority responsible for distributing the election supplies shall inform the watcher of the place, date, and hour of the inspection. A watcher shall be admitted on presentation of a certificate of appointment. The person admitting the watcher shall return the certificate to the watcher.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 33.060. OBSERVING DELIVERY OF ELECTION RECORDS.** (a) On request of a watcher, an election officer who delivers election records from a precinct polling place, an early voting polling place, a meeting place for an early voting ballot board, or a central counting station shall permit the watcher appointed to serve at that location to accompany the officer in making the delivery.

(b) If delivery is made in a vehicle, an election officer complies with this section if the officer permits the watcher to follow in a different vehicle and drives in a manner that enables the watcher to keep the vehicle in sight.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.44; Acts 1991, 72nd Leg., ch. 554, Sec. 15, eff. Sept. 1, 1991.

**Sec. 33.0605. OBSERVING DATA STORAGE SEALING AND TRANSFER.** (a) A watcher appointed to serve at a polling place in an election who is available at the time of the action may observe all election activities relating to closing the polling place, including the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed used by the voting system equipment.

(b) Notwithstanding any other provision of this code, a watcher duly accepted for service at a polling location is entitled to follow the transfer of election materials from the polling place at which the watcher was accepted to a regional tabulating center, the central counting station, or any other location designated to process election materials. The authority responsible for administering a regional tabulating center or another location where election materials are processed must accept duly appointed watchers for service in the same manner a watcher is accepted for service under Section 33.051 and must accept

the same number of watchers that may serve under Section 33.007(a)..

Added by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 4.08, eff. Dec. 2, 2021.

**Sec. 33.061. UNLAWFULLY OBSTRUCTING WATCHER.** (a) A person commits an offense if the person serves in an official capacity at a location at which the presence of watchers is authorized and knowingly prevents a watcher from observing an activity or procedure the person knows the watcher is entitled to observe, including by taking any action to obstruct the view of a watcher or distance the watcher from the activity or procedure to be observed in a manner that would make the observation not reasonably effective.

(b) An offense under this section is a Class A misdemeanor.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: .B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 4.09, eff. Dec. 2, 2021.

**Sec. 33.063. RELIEF.** The appointing authority for a watcher who believes that the watcher was unlawfully prevented or obstructed from the performance of the watcher's duties may seek:

- (1) injunctive relief under Section 273.081, including issuance of temporary orders;
- (2) a writ of mandamus under Section 161.009 or 273.061; and
- (3) any other remedy available under law.

Added by: .B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 4.10, eff. Dec. 2, 2021.

## CHAPTER 34. STATE INSPECTORS

**Sec. 34.001. APPOINTMENT OF STATE INSPECTORS.** (a) The secretary of state may appoint one or more state inspectors for an election.

(b) The secretary of state shall appoint one or more inspectors for an election if the secretary receives a written request for the appointment from 15 or more registered voters:

(1) of the county for which the inspector is requested, for an election ordered by the governor or a county authority or for a primary election; or

(2) of the political subdivision in which the election specified by the request is held, for an election ordered by an authority of a political subdivision other than a county.

(c) A request under Subsection (b) must be received by the secretary of state not later than the fourth regular business day before the date of the election for which the inspectors are requested. The request is not available for public inspection until the day after election day.

(d) State inspectors are responsible to the secretary of state and subject to the secretary's direction. The secretary may terminate an appointment at any time.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 10, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 41, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 19, eff. Sept. 1, 1997.

**Sec. 34.002. DUTIES AND PRIVILEGES.** (a) Except as provided by Subsection (b), a state inspector is entitled to be present at and observe any function or activity at a polling place, central counting station, place of canvass, or other place at which official election or voter registration functions or activities take place. An inspector may take reasonable steps to obtain evidence of the manner in which a function or activity is being performed.

(b) A state inspector may not observe the preparation of the ballot of a voter not being assisted by an election officer.

(c) A state inspector shall report to the secretary of state any violation of law that the inspector observes.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 34.003. TRAVEL EXPENSES.** Subject to specific legislative appropriation, the secretary of state may reimburse state inspectors for travel expenses in an amount determined by the secretary but not to exceed travel expenses allowable to state employees generally.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 34.004. INSPECTIONS BY SECRETARY OF STATE.** The secretary of state or a member of the secretary's staff may make inspections in the same manner as state inspectors whether or not a violation of election laws is suspected.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 34.005. ACTION BY SECRETARY OF STATE.** (a) The secretary of state may refer a reported violation of law for appropriate action to the attorney general, if the attorney general has jurisdiction, or to a prosecuting attorney having jurisdiction.

(b) If the secretary of state believes that a state inspector was unlawfully prevented or obstructed from the performance of the inspector's duties, the secretary of state may seek:

(1) injunctive relief under Section 273.081, including issuance of temporary orders;

(2) a writ of mandamus under Section 161.009 or 273.061; and

(3) any other remedy available under law.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Amended by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 4.11, eff. Dec. 2, 2021.

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## TITLE 4. TIME AND PLACE OF ELECTIONS

### CHAPTER 41. ELECTION DATES AND HOURS FOR VOTING

#### SUBCHAPTER A. ELECTION DATES

**Sec. 41.001. UNIFORM ELECTION DATES.** (a) Except as otherwise provided by this subchapter, each general or special election in this state shall be held on one of the following dates:

- (1) the first Saturday in May in an odd-numbered year;
- (2) the first Saturday in May in an even-numbered year, for an election held by a political subdivision other than a county, or ordered by the governor; or
- (3) the first Tuesday after the first Monday in November.

(b) Subsection (a) does not apply to:

- (1) a runoff election;
- (2) an election to resolve a tie vote;
- (3) an election held under an order of a court or other tribunal;
- (4) an emergency election ordered under Section 41.0011 or any resulting runoff;
- (5) an expedited election to fill a vacancy in the legislature held under Section 203.013;
- (6) an election held under a statute that expressly provides that the requirement of Subsection (a) does not apply to the election; or
- (7) the initial election of the members of the governing body of a newly incorporated city.

(c) Except for an election under Subsection (a) or Section 41.0011 or a runoff election following an election held under Subsection (a)(2), an election may not be held within 30 days before or after the date of the general election for state and county officers, general primary election, or runoff primary election.

(d) Notwithstanding Section 31.093, a county elections administrator is not required to enter into a contract to furnish election services for an election held on the date described by Subsection (a)(2).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 7, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 60, Sec. 1, eff. Oct. 20, 1987; Acts 1991, 72nd Leg., ch. 389, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 467, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1219, Sec. 3, eff. June 20, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 20, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(15), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 340, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1315, Sec. 14, eff. Jan. 1, 2004; Acts 2003, 78th Leg., 3rd C.S., ch. 1, Sec. 1, eff. Jan. 1, 2005; Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 1, eff. October 1, 2005; Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 2, eff. October 1, 2005p; Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 9, eff. October 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 519 (H.B. 2144), Sec. 1, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 4, eff. September 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 4, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 558 (H.B. 2354), Sec. 1, eff. September 1, 2015; H.B. 3107, 87th Leg., R.S., Sec. 37, eff. Sept. 1, 2021.

**Sec. 41.0011. EMERGENCY REQUIRING EARLY ELECTION.** (a) If the governor determines that an emergency warrants holding a special election before the appropriate uniform election date, the election may be held on an earlier nonuniform date.

(b) An authority of a political subdivision desiring to order a special election as an emergency election under this section must ask the governor for permission to do so. If the governor determines that an emergency exists, the governor shall grant permission.

(c) The proclamation or order for an emergency election under this section must include a statement identifying the nature of the emergency.

Added by Acts 1991, 72nd Leg., ch. 389, Sec. 2, eff. Sept. 1, 1991.

**Sec. 41.002. GENERAL ELECTION FOR STATE AND COUNTY OFFICERS.** The general election for state and county officers shall be held on the first Tuesday after the first Monday in November in even-numbered years.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 41.004. SPECIAL ELECTION WITHIN PARTICULAR PERIOD.** (a) If a law outside this code other than the constitution requires a special election subject to Section 41.001(a) to be held within a particular period after the occurrence of a certain event, the election shall be held on an authorized uniform election date occurring within the period unless no uniform election date within the period affords enough time to hold the election in the manner required by law. In that case, the election shall be held on the first authorized uniform election date occurring after the expiration of the period.



(b) If the constitution requires a special election to be held within a particular period after the occurrence of a certain event, Section 41.001(a) does not apply.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 41.0041. ELECTION ON MEASURE AFTER PARTICULAR PERIOD.** (a) If a law outside this code other than the constitution prohibits another election from being held on the same or a similar measure for a specified number of years after an election on a measure, a subsequent election on the measure may be held on the corresponding uniform election date in the appropriate year, regardless of the fact that the date falls a number of days short of the requisite period.

Added by Acts 1991, 72nd Leg., ch. 389, Sec. 2, eff. Sept. 1, 1991. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 26(4), eff. September 1, 2009.

**Sec. 41.005. GENERAL ELECTION OF POLITICAL SUBDIVISION OTHER THAN COUNTY.** (a) This section does not apply to a general election for county officers.

(b) If a law outside this code requires the general election for officers of a political subdivision to be held on a date other than a uniform election date, the governing body of the political subdivision shall set the election date to comply with this subchapter.

(c) A governing body changing an election date under this section shall adjust the terms of office to conform to the new election date.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 389, Sec. 3, eff. Sept. 1, 1991.

**Sec. 41.0052. CHANGING GENERAL ELECTION DATE.** (a) The governing body of a political subdivision, other than a county or municipal utility district, that holds its general election for officers on a date other than the November uniform election date may, not later than December 31, 2016, change the date on which it holds its general election for officers to the November uniform election date.

Subsection (a-1) added by S.B. 1131, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. June 18, 2023.

(a-1) The governing body of an independent school district that holds its general election for officers on a date other than the November uniform election date may change the date on which it holds its general election for officers to the November uniform election date. This subsection applies only to a county that borders the United Mexican States and that has a population of at least 450,000 and not more than 870,000. This subsection expires January 1, 2029.

Subsection (a-1) added by S.B. 2620, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

(a-1) Notwithstanding Subsection (a), a municipality, independent school district, or hospital district wholly or partly located in a county with a population of more than 19,900 and less than 20,000 that holds its general election for officers on a date other than the November uniform election date may change the date on which it holds its general election for officers to the November uniform election date.

(b) A governing body changing an election date under this section shall adjust the terms of office to conform to the new election date.

(c) A home-rule city may implement a change authorized this section or provide for the election of all members of the governing body at the same election through the adoption of a resolution. The change contained in the resolution supersedes a city charter provision that requires a different general election date or that requires the terms of members of the governing body to be staggered.

(d) The holdover of a member of a governing body of a city in accordance with Section 17, Article XVI, Texas Constitution, so that a term of office may be conformed to a new election date chosen under this section does not constitute a vacancy for purposes of Section 11(b), Article XI, Texas Constitution.

(e) The governing body of a newly incorporated city may, not later than the second anniversary of the date of incorporation, change the date on which it holds its general election for officers to another authorized uniform election date.

(f) The governing body of a city with a population of 9,000 or less, located predominantly in a county that has a total area of less than 4,800 square miles, that has adopted a council-manager form of government and that holds its general election for officers on a date other than the November uniform election date may, not later than December 31, 2024, change the date on which it holds its general election for officers to the November uniform election date. Subsections (b), (c), and (d) apply to the change of an election date under this subsection. This subsection expires January 1, 2025.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 11, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1219, Sec. 4, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 1068, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1074, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1315, Sec. 15, eff. Jan. 1, 2004; Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 3, eff. October 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 27 (H.B. 401), Sec. 1, eff. May 13, 2009; Acts 2011, 82nd Leg., R.S., Ch. 505 (H.B. 1545), Sec. 1, eff. June 17, 2011; Acts 2011, 82nd Leg., R.S., Ch. 519 (H.B. 2144), Sec. 2, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 5, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(15), eff. September 1, 2013; Acts 2015, 84th Leg., R.S., Ch. 1235 (S.B. 733), Sec. 1, eff. June 19, 2015; S.B. 1109, 85<sup>th</sup> Leg., R.S., Sec. 1, eff. June 9, 2017; S.B. 2258, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023; S.B. 1131, 88th Leg., R.S., Sec. 1, eff. June 18, 2023; S.B. 2620, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 41.006. ADJUSTING ELECTION SCHEDULE.** If under this subchapter an election is held on a date other than a date prescribed by other law, the date for a runoff election, the deadline for filing for candidacy, and the schedule for canvassing election returns, declaring results, or performing any other official act relating to the election shall be adjusted to allow the same interval of time in relation to the date of the election as would be provided by application of the other law.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 41.007. PRIMARY ELECTIONS.** (a) The general primary election date is the first Tuesday in March in each even-numbered year.

(b) The runoff primary election date is the fourth Tuesday in May following the general primary election.

(c) The presidential primary election date is the first Tuesday in March in each presidential election year.

(d) No other election may be held on the date of a primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 1, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 292, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1315, Sec. 16, eff. Jan. 1, 2004; Acts 2003, 78th Leg., 3rd C.S., ch. 1, Sec. 2, eff. Jan. 11, 2004; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 6, eff. September 1, 2011.

**Sec. 41.008. EFFECT OF HOLDING ELECTION ON IMPROPER DATE.** An election held on a date not permitted by this subchapter is void.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER B. HOURS FOR VOTING**

**Sec. 41.031. VOTING HOURS.** (a) Except as provided by Section 41.033, the polls shall be opened at 7 a.m. for voting and shall be closed at 7 p.m.

(b) Voting may not be conducted after the time for closing the polls except as provided by Section 41.032.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 48, eff. Sept. 1, 1997.

**Sec. 41.032. VOTING AFTER POLLS CLOSE.** (a) A voter who has not voted before the time for closing the polls is entitled to vote after that time if the voter is inside or waiting to enter the polling place at 7 p.m.

(b) If voters are waiting to enter the polling place at closing time, the presiding judge shall direct them to enter the polling place and shall close it to others. However, if that procedure is impracticable, at closing time the presiding judge shall distribute numbered identification cards to the waiting voters and permit entry into the polling place for voting after closing time only by those possessing a card.

(c) The presiding judge shall take the precautions necessary to prevent voting after closing time by persons who are not entitled to do so.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 41.033. EARLY CLOSING OF CERTAIN POLLS.** Notwithstanding Section 41.031(a), an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, may close the polls before 7 p.m. in an election held by the entity if:

(1) the entity has fewer than 50 qualified voters; and

(2) the number of ballots cast in the election equals the number of qualified voters.

Added by Acts 1997, 75th Leg., ch. 1070, Sec. 49, eff. Sept. 1, 1997.

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## CHAPTER 42. ELECTION PRECINCTS

### SUBCHAPTER A. COUNTY ELECTION PRECINCTS

**Sec. 42.001. PRECINCTS ESTABLISHED BY COMMISSIONERS COURT.** (a) Each commissioners court by order shall divide all the territory of the county into county election precincts in accordance with this subchapter. The precincts must be compact and contiguous.

(b) In a county with a population of more than 175,000, in establishing a county election precinct, the commissioners court shall consider the availability of buildings to use as polling places so that a voter of the precinct will not have to travel more than 25 miles from the voter's residence to reach the polling place for the precinct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 114, Sec. 6, eff. Sept. 1, 1989; Acts 2005, 79th Leg., Ch. 742 (H.B. 2759), Sec. 1, eff. September 1, 2005.

**Sec. 42.002. REQUIRED USE OF COUNTY PRECINCTS.** (a) The county election precincts are the election precincts for the following elections:

- (1) the general election for state and county officers;
- (2) a special election ordered by the governor;
- (3) a primary election;
- (4) a countywide election ordered by the commissioners court, county judge, or other county authority, except an election subject to Section 42.062(2); and
- (5) as provided by Section 42.0621, any other election held by a political subdivision on a uniform election date.

(b) Except as provided by Sections 42.008 and 42.009, county election precincts may not be consolidated for an election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 114, Sec. 6, eff. Sept. 1, 1989; Acts 2005, 79th Leg., Ch. 1042 (H.B. 1209), Sec. 1, eff. Sept. 1, 2005; Acts 2007, 80th Leg., R.S., Ch. 1261 (H.B. 2926), Sec. 1, eff. Sept. 1, 2007; Acts 2009, 81st Leg., R.S., Ch. 711 (H.B. 2847), Sec. 1, eff. Sept. 1, 2009; Acts 2015, 84th Leg., R.S., Ch. 549 (H.B. 2027), Sec. 1, eff. Sept. 1, 2015; H.B. 1888, 86<sup>th</sup> Leg., Sec. 6, eff. Sept. 1, 2019.

**Sec. 42.003. BOUNDARY DESCRIPTION.** Each county election precinct must be described by natural or artificial boundaries or by survey lines.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 42.004. PRECINCT IDENTIFICATION.** The commissioners court shall identify each county election precinct by a number.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 42.005. RELATIONSHIP TO DISTRICTS AND JUSTICE AND COMMISSIONERS PRECINCTS.** (a) A county election precinct, including a consolidated precinct, may not contain territory from more than one of each of the following types of territorial units:

- (1) a commissioners precinct;
- (2) a justice precinct;
- (3) a congressional district;
- (4) a state representative district;
- (5) a state senatorial district; or
- (6) a State Board of Education district.

(b) If application of this section conflicts with application of Section 42.006, this section prevails.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 4(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 114, Sec. 7, eff. Sept. 1, 1989; Acts 2013, 83rd Leg., R.S., Ch. 143 (H.B. 1164), Sec. 1, eff. May 24, 2013; Acts 2013, 83rd Leg., R.S., Ch. 143 (H.B. 1164), Sec. 2, eff. May 24, 2013; Acts 2013, 83rd Leg., R.S., Ch. 143 (H.B. 1164), Sec. 4, eff. May 24, 2013.

**Sec. 42.0051. COMBINING CERTAIN PRECINCTS.** (a) This section applies only to a county with a population of less than 1.2 million that does not participate in the countywide polling place program described by Section 43.007.

(a-1) In a general or special election for which the use of county election precincts is required, the commissioner's court may, on the recommendation of the county election board, combine county election precincts notwithstanding Section

42.005 if:

- (1) the commissioners court cannot secure a suitable polling place location under Section 43.031; and
  - (2) the location of the combined polling place adequately serves the voters of the combined precinct.
- (b) Repealed by S.B. 924, 88<sup>th</sup> Leg., R.S., Sec. 3, eff. Sept. 1, 2023.
- (c) A combined precinct under this section may not contain more than 10,000 registered voters.
- (d) A combined precinct may not be established if it:
- (1) results in a dilution of voting strength of a group covered by the federal Voting Rights Act (42 U.S.C. Section 1973c et seq.);
  - (2) results in a dilution of representation of a group covered by the Voting Rights Act in any political or electoral process or procedure; or
  - (3) results in discouraging participation by a group covered by the Voting Rights Act in any political or electoral process or procedure because of the location of a polling place or other factors.

Added by Acts 1993, 73rd Leg., ch. 205, Sec. 1, eff. May 19, 1993. Amended by Acts 1997, 75th Leg., ch. 1350, Sec. 1, eff. Sept. 1, 1997; S.B. 924, 88<sup>th</sup> Leg., R.S., Sec. 2 & 3, eff. Sept. 1, 2023.

**Sec. 42.006. POPULATION REQUIREMENTS.** (a) Except as provided by this section and Section 42.0051, a county election precinct must contain at least 100 but not more than 5,000 registered voters.

(b) For an election precinct in a county with a population under 100,000, the minimum number of registered voters the precinct may contain is 50, except as provided by Subsection (c).

(c) In a county with a population under 50,000, a county election precinct may contain fewer than 50 registered voters if the commissioners court receives a written petition, signed by at least 25 registered voters of the county, requesting establishment or continuation of the precinct.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 5.001, eff. September 1, 2007.

(e) In computing a number of registered voters under this section, voters whose names appear on the list of registered voters with the notation "S", or a similar notation, shall be excluded.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 8, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 797, Sec. 36, eff. Sept. 1, 1995; Acts 2005, 79th Leg., Ch. 742 (H.B. 2759), Sec. 2, eff. September 1, 2005; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.11(a), eff. September 1, 2005; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.11(b), eff. September 1, 2005; Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 5.001, eff. September 1, 2007; S.B. 924, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 42.007. COMBINING INCORPORATED AND UNINCORPORATED TERRITORY.** A commissioners court may not establish a county election precinct containing territory inside a city with a population of 10,000 or more and unincorporated territory outside that city unless the commissioners court determines that either of the two areas:

(1) cannot constitute a separate election precinct of suitable size or shape that contains the permissible number of voters; or

(2) cannot be combined with other territory on the same side of the city boundary to form an election precinct of a suitable size or shape that contains the permissible number of voters without causing another election precinct to fail to meet those requirements.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 42.008. CONSOLIDATING PRECINCTS IN SPECIAL ELECTION.** (a) In a special election for which use of county election precincts is required, the commissioners court may consolidate, on the recommendation of the county election board, two or more county election precincts into a single precinct if the polling place is located so it will adequately serve the voters of the consolidated precinct.

(b) If county election precincts are consolidated for a countywide election, at least one consolidated precinct must be situated wholly within each commissioners precinct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 277, Sec. 1, eff. Sept. 1, 1993.

**Sec. 42.009. CONSOLIDATING PRECINCTS IN PRIMARY ELECTION.** The county executive committee of a political party holding a primary election may order two or more county election precincts consolidated into a single precinct if the polling place is located so it will adequately serve the voters of the consolidated precinct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 479, Sec. 3, eff. Sept. 1, 1987; Acts 2011, 82nd Leg., R.S., Ch. 974 (H.B. 1528), Sec. 1, eff. September 1, 2011.

**Sec. 42.010. RECOMMENDATION ON ELIMINATION OF LESS POPULOUS PRECINCTS.** (a) Repealed by Acts

2013, 83rd Leg., R.S., Ch. 143, Sec. 4, eff. May 24, 2013.

(b) After each redistricting of a territorial unit described by Section 42.005(a)(1) or (2), the commissioners court shall consider changes to the territorial units to allow the county to eliminate county election precincts with no population or a substantially small population.

(c) After each redistricting of a territorial unit described by Section 42.005(a)(3), (4), (5), or (6), the commissioners court may submit recommendations to the secretary of state on changes to the territorial units to allow the county to eliminate county election precincts with no population or a substantially small population.

(d) For purposes of this section, a "substantially small population" describes a precinct with a population of not more than 10 persons or not more than 6 registered voters, according to the most recent federal census or list of registered voters, as applicable, as of the date of the redistricting.

(e) To be considered by the secretary of state, the recommendations must be submitted in the manner prescribed by the secretary.

(f) The secretary of state shall evaluate all timely recommendations submitted in accordance with Subsection (e). The secretary shall compile all recommendations for the elimination of the county election precincts in a manner consistent with state and federal law.

(g) The secretary of state shall file a report containing the information described by Subsection (f) with the governor, the lieutenant governor, and the speaker of the house of representatives not later than the date of convening the first regular legislative session that occurs after a redistricting of a territorial unit described by Subsection (c). If the information submitted is insufficient for the compilation required by Subsection (f), the secretary shall include a statement to that effect in the report. Added by Acts 2001, 77th Leg., ch. 1048, Sec. 1, eff. Sept. 1, 2001. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 143 (H.B. 1164), Sec. 3, eff. May 24, 2013; Acts 2013, 83rd Leg., R.S., Ch. 143 (H.B. 1164), Sec. 4, eff. May 24, 2013.

## **SUBCHAPTER B. CHANGING COUNTY PRECINCT BOUNDARIES**

**Sec. 42.031. REVIEWING PRECINCTS FOR COMPLIANCE: BOUNDARY CHANGES.** (a) During March or April of each odd-numbered year, each commissioners court shall determine whether the county election precincts comply with Sections 42.005, 42.006, and 42.007. The commissioners court may make that determination during March or April of an even-numbered year. Before May 1 of the year in which the determination is made, the commissioners court shall order the boundary changes necessary for compliance.

(b) The commissioners court may order a boundary change only during March or April unless the change is necessary to:

- (1) comply with Section 42.005 or 42.032;
- (2) reduce the number of registered voters in a precinct so it does not exceed the maximum number permitted by Section 42.006; or
- (3) include within a precinct a suitable building available for use as a polling place if no suitable building is available for that purpose within the existing precinct boundary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 436, Sec. 16, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 472, Sec. 9, eff. Sept. 1, 1987.

**Sec. 42.032. REDISTRICTING: BOUNDARY CHANGES.** If changes in county election precinct boundaries are necessary to give effect to a redistricting plan under Article III, Section 28, of the Texas Constitution, each commissioners court shall order the changes before October 1 of the year in which the redistricting is done.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 436, Sec. 16, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 472, Sec. 9, eff. Sept. 1, 1987.

**Sec. 42.033. EFFECTIVE DATE OF BOUNDARY CHANGE.** (a) A change in a county election precinct boundary takes effect on the first day of the first even-numbered voting year following the voting year in which the change is ordered.

(b) Except as provided by Subsection (c), for a boundary change under Section 42.031(b), the commissioners court may order an earlier effective date than that prescribed by Subsection (a) if:

- (1) an election for an officer of a territorial unit under Section 42.005(a) is scheduled or may be scheduled to be held before the effective date of the change under Subsection (a) and the territorial unit contains the election precinct as changed; and
- (2) the voter registrar has sufficient time to correct the registration records before the effective date of the change.

(c) A change in a county election precinct boundary may not take effect on a date occurring between the date of the general primary election and the date of the general election for state and county officers unless the change is necessary to:

(1) comply with Section 42.005 after a boundary change made under Article V, Section 18, of the Texas Constitution;

(2) include within a precinct a suitable building available for use as a polling place if no suitable building is available for that purpose within the existing precinct boundary; or

(3) comply with a court order.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 114, Sec. 8, eff. Sept. 1, 1989.

**Sec. 42.034. NOTICE TO REGISTRAR.** The commissioners court shall deliver a certified copy of an order changing a county election precinct boundary to the voter registrar not later than the seventh day after the date the order is adopted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 42.035. PUBLIC NOTICE.** (a) Beginning with the first week following the week in which an order changing a county election precinct boundary is adopted, the commissioners court shall publish notice of the change:

(1) in a newspaper in the county once a week for three consecutive weeks, and

(2) on the county's Internet website, if the county maintains an Internet website, for three consecutive weeks.

(b) The notice must include a brief, general description of the boundary change.

(c) If no newspaper is published in the county, the commissioners court shall post the notice at the county courthouse on the bulletin board used for posting notice of meetings of the commissioners court. The notice must remain posted continuously for three consecutive weeks.

(d) The county clerk shall deliver a copy of the notice to the secretary of state not later than the 20th day after the date the order changing the boundary is adopted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 114, Sec. 9, eff. Sept. 1, 1989; H.B. 933, 86<sup>th</sup> Leg., Sec. 6, eff. Sept. 1, 2019.

**Sec. 42.036. ADDITIONAL NOTICE IN POPULOUS COUNTIES.** (a) This section applies only to a county with a population of one million or more.

(b) The commissioners court shall deliver written notice of each proposed change and of each order making a change in a county election precinct boundary to:

(1) the county chair of each political party that held a primary election in the county on the most recent general primary day;

(2) the political party's precinct chair of each affected election precinct; and

(3) the presiding judge appointed by the commissioners court for each affected election precinct.

(c) The notice of a proposed boundary change must be delivered not later than the seventh day before the date of the commissioners court meeting at which the proposed change will be considered. The notice of an order making a boundary change must be delivered not later than the seventh day after the date the order is adopted.

(d) The notice of a proposed change must describe the proposed change in brief, general terms, identify the precincts to be affected by the proposed change, and state the date, hour, and place of the meeting.

(e) The notice of an order making a boundary change must describe the change in brief, general terms and identify the changed precincts. As an alternative, the notice to the county chair may be a copy of the order, and the notice to a precinct chair or presiding judge may be a copy of the portion of the order affecting the precinct served by that person.

(f) A person entitled to notice under this section may challenge a boundary change made in violation of this section by petition to the district court. The petition must be filed not later than one year after the date the change is scheduled to take effect. If the court determines that the commissioners court failed to comply with this section, the court shall declare the boundary change void. The validity of an election held before the date of a final judgment declaring a change void is not affected by the judgment. Noncompliance with this section may not be challenged in any other manner.

(g) For one year following the effective date of a change in a county election precinct boundary, the commissioners court shall maintain a record containing a copy of each notice required by this section in connection with the boundary change and showing the date the notice was delivered.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 65, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 42, eff. Sept. 1, 1997.

**Sec. 42.037. FILING MAP OF PRECINCT BOUNDARY CHANGES WITH SECRETARY OF STATE.** (a) Not later than the 120th day after the date an order changing a county election precinct boundary is adopted, the county clerk shall deliver to the secretary of state a map depicting the affected precinct's boundary as changed and showing the number of the precinct.

(b) The secretary of state shall retain each map for 10 years after receipt. After that period, the secretary shall transfer the map to the state library.

(c) The state librarian shall retain the map for 20 years after receipt.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## SUBCHAPTER C. OTHER ELECTION PRECINCTS

**Sec. 42.061. PRECINCTS OF POLITICAL SUBDIVISION OTHER THAN COUNTY.** (a) The governing body of a political subdivision other than a county shall establish the election precincts for elections ordered by an authority of the political subdivision.

(b) The precincts may be established before each election or, once established, remain established until changed, at the governing body's discretion.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 42.0615. NOTICE TO REGISTRAR OF BOUNDARY CHANGE OF POLITICAL SUBDIVISION.** A political subdivision that changes its boundaries or the boundaries of districts used to elect members to the governing body of the political subdivision shall not later than the 30th day after the date the change is adopted:

(1) notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and

(2) provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar's office.

Added by Acts 2005, 79th Leg., Ch. 709 (S.B. 427), Sec. 1, eff. September 1, 2005.

**Sec. 42.062. PRECINCTS FOR CERTAIN SPECIAL ELECTIONS.** A county authority ordering an election shall establish the election precincts for the election if:

(1) the election is a special election affecting only part of the county; or

(2) the election relates to the creation, organization, functioning, or existence of one or more political subdivisions other than the county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 42.0621. PRECINCTS FOR ELECTIONS HELD ON NOVEMBER UNIFORM ELECTION DATE.** (a) In an election held on the November uniform election date, the political subdivisions to which Section 42.002(a)(5) applies shall use the regular county election precincts.

(b) If an election precinct is not located wholly within the territory of a political subdivision holding an election in the precinct or a district used to elect an office at the election, election officials shall take reasonable measures to ensure that a voter voting at that precinct may not vote in an election in which the voter is not entitled to vote.

(c) This section does not require a political subdivision to contract with a county under Section 31.092 or hold a joint election with a county under Chapter 271.

(d) The secretary of state shall prescribe procedures to implement this section.

Added by Acts 2005, 79th Leg., Ch. 1042 (H.B. 1209), Sec. 2, eff. Sept. 1, 2005. Amended by: Acts 2009, 81st Leg., R.S., Ch. 711 (H.B. 2847), Sec. 2, eff. Sept. 1, 2009; Acts 2015, 84th Leg., R.S., Ch. 549 (H.B. 2027), Sec. 2, eff. Sept. 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 549 (H.B. 2027), Sec. 3, eff. Sept. 1, 2015; H.B. 1888, 86<sup>th</sup> Leg., Secs. 1-2, eff. Sept. 1, 2019.

**Sec. 42.063. BOUNDARY DESCRIPTION.** Each election precinct established under this subchapter must be described by natural or artificial boundaries, by survey lines, or if the precinct is coterminous with one or more county election precincts, by use of the county election precinct number or numbers.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 42.064. PRECINCT IDENTIFICATION.** If more than one election precinct is established under this subchapter, the authority establishing the precincts shall identify each precinct by a name or number.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 42.065. CONFLICTS WITH OTHER LAW.** A law outside this subchapter supersedes this subchapter to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.





## CHAPTER 43. POLLING PLACES

### SUBCHAPTER A. NUMBER AND LOCATION OF POLLING PLACES

**Sec. 43.001. ONE POLLING PLACE IN EACH PRECINCT.** Each election precinct established for an election shall be served by a single polling place located within the boundary of the precinct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 43.002. DESIGNATION OF LOCATION: GENERAL OR SPECIAL ELECTION USING COUNTY PRECINCTS.** (a) For a general or special election in which the use of county election precincts is required, the county clerk shall recommend the location of the polling place for each county election precinct, except as provided by Subsection (b). The commissioners court shall designate the recommended location as the polling place unless the court finds good cause to reject the recommendation. In that case, the commissioners court shall designate another location.

(b) If county election precincts are consolidated, the commissioners court shall designate the location of the polling place for the consolidated precinct.

(c) In making a designation under this section, the commissioners court of a county with a population of more than 175,000 may not designate a location as a polling place that would require a voter in the precinct to travel more than 25 miles from the voter's residence to the polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 742 (H.B. 2759), Sec. 3, eff. September 1, 2005.

**Sec. 43.003. DESIGNATION OF LOCATION: PRIMARY ELECTION.** The county chair of a political party holding a primary election shall designate the location of the polling place for each election precinct in the primary unless the precinct is one that is consolidated. In that case, the county executive committee shall designate the location.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 43, eff. Sept. 1, 1997.

**Sec. 43.004. DESIGNATION OF LOCATION: ELECTIONS OF OTHER POLITICAL SUBDIVISIONS.** (a) The governing body of each political subdivision authorized to hold elections, other than a county, shall designate the location of the polling place for each of its election precincts.

(b) If a political subdivision holds an election on a uniform election date and is required to use the regular county election precincts, the political subdivision shall designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the political subdivision.

(c) If a political subdivision holds an election jointly with an election described by Section 43.007(a)(1), (2), (3), or (4) and is required to use countywide polling places under Section 43.007, the governing body of the political subdivision may designate as the polling places for any required runoff election only the polling places located in the territory or in and near the territory of the political subdivision where eligible voters reside.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1042 (H.B. 1209), Sec. 3, eff. September 1, 2005; Acts 2007, 80th Leg., R.S., Ch. 1261 (H.B. 2926), Sec. 3, eff. September 1, 2007; Acts 2013, 83rd Leg., R.S., Ch. 1169 (S.B. 578), Sec. 1, eff. September 1, 2013; Acts 2015, 84th Leg., R.S., Ch. 549 (H.B. 2027), Sec. 4, eff. September 1, 2015.

**Sec. 43.005. DESIGNATION OF LOCATION: CERTAIN SPECIAL ELECTIONS.** The authority establishing election precincts under Section 42.062 shall designate the location of the polling place for each precinct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 43.006. CONFLICTS WITH OTHER LAW.** A law outside this subchapter supersedes this subchapter to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 43.007. COUNTYWIDE POLLING PLACE PROGRAM.** (a) The secretary of state shall implement a program to allow each commissioners court participating in the program to eliminate county election precinct polling places and establish countywide polling places for:

- (1) any election required to be conducted by the county;
- (2) any election held as part of a joint election agreement with a county under Chapter 271;
- (3) any election held under contract for election services with a county under Subchapter D, Chapter 31;
- (4) each primary election and runoff primary election if:

(A) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 agrees to the use of countywide polling places; or

(B) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places; and

(5) each election of a political subdivision located in the county that is held jointly with an election described by Subdivision (3) or (4).

(b) The commissioners court of a county that desires to participate in the program authorized by this section shall hold a public hearing on the county's participation in the program. The commissioners court shall submit a transcript or electronic recording of the public comments made at the hearing to the secretary of state. A county that has previously participated in a similar program and held a public hearing on the county's participation in that program is not required to hold a hearing under this subsection.

(c) In conducting the program, the secretary of state shall provide for an audit of the voting system equipment before and after the election, and during the election to the extent such an audit is practicable.

(d) The secretary of state shall select to participate in the program each county that:

(1) has held a public hearing under Subsection (b);

(2) has submitted documentation listing the steps taken to solicit input on participating in the program by organizations or persons who represent the interests of voters;

(3) has implemented a computerized voter registration list that allows an election officer at the polling place to verify that a voter has not previously voted in the election;

(4) uses direct recording electronic voting machines, ballot marking devices, or hand-marked scannable paper ballots that are printed and scanned at the polling place or any other type of voting system equipment that the secretary of state determines is capable of processing votes for each type of ballot to be voted in the county; and

(5) is determined by the secretary of state to have the appropriate technological capabilities.

(e) Each countywide polling place must allow a voter to vote in the same elections in which the voter would be entitled to vote in the county election precinct in which the voter resides.

(f) In selecting countywide polling places, a county must adopt a methodology for determining where each polling place will be located. The total number of countywide polling places may not be less than:

(1) except as provided by Subdivision (2), 50 percent of the number of precinct polling places that would otherwise be located in the county for that election; or

(2) for an election held in the first year in which the county participates in the program, 65 percent of the number of precinct polling places that would otherwise be located in the county for that election.

(g) A county participating in the program must establish a plan to provide notice informing voters of the changes made to the locations of polling places under the program. The plan must require that notice of the location of the nearest countywide polling place be posted on election day at each polling place used in the previous general election for state and county officers that is not used as a countywide polling place.

(h) In adopting a methodology under Subsection (f) or creating the plan under Subsection (g), the county shall solicit input from organizations or persons located within the county who represent minority voters.

(i) The secretary of state may only select to participate in the program six counties with a population of 100,000 or more and four counties with a population of less than 100,000.

(j) Not later than January 1 of each odd-numbered year, the secretary of state shall file a report with the legislature. The report must include any complaints or concerns regarding a specific election that have been filed with the office of the secretary of state before the preparation of the report and any available information about voter turnout and waiting times at the polling places. The report may include the secretary of state's recommendations on the future use of countywide polling places and suggestions for statutory amendment regarding the use of countywide polling places.

(k) Each county that previously participated in a program under this section is authorized to continue participation in the program for future elections described by Subsection (a) if:

(1) the commissioners court of the county approves participation in the program; and

(2) the secretary of state determines the county's participation in the program was successful.

(l) Subsections (b), (c), and (d) do not apply to a county participating in the program under Subsection (k).

(m) In adopting a methodology under Subsection (f), the county must ensure that:

(1) each county commissioners precinct contains at least one countywide polling place; and

(2) the total number of polling places open for voting in a county commissioners precinct does not exceed more than twice the number of polling places in another county commissioners precinct.

(n) To the greatest extent possible, countywide polling places shall be located in a precinct where the political party

that received the greatest number of votes in the last gubernatorial election is the same political party with which the presiding judge is affiliated.

(o) Each countywide polling place must post a notice of the four nearest countywide polling place locations by driving distance.

(p) If a court orders any countywide polling place to remain open after 7 p.m., all countywide polling places located in that county shall remain open for the length of time required in the court order.

Added by Acts 2009, 81st Leg., R.S., Ch. 606 (H.B. 719), Sec. 1, eff. September 1, 2009. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 8, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 1169 (S.B. 578), Sec. 2, eff. September 1, 2013; H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 11, eff. September 1, 2017; H.B. 3965, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 38, eff. Sept. 1, 2021; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 3.03, eff. Dec. 2, 2021.

## **SUBCHAPTER B. BUILDING FOR USE AS POLLING PLACE**

**Sec. 43.031. POLLING PLACE IN PUBLIC BUILDING.** (a) In this subchapter, "public building" means a building owned or controlled by the state or a political subdivision.

(b) Each polling place shall be located inside a building. No voter may cast a vote from inside a motor vehicle unless the voter meets the requirements of Section 64.009.

(c) The building selected for a polling place shall be a public building if practicable. The entity that owns or controls a public building shall make the building available for use as a polling place in any election that covers territory in which the building is located. If more than one authority requests the use of the building for the same day and simultaneous use is impracticable, the entity that owns or controls the building shall determine which authority may use the building.

(d) If a suitable public building is unavailable, the polling place may be located in some other building, including a building on a federal military base or facility with the permission of the post or base commander, and any charge for its use is an election expense. A polling place may not be located in a building under this subsection unless electioneering is permitted on the building's premises outside the prescribed limits within which electioneering is prohibited, except that a polling place may be located in a building at which electioneering is not permitted if it is the only building available for use as a polling place in the election precinct.

(e) A polling place may not be located at the residence of a person who is:

(1) a candidate for an elective office, including an office of a political party; or

(2) related within the third degree by consanguinity or the second degree by affinity, as determined under

Chapter 573, Government Code, to a candidate described by Subdivision (1).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 976, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1350, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1316, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 516, Sec. 1, June 20, 2003; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 3.04, eff. Dec. 2, 2021.

**Sec. 43.032. BUILDING ACQUIRED BY COUNTY FOR POLLING PLACE.** (a) If a public building is unavailable for use as the polling place for a county election precinct, the commissioners court may purchase or construct a building in the precinct for that purpose.

(b) The commissioners court may permit a building purchased or constructed under Subsection (a) to be used with or without charge for purposes other than as a polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 976, Sec. 1, eff. Sept. 1, 1989.

**Sec. 43.033. CONSIDERATION FOR USE OF PUBLIC BUILDING AS POLLING PLACE.** (a) No charge, including a charge for personnel, utilities, or other expenses incurred before or after regular business hours, may be made for the use of a public building for a polling place if the day of the election is a day on which the building is normally open for business. If the day of the election is a day on which the building is not normally open for business, a charge may be made only for reimbursement for the actual expenses resulting from use of the building in the election.

(b) The reimbursing authority is entitled to an itemized statement of expenses before making remittance.

(c) A person commits an offense if the person assesses a charge for the use of a public building for a polling place in violation of Subsection (a). An offense under this subsection is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 481, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 976, Sec. 2, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 728, Sec. 12, eff. Sept. 1, 1993.

**Sec. 43.034. ACCESSIBILITY OF POLLING PLACE TO THE ELDERLY AND PERSONS WITH PHYSICAL DISABILITIES.** (a) Each polling place shall be accessible to and usable by the elderly and persons with physical disabilities.

To be considered accessible, a polling place must meet the standards established under Article 9102, Revised Statutes, including the following standards:

- (1) the polling place must be on the ground-level floor or be accessible from the ground-level floor by an elevator with doors that provide an opening of at least 36 inches in width;
- (2) doors, entrances, and exits used to enter or leave the polling place must have a minimum width of 32 inches;
- (3) any curb adjacent to the main entrance to a polling place must have curb cuts or temporary nonslip ramps;
- (4) any stairs necessary to enter or leave the polling place must have a handrail on each side of the stairs and a nonslip ramp; and
- (5) the polling place may not have a barrier that impedes the path of a person with physical disabilities to the voting station.

(b) The commissioners court shall provide a polling place that complies with Subsection (a) in each county election precinct. The site shall be made available for use as a polling place on every day that an election may be held within the precinct by any authority that holds elections. The commissioners court may make expenditures from either the general fund or the permanent improvement fund to bring an existing county-owned site into compliance with Subsection (a).

(c) The governing body of each political subdivision that holds elections shall cooperate with the commissioners court in its respective county in implementing this section and is subject to the same requirements for compliance as prescribed by Subsection (b). If the authority holding an election rejects a county-designated polling place that is available and chooses to use a different site of its own designation, it shall provide a polling place that complies with Subsection (a) at its own expense. A political party that is holding a primary election may not reject an available county-designated polling place without the prior consent of the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 622, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 809, Sec. 1, 2, eff. Sept. 1, 1999.

## **SUBCHAPTER C. INFORMATION REGARDING LOCATION OF POLLING PLACE**

**Sec. 43.061. NOTICE OF CHANGE OF LOCATION OF POLLING PLACE.** (a) This section applies only to a general or special election that is ordered by the governor or the county judge.

(b) If the location of a polling place changes after notice of an election is given under Section 4.003, the county clerk shall give notice of the change not later than the earlier of:

- (1) 24 hours after the location is changed; or
- (2) 72 hours before the polls open on election day.

(c) Notice required by Subsection (b) must be given by:

- (1) notifying each candidate whose name appears on the ballot in the election or, in the case of an office filled by voters of more than one county, notifying the county chair or, for an independent candidate, the county judge of the county in which the change occurs; or
- (2) posting the notice in a listing used specifically to inform the public of changes to the location of a polling place on any Internet website that the county clerk maintains to provide information on elections held in the county.

Added by Acts 2001, 77th Leg., ch. 802, Sec. 1, eff. Sept. 1, 2001.

Amended by: Acts 2005, 79th Leg., Ch. 709 (S.B. 427), Sec. 2(a), eff. September 1, 2005.

**Sec. 43.062. NOTICE AT PREVIOUS POLLING PLACE.** If the location of the polling place for an election precinct is different from the location used for the precinct in the preceding election ordered by the same authority, the authority responsible for giving notice of the election shall, if possible, post notice at the entrance to the previous polling place stating that the location has changed and providing the location of the new polling place.

Added by Acts 2001, 77th Leg., ch. 802, Sec. 1, eff. Sept. 1, 2001.

**Sec. 43.063. USE OF COMPUTERIZED INFORMATION.** In an election in which detailed poll location information is available at a polling place through a computer, an election officer shall provide that information to assist voters in determining the correct polling place location for the voter's election precinct.

Added by Acts 2001, 77th Leg., ch. 802, Sec. 1, eff. Sept. 1, 2001.

# TITLE 5. ELECTION SUPPLIES

## CHAPTER 51. ELECTION SUPPLIES

### SUBCHAPTER A. PROCURING, ALLOCATING, AND DISTRIBUTING ELECTION SUPPLIES

**Sec. 51.001. ELECTION SUPPLIES.** In this chapter, "election supplies" means the equipment, ballots, forms, lists of registered voters, and other materials necessary to conduct an election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 51.002. COUNTY ELECTION BOARD.** (a) A county election board is established in each county for the general election for state and county officers, a special election for an officer regularly elected at the general election, and any other election ordered by a county authority or held at county expense.

(b) For the general election for state and county officers and for a special election for an officer regularly elected at the general election, the county election board consists of the county judge, county clerk, voter registrar, sheriff, and county chair of each political party required to nominate candidates by primary election. For other elections, the board consists of the county judge, county clerk, voter registrar, and sheriff.

(c) The county clerk is the chair of the county election board.

(d) A meeting of the county election board shall be:

(1) held in person; and

(2) open to the public.

(e) Not later than 48 hours before each meeting of the county election board, the county clerk shall post notice of the meeting on the county's Internet website, if the county maintains a website.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 44, eff. Sept. 1, 1997; H.B. 2800, 88<sup>th</sup> Leg., R.S., Sec. 1, Sept 1, 2023..

**Sec. 51.003. PROCURING AND ALLOCATING SUPPLIES.** Except as otherwise provided by law, the following authority shall procure the election supplies necessary to conduct an election and shall determine the quantity of the various types of supplies to be provided to each precinct polling place and early voting polling place:

(1) for an election ordered by the governor or a county authority, the county clerk, subject to the approval of the county election board;

(2) for a primary election, the county chair of the political party holding the primary, subject to the approval of the party's county executive committee;

(3) for an election ordered by a city authority, the city secretary; and

(4) for an election ordered by an authority of a political subdivision other than a county or city, the secretary of the subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.45; Acts 1991, 72nd Leg., ch. 554, Sec. 16, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 45, eff. Sept. 1, 1997.

**Sec. 51.004. DISTRIBUTING SUPPLIES.** (a) Except as otherwise provided by law, the authority responsible for procuring the election supplies for an election shall distribute the supplies for the election.

(b) The appropriate supplies shall be distributed to each presiding election judge not later than one hour before the polls are required to be open for voting and to the early voting clerk before the beginning of early voting.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.46; Acts 1991, 72nd Leg., ch. 554, Sec. 17, eff. Sept. 1, 1991.

**Sec. 51.005. NUMBER OF BALLOTS.** (a) The authority responsible for procuring the election supplies for an election shall provide for each election precinct a number of ballots equal to at least the percentage of voters who voted in that precinct in the most recent corresponding election plus 25 percent of that number, except that the number of ballots provided may not exceed the total number of registered voters in the precinct.

(b) In computing a number of registered voters under this section, voters whose names appear on the list of registered voters with the notation "S", or a similar notation, shall be excluded.

(c) The secretary of state shall prescribe procedures for determining the number of provisional ballots to be provided.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 37, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch.

1078, Sec. 1, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.12, eff. September 1, 2005.

**Sec. 51.006. PREPARING BALLOTS FOR DISTRIBUTION.** The authority responsible for distributing election supplies shall package and seal each set of ballots before their distribution and shall mark the package with the number of ballots enclosed and the range of the ballot serial numbers. If the authority is the early voting clerk, the ballots allocated for early voting need not be packaged and sealed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.47; Acts 1991, 72nd Leg., ch. 554, Sec. 18, eff. Sept. 1, 1991.

**Sec. 51.007. RECORD OF BALLOT DISTRIBUTION.** (a) As soon as practicable after the ballots are packaged for distribution, the authority responsible for distributing election supplies shall prepare a record of the number of ballots and the range of serial numbers on the ballots to be distributed to each presiding judge and the early voting clerk.

(b) The authority shall preserve the record for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.48; Acts 1991, 72nd Leg., ch. 554, Sec. 19, eff. Sept. 1, 1991.

**Sec. 51.008. SUPPLEMENTING DISTRIBUTED BALLOTS.** (a) The authority responsible for distributing election supplies shall retain a reserve of ballots to supplement the distributed ballots and on election day may reallocate previously distributed ballots among the polling places.

(b) The authority shall enter on the record of ballot distribution the number of ballots reserved and the number of ballots distributed from the reserve to each polling place. The range of serial numbers on the ballots shall be included in the record.

(c) If distributed ballots are reallocated, the authority shall indicate the reallocation on the record of ballot distribution and shall issue a receipt to each presiding election judge showing the number of ballots and the range of serial numbers on the ballots taken from the judge's polling place for redistribution. Each presiding judge shall indicate on the ballot register any reallocation of ballots affecting that polling place.

(d) The authority shall retain the undistributed reserve for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 51.009. SHERIFF TO DELIVER SUPPLIES.** (a) The sheriff shall deliver the election supplies that a county clerk is responsible for distributing, on request of the clerk, to each presiding judge who has not obtained them from the clerk.

(b) This section does not require the sheriff to deliver an item that cannot be transported in a regular passenger vehicle.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 51.010. FAILURE TO DISTRIBUTE OR DELIVER SUPPLIES.** (a) A person commits an offense if the person is responsible for distributing election supplies for an election and intentionally fails to distribute any of the supplies by the deadline prescribed by Section 51.004(b).

(b) A person commits an offense if the person is entrusted with the delivery of election supplies for use at polling places and intentionally fails to deliver any of the supplies within the time specified by the person who entrusted the delivery to the person.

(c) An offense under this section is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 46, eff. Sept. 1, 1997.

**Sec. 51.011. OBSTRUCTING DISTRIBUTION OF SUPPLIES.** (a) A person commits an offense if the person intentionally obstructs the distribution of election supplies for an election.

(b) An offense under this section is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 51.013. IDENTIFICATION OF PRINTERS FOR PRIMARY ELECTION OR GENERAL ELECTION FOR STATE AND COUNTY OFFICERS.** (a) Each person who prints ballots or other election supplies for a primary election or the general election for state and county officers shall file a statement with the secretary of state as provided by this section.

(b) The statement must be filed not later than the 60th day before the date of the applicable election.

(c) The statement must include:

(1) the name, business address, and business telephone number of the printer;

(2) the name and telephone number of any agent or employee of the printer who is designated to receive inquiries or issue information about the printing of ballots or other election supplies; and

- (3) the name and address of each client for whom the ballots or other supplies are printed, the voting methods for which the materials are printed for the client, and a description of the materials printed for the client.
- (d) The secretary of state shall prescribe the form for the statement required by this section.

Added by Acts 1987, 70th Leg., ch. 472, Sec. 10, eff. Sept. 1, 1987.

## SUBCHAPTER B. ELECTION EQUIPMENT

**Sec. 51.031. APPROVAL OF BALLOT AND VOTING BOOTHS.** (a) Except as otherwise provided by this subchapter, the secretary of state must approve the composition and design of ballot boxes and voting booths before the equipment may be used in elections.

(b) A person desiring approval of a ballot box or a voting booth for use in this state must submit a written request for approval to the secretary of state.

(c) After examining the specifications or a model of a ballot box or voting booth submitted for approval, the secretary of state by written order shall approve the equipment for use in elections if the secretary determines that the equipment's composition and design are suitable for the intended use.

(d) The secretary of state shall attach the approval order to the approval request and retain it permanently on file.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 51.032. VOTING BOOTHS.** (a) Voting booths that provide privacy for voters while marking their ballots shall be provided at each polling place.

(b) The entrance of the voting booth may be open or it may have a door or curtain that a voter may close while occupying the booth.

(c) A voting booth may be used without approval of the secretary of state if the booth complies with the standards prescribed by the secretary of state or if the booth:

- (1) is rectangular, with at least three sides of opaque material beginning not more than three feet from the floor and extending to a height of at least six feet from the floor;
- (2) has inside dimensions at least 22 inches wide and 30 inches deep; and
- (3) has a shelf for writing.

(d) The voting booth standards prescribed by the secretary of state must assure that privacy for voters while marking their ballots is provided and that the voting booth's composition and design are suitable for the intended use.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 472, Sec. 11, eff. Sept. 1, 1987.

**Sec. 51.033. NUMBER AND USE OF BALLOT BOXES.** (a) Four ballot boxes shall be used at each polling place in an election and shall be marked as follows:

- (1) "Ballot Box No. 1 for Election Precinct No. \_\_\_\_\_";
- (2) "Ballot Box No. 2 for Election Precinct No. \_\_\_\_\_";
- (3) "Ballot Box No. 3 for Election Precinct No. \_\_\_\_\_"; and
- (4) "Ballot Box No. 4 for Election Precinct No. \_\_\_\_\_".

(b) If an election precinct is designated by name instead of number, the name of the precinct shall be marked on the box.

(c) Ballot boxes no. 1 and no. 2 are used for the deposit of voters' marked ballots.

(d) Ballot box no. 3 is used for delivering the voted ballots to their custodian after they are counted and for storing the voted ballots during the preservation period.

(e) Ballot box no. 4 is used for delivering defectively printed, spoiled, and unused ballots to their custodian after the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 51.034. SPECIFICATIONS FOR BALLOT BOXES.** (a) Each ballot box must be made of a sturdy material and suitably designed for its intended use. Each box must have a lock and key.

(b) Ballot boxes no. 1 and no. 2 must each have a slot in the top just large enough to receive a ballot. Ballot boxes no. 3 and no. 4 are not required to have a slot, but if a slot is provided, it may not be larger than that prescribed for boxes no. 1 and no. 2.

(c) A ballot box may be used without approval of the secretary of state if the box:

- (1) is an enclosed, opaque container made of metal, wood, or other material;



- (2) is equipped with a hinged top, hasp, and padlock; and
- (3) complies with Subsection (b).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 51.035. USE OF COUNTY-OWNED EQUIPMENT FOR PRIMARY ELECTION.** (a) On request of the county chair of a political party holding a primary election, the county clerk shall furnish available county-owned ballot boxes and voting booths to the party for use in its primary election.

(b) If there is not enough county-owned equipment to satisfy the requests made under Subsection (a), the commissioners court shall allocate the equipment among the political parties requesting it.

(c) A fee may not be charged for use of equipment furnished under this section, but the political party shall reimburse the county for the actual expenses incurred by the county in transporting the equipment to and from the polling places if the county provides that service.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 47, eff. Sept. 1, 1997.

**Sec. 51.036. CUSTODIAN OF EQUIPMENT.** Except as otherwise provided by this code, the authority responsible for distributing election supplies for an election ordered by an authority of a political subdivision is the custodian of the election equipment owned by the political subdivision.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **CHAPTER 52. BALLOT FORM, CONTENT, AND PREPARATION**

### **SUBCHAPTER A. PREPARING THE BALLOT**

**Sec. 52.001. OFFICIAL BALLOT.** (a) Except as provided by Subsection (b), the vote in an election is by official ballot.

(b) If an official ballot is unavailable at a polling place, the presiding election judge shall provide a ballot designed in accordance with this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.002. AUTHORITY PREPARING BALLOT.** Except as otherwise provided by law, the following authority shall have the official ballot prepared:

(1) for an election ordered by the governor or a county authority, the county clerk;

(2) for a primary election, the county chair of the political party holding the primary;

(3) for an election ordered by a city authority, the city secretary; and

(4) for an election ordered by an authority of a political subdivision other than a county or city, the secretary of the subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 48, eff. Sept. 1, 1997.

**Sec. 52.003. PLACING CANDIDATE'S NAME ON BALLOT.** (a) Except as otherwise provided by law, the authority responsible for having the official ballot prepared shall have placed on the ballot the name of each candidate:

(1) who has filed with the authority an application for a place on the ballot that complies with the requirements as to form, content, and procedure that the application must satisfy for the candidate's name to be placed on the ballot; or

(2) whose entitlement to placement on the ballot has been lawfully certified to the authority.

(b) A candidate's name shall be placed on the ballot in the form indicated on the candidate's application or, if the application was not filed with the authority, in the form certified to the authority.

(c) Except as otherwise provided by law, in a runoff election, the authority shall have placed on the ballot the name of each candidate who is entitled to a place on the runoff ballot as indicated by the canvass for the main election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 49, eff. Sept. 1, 1997.

**Sec. 52.004. FAILURE TO PLACE CANDIDATE'S NAME ON BALLOT.** (a) A person commits an offense if the person is responsible for having the official ballot prepared for an election and knowingly fails to place on the ballot the name of a candidate who is entitled to have the candidate's name placed on the ballot.

(b) An offense under this section is a Class A misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 50, eff. Sept. 1, 1997.

**Sec. 52.005. BALLOT CONTENT DETERMINED ACCORDING TO PRECINCT.** The ballot for an election precinct may contain only those offices and propositions stating measures on which the qualified voters of the precinct are entitled to vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.006. CORRECTING BALLOT.** (a) To make a necessary correction on the ballot, the authority responsible for having the official ballot prepared may:

(1) prepare new ballots;

(2) line out or otherwise obscure the language being corrected and enter in printed form the correct language next to the language being corrected, if necessary; or

(3) prepare printed or blank correction stickers to be affixed to the ballots.

(b) A correction sticker used under this section must be printed in the same type style and on the same color of paper as the ballot.

(c) A correction sticker may be affixed to a ballot only by the authority responsible for having the official ballot prepared or by an election officer serving a polling place.

(d) A vote may not be counted for a name appearing on a correction sticker unless the sticker is prepared and affixed to the ballot as provided by this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.0061. NOTICE OF CORRECTION BY AUTHORITY RESPONSIBLE FOR PREPARING BALLOT.** (a) The authority responsible for having the official ballot prepared shall deliver written notice to the secretary of state not later than 24 hours after the authority's determination to prepare new ballots to make a correction on the ballot.

(b) The notice must include a statement of the nature of the correction to be made.

Added by Acts 1989, 71st Leg., ch. 289, Sec. 1, eff. Sept. 1, 1989.

**Sec. 52.0062. NOTICE OF CORRECTION BY CERTAIN PRINTERS.** (a) Each person required to file a statement under Section 51.013 shall deliver written notice to the secretary of state not later than 48 hours after the person receives a request to prepare new ballots to make a correction on the ballot for a primary election or the general election for state and county officers.

(b) The notice must include the name, address, and telephone number of the person requesting the corrected ballots and a statement of the nature of the correction to be made.

Added by Acts 1989, 71st Leg., ch. 289, Sec. 1, eff. Sept. 1, 1989.

**Sec. 52.0063. UNLAWFUL PREPARATION OF BALLOTS.** (a) A person commits an offense if the person knowingly prepares or causes to be prepared new ballots to make a correction on the ballot without complying with Section 52.0061 or 52.0062, as applicable.

(b) Except as authorized by Section 52.006, a person commits an offense if the person knowingly prepares or causes to be prepared for an election any ballot that contains the same number as a ballot that has been prepared for the election.

(c) An offense under this section is a Class A misdemeanor.

Added by Acts 1989, 71st Leg., ch. 289, Sec. 1, eff. Sept. 1, 1989.

**Sec. 52.0064. DESTRUCTION OF INCORRECT BALLOTS.** (a) If new ballots are prepared to make a correction on the ballot, the authority responsible for having the official ballot prepared shall destroy the incorrect ballots in the presence of:

(1) the sheriff, in an election ordered by the governor or a primary election; or

(2) the authority responsible for ordering the election, in any other election.

(b) The authority responsible for having the official ballot prepared shall post in the authority's office a notice of the date, hour, and place of the destruction of the incorrect ballots. The notice must remain posted continuously for the 72 hours preceding the scheduled time of the destruction.

(c) Any interested person is entitled to be present at the destruction of incorrect ballots.

(d) The authority responsible for having the official ballot prepared shall prepare a record of the incorrect ballots that are destroyed. The authority shall preserve the record for the period for preserving the precinct election records.

Added by Acts 1989, 71st Leg., ch. 289, Sec. 1, eff. Sept. 1, 1989. Acts 1993, 73rd Leg., ch. 728, Sec. 13, eff. Sept. 1, 1993.

**Sec. 52.007. SPECIMEN BALLOT.** (a) An official ballot for each ballot format used in each election shall be designated a specimen ballot.

(b) The specimen ballot shall be made available for public inspection:

(1) for an election other than a primary election, in the office of the authority responsible for having the official ballot prepared; or

(2) for a primary election, in the office of the county clerk.

(c) The specimen ballot shall be made available for public inspection as soon as practicable after the official ballots have been prepared for the election and shall be preserved for the period for preserving the precinct election records.

(d) The county chair of each political party holding a primary election shall deliver the ballots to be used as specimen ballots to the county clerk when the official ballots are received from the printer.

(e) The authority in whose office the specimen ballot is kept shall mark each specimen ballot with "SPECIMEN" in a manner that will not prevent the reading of its contents. If more than one ballot format is used in the election, the authority shall indicate on the specimen ballot the election precincts in which each ballot format is used.

(f) A specimen ballot may not be reproduced for distribution.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 51, eff. Sept. 1, 1997.

**Sec. 52.008. SAMPLE BALLOT.** (a) The authority responsible for procuring the election supplies shall have a supply of

sample ballots printed.

(b) A sample ballot may be printed only on yellow paper. "SAMPLE BALLOT" shall be printed in large letters at the top of each sample ballot.

(c) Sample ballots shall be distributed for use in the election as directed by the authority responsible for procuring the election supplies.

(d) A sample ballot may not be cast or counted in an election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 2003, 78th Leg., ch. 1315, Sec. 17, eff. Jan. 1, 2004.

## SUBCHAPTER B. NAME ON BALLOT

**Sec. 52.031. FORM OF NAME ON BALLOT.** (a) A candidate's name shall be printed on the ballot with the given name or initials first, followed by a nickname, if any, followed by the surname, in accordance with this section.

(a-1) A person may use any surname acquired by law or marriage.

(b) In combination with the surname, a candidate may use one or more of the following:

(1) a given name;

(2) a contraction or familiar form of a given name by which the candidate is known; or

(3) an initial of a given name.

(c) A nickname of one unhyphenated word of not more than 10 letters by which the candidate has been commonly known for at least three years preceding the election may be used in combination with a candidate's name. A nickname that constitutes a slogan or otherwise indicates a political, economic, social, or religious view or affiliation may not be used. A nickname may not be used unless the candidate executes and files with the application for a place on the ballot an affidavit indicating that the nickname complies with this subsection.

(d) A suffix such as "Sr.," "Jr.," or "2nd" may be used in combination with a candidate's name.

(e) A married woman or widow may use in combination with her surname, if the same as her husband's surname, the given name or initials of her husband with the prefix "Mrs."

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 22, eff. Sept. 1, 1997; H.B. 2075, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 52.032. CANDIDATES WITH SAME OR SIMILAR SURNAMES.** (a) If two or more candidates for the same office have the same or similar surnames, each of those candidates may have printed on the ballot a brief distinguishing description or title, not to exceed four words, following the candidate's name.

(b) The description or title may only refer to the candidate's place of residence or present or former profession, occupation, or position. However, the description or title may not refer to a public office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 472, Sec. 12, eff. Sept. 1, 1987.

**Sec. 52.033. TITLES PROHIBITED.** Except as otherwise provided by this subchapter, a title or designation of office, status, or position may not be used in conjunction with a candidate's name on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.034. NAME ON BALLOT MORE THAN ONCE.** A candidate's name may not appear more than once on the ballot except as a candidate for:

(1) two or more offices that are permitted by law to be held by the same person; or

(2) the office of president or vice-president of the United States and another office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## SUBCHAPTER C. FORM OF BALLOT

**Sec. 52.061. PRINTING ON BALLOT.** (a) The ballot shall be printed in black ink on white or light-colored paper, but the ballot may not be the same color as sample ballots.

(b) The type on the ballot may vary in size and style for the office titles, column headings, names of candidates, proposition headings, and propositions, but the type for each particular category must be uniform.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 23, eff. Sept. 1, 1997.

**Sec. 52.062. NUMBERING OF BALLOTS.** The ballots prepared by each authority responsible for having the official ballot prepared shall be numbered consecutively beginning with the number "1."  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.063. DESIGNATION OF ELECTION AND DATE.** A designation of the nature of the election and the date of the election shall be printed at the top of the ballot.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.064. DESIGNATION AS OFFICIAL BALLOT.** "OFFICIAL BALLOT" shall be printed in large letters on the ballot immediately below the designation and date of the election.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.065. ARRANGEMENT OF BALLOT WITH PARTY NOMINEE.** (a) For an election in which a candidate's name is to appear on the ballot as the nominee of a political party, the ballot shall be arranged in vertical columns separated by parallel lines, as provided by this section.

(b) Each title of an office to be voted on shall be listed in the first column on the left of the ballot with "Candidates For:" printed at the top. The office titles shall be separated by parallel horizontal lines extending through each column on the ballot.

(c) The name of each political party with a nominee on the ballot shall be printed at the top of the second and as many succeeding columns as necessary. The name of the nominee of each party for each office shall appear opposite the office in the appropriate party column. The party columns shall be of uniform width.

(d) If the name of an independent candidate is to appear on the ballot, a column immediately following the party columns shall be provided, with "Independent" printed at the top. The name of each independent candidate shall appear in the column opposite the appropriate office title.

(e) If write-in votes are permitted by law in the election, a column immediately following the other columns shall be provided for write-in votes, with "Write-in" printed at the top. Adequate space shall be provided in the column for write-in votes.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.066. ARRANGEMENT OF BALLOT WITH NO PARTY NOMINEE.** (a) For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by this section.

(b) Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title.

(c) If write-in votes are permitted by law in the election, a space underscored by a broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected.

(d) If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.067. NONALIGNED CANDIDATE DESIGNATED AS INDEPENDENT.** In an election in which the candidates' political party alignments are to be printed on the ballot next to the candidates' names, "Independent" shall be printed on the ballot next to the name of each candidate who is not aligned with a political party.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.068. OFFICE TITLE TO APPEAR ON BALLOT IF NO CANDIDATE FOR OFFICE.** (a) If no candidate's name is to appear on the ballot for a particular office to be voted on at an election in which write-in votes for the office are permitted by law, the authority responsible for having the official ballot prepared shall have the office title printed on the ballot and shall provide a space for a write-in vote as required by this code. However, in an election in which write-in votes may be counted only for names appearing on a list of write-in candidates, if no candidate's name is to appear on the ballot or the list of write-in candidates for a particular office, the office title is not printed on the ballot.

(b) If the authority fails to have the office title printed on the ballot, a person may not be declared elected to the office because of write-in votes that are cast by writing in the office title and the person's name unless the total number of votes cast for all write-in candidates for that office is more than 50 percent of the total number of voters participating in the election who are eligible to vote for the office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 13, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch.

**Sec. 52.069. UNEXPIRED TERM.** If an office to be filled for an unexpired term is to be voted on at a general or primary election, "unexpired term" shall be printed on the ballot following the office title.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.070. VOTING SQUARE AND INSTRUCTION FOR CANDIDATES.** (a) A shape for voting shall be printed to the left of each candidate's name on a ballot.

(b) Immediately below "OFFICIAL BALLOT," the following instruction shall be printed: "Vote for the candidate of your choice in each race by placing an 'X' or filling in the shape beside the candidate's name."

(c) Appropriate changes in the instruction shall be made if only one race appears on the ballot or if more than one candidate is to be elected in a race.

(d) If more than one candidate is to be elected in any race on the ballot, "Vote for none, one, two, ... or \_\_\_\_" (in the numerical sequence appropriate for the number of candidates to be elected) shall be printed immediately below each office title appearing on the ballot.

(e) A shape shall be printed to the left of each line provided for write-in voting under Section 52.066(c), but failure to place a mark in the shape does not affect the counting of a write-in vote.

(f) Any variation from this instruction must be approved by the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 14, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 497, Sec. 2, eff. Sept. 1, 1987; H.B. 3107, 87th Leg., R.S., Sec. 39, eff. Sept. 1, 2021.

**Sec. 52.072. PROPOSITIONS.** (a) Except as otherwise provided by law, the authority ordering the election shall prescribe the wording of a proposition that is to appear on the ballot.

(b) A proposition shall be printed on the ballot in the form of a single statement and may appear on the ballot only once.

(c) Except as provided by Subsection (d), in an election in which an office and a measure are to be voted on, each proposition stating a measure shall appear on the ballot after the listing of offices.

(d) If an election of officers is contingent on the adoption of a proposition appearing on the same ballot, the proposition shall appear on the ballot before the listing of offices.

(e) In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the imposition, increase, or reduction of a tax shall specifically state, as applicable:

(1) with respect to a proposition that only seeks voter approval of the imposition or increase of a tax, the amount of or maximum tax rate of the tax or tax increase for which approval is sought; or

(2) with respect to a proposition that only seeks voter approval of the reduction of a tax, the amount of tax rate reduction or the tax rate for which approval is sought.

(f) A political subdivision that submits to the voters a proposition for the approval of the issuance of debt obligations shall prescribe the wording of the proposition that is to appear on the ballot in accordance with the requirements of Subchapter B, Chapter 1251, Government Code. In this subsection, "debt obligation" and "political subdivision" have the meanings assigned by Section 1251.051, Government Code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 692 (H.B. 360), Sec. 1, eff. Sept. 1, 2011; S.B. 30, 86th Leg., Sec. 2, eff. Sept. 1, 2019.

**Sec. 52.073. VOTING SQUARE AND INSTRUCTION FOR PROPOSITIONS.** (a) On a ballot on which a proposition is to appear, "FOR" and, below it, "AGAINST" shall be printed to the left of the proposition.

(b) A brace or other suitable device shall be printed to indicate to which proposition each "FOR" and "AGAINST" applies.

(c) A square for voting shall be printed to the left of each "FOR" and each "AGAINST."

(d) Immediately above the propositions, the following instruction shall be printed: "Place an 'X' in the square beside the statement indicating the way you wish to vote."

(e) The authority responsible for prescribing the wording of a proposition may substitute "YES" and "NO" on the ballot for "FOR" and "AGAINST" if the authority considers those words more appropriate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.074. PROVISIONAL BALLOT FOR CERTAIN VOTERS.** The authority responsible for having the official ballot prepared shall have a provisional ballot prepared in a form approved by the secretary of state for use by a voter who executes

an affidavit in accordance with Section 63.011.

Added by Acts 1997, 75th Leg., ch. 1078, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1315, Sec. 18, eff. Jan. 1, 2004.

**Sec. 52.075. MODIFICATION OF BALLOT FORM FOR CERTAIN VOTING SYSTEMS.** (a) The secretary of state may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system.

(b) In this section, "ballot marking device," "direct recording electronic voting machine," "electronic voting system," and "voting system" have the meanings assigned by Section 121.003.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 7, eff. September 1, 2013. Amended by Acts 2019, 86<sup>th</sup> Leg. (H.B. 88), eff. Sept. 1, 2019.

## **SUBCHAPTER D. ORDER OF PARTIES, OFFICES, NAMES, AND PROPOSITIONS ON BALLOT**

**Sec. 52.091. PARTY COLUMNS.** (a) Party columns shall be arranged on the ballot in the following order, beginning on the left:

- (1) columns of parties with nominees for statewide or district offices;
- (2) columns of parties without nominees for statewide or district offices.

(b) Columns of parties specified by Subsection (a)(1) shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.092. OFFICES REGULARLY FILLED AT GENERAL ELECTION FOR STATE AND COUNTY OFFICERS.**

(a) Except as provided by Section 2.053(c), for an election at which offices regularly filled at the general election for state and county officers are to appear on the ballot, the offices shall be listed in the following order:

- (1) offices of the federal government;
- (2) offices of the state government:
  - (A) statewide offices;
  - (B) district offices;
- (3) offices of the county government:
  - (A) county offices;
  - (B) precinct offices.

(b) Offices of the federal government shall be listed in the following order:

- (1) president and vice-president of the United States;
- (2) United States senator;
- (3) United States representative.

(c) Statewide offices of the state government shall be listed in the following order:

- (1) governor;
- (2) lieutenant governor;
- (3) attorney general;
- (4) comptroller of public accounts;
- (5) commissioner of the General Land Office;
- (6) commissioner of agriculture;
- (7) railroad commissioner;
- (8) chief justice, supreme court;
- (9) justice, supreme court;
- (10) presiding judge, court of criminal appeals;
- (11) judge, court of criminal appeals.

(d) District offices of the state government shall be listed in the following order:

- (1) member, State Board of Education;
- (2) state senator;
- (3) state representative;

- (4) chief justice, court of appeals;
- (5) justice, court of appeals;
- (6) district judge;
- (7) criminal district judge;
- (8) family district judge;
- (9) district attorney;
- (10) criminal district attorney.

(e) County offices shall be listed in the following order:

- (1) county judge;
- (2) judge, county court at law;
- (3) judge, county criminal court;
- (4) judge, county probate court;
- (5) county attorney;
- (6) district clerk;
- (7) district and county clerk;
- (8) county clerk;
- (9) sheriff;
- (10) sheriff and tax assessor-collector;
- (11) county tax assessor-collector;
- (12) county treasurer;
- (13) county school trustee (county with population of 3.3 million or more);
- (14) county surveyor.

(f) Precinct offices shall be listed in the following order:

- (1) county commissioner;
- (2) justice of the peace;
- (3) constable.

(g) If two or more offices having the same title except for a place number or other distinguishing number are to appear on the ballot, the number shall appear as part of the office title and the offices shall be listed in numerical order.

(h) Repealed by Acts 2003, 78th Leg., ch. 693, Sec. 4.

(i) The secretary of state shall designate the position of new offices on the ballot.

(j) The office of judge of a multicounty statutory county court created under Subchapter D, Chapter 25, Government Code, is considered to be a county office for purposes of listing the office on the ballot and to be a district office for all other purposes under this code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 15(b), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 746, Sec. 69, eff. Oct. 1, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 6.01, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 14, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 693, Sec. 4, eff. Sept. 1, 2003; Acts 2009, 81st Leg., R.S., Ch. 37 (H.B. 328), Sec. 2, eff. May 19, 2009; Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 5.32, eff. September 1, 2009; S.B. 1, 87th Leg., 2<sup>nd</sup> C.S., Sec. 3.05, eff. Dec. 2, 2021; S.B. 1089, 88th Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 52.093. OFFICES OF POLITICAL SUBDIVISION OTHER THAN COUNTY.** Except as otherwise provided by law, for an election at which offices of a political subdivision other than a county are to be voted on, the authority ordering the election shall determine the order of the offices on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 52.094. NAMES OF CANDIDATES.** (a) Except as otherwise provided by law, for an election at which the names of more than one candidate for the same office are to appear on the ballot in an independent column or are to appear on a general or special election ballot that does not contain a party nominee, the order of the candidates' names shall be determined by a drawing. The order of the candidates' names on the ballot of any resulting runoff election or election held to resolve a tie vote shall be the relative order of names on the original election ballot.

(b) The authority responsible for having the official ballot prepared for the election shall conduct the drawing.

(c) The authority conducting the drawing shall post in the authority's office a notice of the date, hour, and place of the drawing. The notice must remain posted continuously for 72 hours immediately preceding the scheduled time of the drawing.

(d) The authority conducting the drawing shall provide notice of the date, hour, and place of the drawing to each candidate by:

- (1) written notice:



(A) mailed to the address stated on the candidate's application for a place on the ballot, not later than the fourth day before the date of the drawing; or

(B) provided at the time the candidate files an application with the appropriate authority;

(2) telephone, if a telephone number is provided on the candidate's application for a place on the ballot; or

(3) e-mail, if an e-mail address is provided on the candidate's application for a place on the ballot.

(e) Each candidate affected by a drawing is entitled to be present or have a representative present at the drawing.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 52, eff. Sept. 1, 1997; Acts 2019, 86th Leg. (H.B. 88), eff. Sept. 1, 2019; H.B. 3107, 87th Leg., R.S., Sec. 40, eff. Sept. 1, 2021.

**Sec. 52.095. PROPOSITIONS.** (a) Except as otherwise provided by law, the authority ordering an election in which more than one measure is to be voted on shall determine the order in which the propositions are to appear on the ballot.

(b) Each political subdivision's proposition on the ballot shall be assigned a unique number or letter on the ballot as follows:

(1) except as provided by Subdivision (2), for each proposition on the ballot, the authority ordering the election shall assign a letter of the alphabet to the measure that corresponds to its order on the ballot; and

(2) for each proposition on the ballot to be voted on statewide, the authority ordering the election shall assign a number to the measure that corresponds to its order on the ballot.

(c) Each proposition on the ballot must identify the name of the authority ordering the election on the measure.

(d) The secretary of state shall prescribe procedures necessary to implement this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: S.B. 957, 85th Leg. R.S., eff. June 1, 2017.

## TITLE 6. CONDUCT OF ELECTIONS

### CHAPTER 61. CONDUCT OF VOTING GENERALLY

#### SUBCHAPTER A. GENERAL PROVISIONS

**Sec. 61.001. BYSTANDERS EXCLUDED; UNLAWFUL PRESENCE OF CANDIDATE.** (a) Except as permitted by this code and as described by Subsection (a-1), a person may not be in the polling place from the time the presiding judge arrives there on election day to make the preliminary arrangements until the precinct returns have been certified and the election records have been assembled for distribution following the election.

(a-1) Under this code, a person may be lawfully present in a polling place during the time described by Subsection (a) if the person is:

- (1) an election judge or clerk;
- (2) a watcher;
- (3) the secretary of state;
- (4) a staff member of the Elections Division of the Office of the Secretary of State performing an official duty in accordance with this code;
- (5) an election official, a sheriff, or a staff member of an election official or sheriff delivering election supplies;
- (6) a state inspector;
- (7) a person admitted to vote;
- (8) a child under 18 years of age who is accompanying a parent who has been admitted to vote;
- (9) a person providing assistance to a voter under Section 61.032 or 64.032;
- (10) a person accompanying a voter who has a disability;
- (11) a special peace officer appointed by the presiding judge under Section 32.075;
- (12) the county chair of a political party conducting a primary election, as authorized by Section 172.1113;
- (13) a voting system technician, as authorized by Section 125.010;
- (14) the county election officer, as defined by Section 31.091, as necessary to perform tasks related to the administration of the election; or
- (15) a person whose presence has been authorized by the presiding judge in accordance with this code.

(b) A candidate in the election commits an offense if the candidate is in a polling place during the period described by Subsection (a) for a purpose other than:

- (1) voting; or
- (2) official business in the building in which the polling place is located.

(c) It is an exception to the application of Subsection (b) that the candidate:

- (1) is not within plain view or hearing of the persons in the voting area or the area in which voters are being accepted for voting; and
- (2) is not engaged in campaign activity.

(d) An offense under this section is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1350, Sec. 3, eff. Sept. 1, 1997; H. B. 1128, 87th Leg., R.S., Sec. 1., eff. September 1, 2021.

**Sec. 61.002. OPENING AND CLOSING POLLING PLACE FOR VOTING.** (a) Immediately before opening the polls for voting on the first day of early voting and on election day, the presiding election judge or alternate election judge shall confirm that each voting machine has any public counter reset to zero and shall print the tape that shows the counter was set to zero for each candidate or measure on the ballot.

(b) At the official time for opening the polls for voting, an election officer shall open the polling place entrance and admit the voters.

(c) Immediately after closing the polls for voting on election day, the presiding election judge or alternate election judge shall print the tape to show the number of votes cast for each candidate or ballot measure for each voting machine.

(d) Each election judge or alternate election judge present shall sign a tape printed under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Amended by: S.B. 1, 87th Leg., 2nd C.S., Sec. 3.06, eff. Dec. 2, 2021.

**Sec. 61.003. ELECTIONEERING AND LOITERING NEAR POLLING PLACE.** (a) A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person:

- (1) loiters; or
- (2) electioneers for or against any candidate, measure, or political party.

(a-1) The entity that owns or controls a public building being used as a polling place may not, at any time during the voting period, prohibit electioneering on the building's premises outside of the area described in Subsection (a), but may enact reasonable regulations concerning the time, place, and manner of electioneering.

(b) In this section:

(1) "Electioneering" includes the posting, use, or distribution of political signs or literature. The term does not include the distribution of a notice of a party convention authorized under Section 172.1114.

(2) "Voting period" means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

(c) An offense under this section is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 235 (H.B. 259), Sec. 1, eff. June 14, 2013; Acts 2013, 83rd Leg., R.S., Ch. 235 (H.B. 259), Sec. 2, eff. June 14, 2013; H.B. 1735, 85<sup>th</sup> Leg. R.S., Sec. 12, eff. September 1, 2017.

**Sec. 61.004. UNLAWFUL OPERATION OF SOUND AMPLIFICATION DEVICE OR SOUND TRUCK.** (a) A person commits an offense if, during the voting period and within 1,000 feet of a building in which a polling place is located, the person operates a sound amplification device or a vehicle with a loudspeaker while the device or loudspeaker is being used for the purpose of:

- (1) making a political speech; or
- (2) electioneering for or against any candidate, measure, or political party.

(b) For the purpose of Subsection (a), a person operates a vehicle with a loudspeaker if the person drives the vehicle, uses the loudspeaker, or operates sound equipment in connection with the loudspeaker.

(c) In this section, "voting period" means the period prescribed by Section 61.003(b).

(d) An offense under this section is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 497 (H.B. 535), Sec. 1, eff. Sept. 1, 2005; Acts 2005, 79th Leg., Ch. 497 (H.B. 535), Sec. 2, eff. September 1, 2005.

**Sec. 61.005. SECURITY OF BALLOTS, BALLOT BOXES, AND ENVELOPES.** (a) From the time a presiding judge receives the official ballots for an election until the precinct returns for that election have been certified, the presiding judge shall take the precautions necessary to prevent access to the ballots, ballot boxes, and envelopes used for provisional ballots in a manner not authorized by law.

(b) The ballots, ballot boxes, and envelopes used for provisional ballots at a polling place shall be in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified.

(c) A presiding election judge commits an offense if the judge fails to prevent another person from handling a ballot box containing voters' marked ballots or an envelope containing a voter's provisional ballot in an unauthorized manner or from making an unauthorized entry into the ballot box or envelope. An offense under this subsection is a Class A misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 19, eff. Jan. 1, 2004.

**Sec. 61.006. UNLAWFULLY DIVULGING VOTE.** (a) A person commits an offense if the person was in a polling place for any purpose other than voting and knowingly communicates to another person information that the person obtained at the polling place about how a voter has voted.

(b) An offense under this section is a felony of the third degree.

(c) This section does not apply to information presented in an official investigation or other official proceeding in which the information is relevant.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 53, eff. Sept. 1, 1997.

**Sec. 61.007. UNLAWFULLY REVEALING INFORMATION BEFORE POLLS CLOSE.** (a) An election officer, watcher, or other person serving at a polling place in an official capacity commits an offense if, before the polls close or the last voter has voted, whichever is later, the officer, watcher, or other person reveals:

- (1) the number of votes that have been received for a candidate or for or against a measure;
- (2) a candidate's position relative to other candidates in the tabulation of the votes;
- (3) whether a measure is passing or failing; or

(4) the names of persons who have or have not voted in the election.

(b) An offense under this section is a Class A misdemeanor.

(c) Beginning at 9:30 a.m. and at each subsequent two-hour interval through 5:30 p.m., the presiding judge shall post written notice of the total number of voters who have voted in the precinct. The notice shall be posted at an outside door through which a voter may enter the building in which the polling place is located.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 440, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 472, Sec. 16, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 7.04, eff. Aug. 28, 1989; Acts 2003, 78th Leg., ch. 427, Sec. 1, eff. Sept. 1, 2003.

**Sec. 61.008. UNLAWFULLY INFLUENCING VOTER.** (a) A person commits an offense if the person indicates to a voter in a polling place by word, sign, or gesture how the person desires the voter to vote or not vote.

(b) An offense under this section is a Class B misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 61.009. INSTRUCTING VOTER ON CASTING BALLOT.** On the request of a voter, an election officer shall instruct the voter on the proper procedure for casting a ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 61.010. WEARING NAME TAG OR BADGE IN POLLING PLACE.** (a) Except as provided by Subsection (b), a person may not wear a badge, insignia, emblem, or other similar communicative device relating to a candidate, measure, or political party appearing on the ballot, or to the conduct of the election, in the polling place or within 100 feet of any outside door through which a voter may enter the building in which the polling place is located.

(b) An election judge, an election clerk, a state or federal election inspector, a certified peace officer, or a special peace officer appointed for the polling place by the presiding judge shall wear while on duty in the area described by Subsection (a) a tag or official badge that indicates the person's name and title or position.

(c) A person commits an offense if the person violates Subsection (a). An offense under this subsection is a Class C misdemeanor.

Added by Acts 1987, 70th Leg., ch. 472, Sec. 17, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 24, 25, eff. Sept. 1, 1997.

**Sec. 61.011. REMOVING WRITTEN COMMUNICATIONS FOUND IN POLLING PLACE.** (a) An election officer shall periodically check each voting station and other areas of the polling place for sample ballots or other written communications used by voters that were left or discarded in the polling place.

(b) An election officer shall remove from the sight of the voters any written communication found under Subsection

(a).

Added by Acts 1997, 75th Leg., ch. 112, Sec. 1, eff. Sept. 1, 1997.

**Sec. 61.012. ACCESS BY PERSONS WITH DISABILITIES.** (a) Except as provided by Section 61.013, each polling place must provide at least one voting station that:

(1) complies with:

(A) Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments;

(B) Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments; and

(C) the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments; and

(2) provides a practical and effective means for voters with physical disabilities to cast a secret ballot.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1182, Sec. 4, eff. June 15, 2007.

Acts 2003, 78th Leg., ch. 1315, Sec. 20, eff. Jan. 1, 2004. Amended by: Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 11.02, eff. May 31, 2006; Acts 2007, 80th Leg., R.S., Ch. 1182 (H.B. 556), Sec. 2, eff. June 15, 2007; Acts 2007, 80th Leg., R.S., Ch. 1182 (H.B. 556), Sec. 4, eff. June 15, 2007.

**Sec. 61.013. ACCESS BY PERSONS WITH DISABILITIES: ELECTIONS OF CERTAIN POLITICAL SUBDIVISIONS.** (a) For an election other than an election of a political subdivision that is held jointly with another election in which a federal office appears on the ballot, the political subdivision is not required to meet the requirements of Section 61.012(a)(1)(C) if the political subdivision:

(1) is a county with a population of less than 2,000;

(2) is a county with a population of 2,000 or more but less than 5,000, and the county provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day;

(3) is a county with a population of 5,000 or more but less than 10,000, and the county provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance;

(4) is a county with a population of 10,000 or more but less than 20,000, and the county:

(A) makes a showing in the manner provided by Subsection (c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the county;

(B) provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance; and

(C) provides a mobile voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) that during the period for early voting by personal appearance is deployed at least once at each polling place used for early voting by personal appearance; or

(5) is located in a county described by Subdivisions (1)-(4) and meets the same requirements as the county in which the political subdivision is located.

(b) A voter with a disability that desires a reasonable accommodation to vote in an election of a county described by Subsection (a)(1) or a political subdivision located in that county shall make a request for the accommodation with the early voting clerk of the county or political subdivision not later than the 21st day before the date of the election. On receipt of the request, the early voting clerk shall make a reasonable accommodation to allow the voter to cast a vote.

(c) A county or political subdivision may make a showing of undue burden under Subsection (a)(4)(A) by filing an application with the secretary of state not later than the 90th day before the date of the election that states the reasons that compliance would constitute an undue burden. A showing of an undue burden may be satisfied by proof that the election costs associated with compliance with Section 61.012(a)(1)(C) constitute a significant expense for the county or political subdivision and reflect an increase of at least 25 percent in the costs of holding an election as compared to the costs of the last general election held by the county or political subdivision before January 1, 2006. Not later than the 20th day after the date of receiving an application under this section, the secretary of state shall determine whether compliance with Section 61.012(a)(1)(C) is an undue burden for the county or political subdivision.

(d) A county or political subdivision that intends to use this section to provide fewer voting stations that meet the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) than required by Section 61.012(a)(1)(C) must:

(1) provide notice to the secretary of state of that intent not later than the 90th day before the date of the election; and

(2) for a county described by Subsection (a)(2), (3), or (4), or a political subdivision located in such a county, publish notice of the location of each voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) in a newspaper of general circulation in the county or political subdivision not later than the 15th day before the date of the start of the period of early voting by personal appearance.

(e) For purposes of this section, a political subdivision located in more than one county may choose:

(1) to be considered located in the county that contains the greatest number of registered voters of the political subdivision; or

(2) for each portion of the political subdivision located in a different county, to be considered a separate political subdivision.

(f) The secretary of state shall prescribe procedures and adopt rules as necessary to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1182 (H.B. 556), Sec. 3, eff. June 15, 2007.

**Sec. 61.014. USE OF CERTAIN DEVICES.** (a) A person may not use a wireless communication device within 100 feet of a voting station.

(b) A person may not use any mechanical or electronic means of recording images or sound within 100 feet of a voting station.

(c) The presiding judge may require a person who violates this section to turn off the device or to leave the polling place.

(d) This section does not apply to:

(1) an election officer in conducting the officer's official duties;

(2) the use of election equipment necessary for the conduct of the election; or

(3) a person who is employed at the location in which a polling place is located while the person is acting in the course of the person's employment.

Added by Acts 2007, 80th Leg., R.S., Ch. 697 (H.B. 1921), Sec. 1, eff. Sept. 1, 2007. Renumbered from Election Code, Section 61.013 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(12), eff. Sept. 1, 2009. Amended by: Acts 2009, 81st Leg., R.S., Ch. 175 (H.B. 1493), Sec. 1, eff. May 27, 2009.

## SUBCHAPTER B. INTERPRETER

**Sec. 61.031. USE OF ENGLISH LANGUAGE.** (a) Except as provided by Subsection (b), an election officer may not use a language other than English in performing an official duty in connection with the election.

(b) If a voter cannot communicate in English, an election officer may communicate with the voter in a language that the voter and the officer understand.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 61.032. INTERPRETER PERMITTED.** If an election officer who attempts to communicate with a voter does not understand the language used by the voter, the voter may communicate through an interpreter selected by the voter or, if the voter has not selected an interpreter, any interpreter an election officer may appoint.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Amended by S.B. 331, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. June 14, 2021.

**Sec. 61.033. ELIGIBILITY TO SERVE AS INTERPRETER.** To be eligible to serve as an interpreter, a person:

(1) may be any person other than the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs; and

(2) if appointed to serve as an interpreter by an election officer, must be a registered voter of the county in which the voter needing the interpreter resides or a registered voter of an adjacent county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Amended by S.B. 331, 87<sup>th</sup> Leg., R.S., Sec. 2, eff. June 14, 2021 .

**Sec. 61.034. TRANSLATING BALLOT.** If a voter cannot comprehend the language in which the ballot is printed, the voter may receive assistance in accordance with Subchapter B, Chapter 64.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Amended by S.B. 331, 87<sup>th</sup> Leg., R.S., Sec. 3, eff. June 14, 2021.

**Sec. 61.035. OATH.** (a) Before serving as an interpreter, the person selected as interpreter must take the following oath administered by an election officer:

"I swear (or affirm) that, to the best of my ability, I will correctly interpret and translate each question, answer, or statement addressed either to the voter by any election officer or to an election officer by the voter."

(b) A person who will be providing ballot assistance under Section 61.034 must also take the oath required by Subchapter B, Chapter 64, and meet all other requirements of that subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Amended by S.B. 331, 87<sup>th</sup> Leg., R.S., Sec. 4, eff. June 14, 2021.

**Sec. 61.036. TRANSLATION REQUIRED.** (a) If an election officer and a voter communicate in a language other than English, any other election officer or watcher may request an English translation of anything communicated in the other language.

(b) If a translation request is made, the election officer communicating with the voter shall make the translation.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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## **CHAPTER 62. PRELIMINARY ARRANGEMENTS**

**Sec. 62.001. OFFICERS TO ASSEMBLE.** (a) On election day, the presiding judge and the election clerks the judge assigns to assist with preparing the polling place shall meet at the polling place in time to prepare it to receive the voters.

(b) If the polling place is left unattended at any time after the preparations for voting begin, the presiding judge shall take appropriate steps to provide for the security of the polling place. This subsection does not affect the security requirements for a polling place after the polls open.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77th Leg., ch. 802, Sec. 2, eff. Sept. 1, 2001.

**Sec. 62.002. TIME FOR COMPLETING ARRANGEMENTS.** Except as otherwise provided by this chapter, the arrangements prescribed by this chapter shall be completed at a polling place before it is opened for voting.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 62.003. ELECTION OFFICERS: OATH AND IDENTIFICATION.** (a) The presiding judge and the election clerks present at the polling place before the polls open shall repeat the following oath aloud:

"I swear (or affirm) that I will not in any manner request or seek to persuade or induce any voter to vote for or against any candidate or measure to be voted on, and that I will faithfully perform my duty as an officer of the election and guard the purity of the election."

(b) A clerk who arrives after the oath is made shall repeat the oath aloud before performing any duties as an election officer.

(c) Following administration of the oath, each election officer shall be issued a form of identification, prescribed by the secretary of state, to be displayed by the officer during the officer's hours of service at the polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 984 (H.B. 2110), Sec. 2, eff. September 1, 2013; Acts 2013, 83rd Leg., R.S., Ch. 984 (H.B. 2110), Sec. 3, eff. September 1, 2013.

**Sec. 62.004. ARRANGING VOTING STATIONS.** The voting stations shall be arranged so that:

(1) the voting area is in view of the election officers, watchers, and persons waiting to vote but is separated from the persons waiting to vote;

(2) access to the voting area through any entrance other than one designated by the presiding judge is prevented; and

(3) the voting area is adequately lighted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 62.005. EXAMINING BALLOT BOXES.** An election officer shall open and examine the ballot boxes and remove any contents from the boxes.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 62.006. PLACING BOX FOR DEPOSIT OF MARKED BALLOTS.** The ballot box to be used by the voters to deposit marked ballots shall be locked. The ballot box and the box used for the deposit of provisional ballots shall be placed where they will be in plain view of the election officers, watchers, and persons waiting to vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 21, eff. Jan. 1, 2004.

**Sec. 62.007. EXAMINING BALLOTS.** (a) An election officer shall unseal the ballot package, remove the ballots, and examine them to determine whether they are properly numbered and printed.

(b) An unnumbered or otherwise defectively printed ballot shall be placed in ballot box no. 4.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 62.008. PRESIDING JUDGE TO SIGN BALLOTS.** (a) The presiding judge's signature shall be placed on the back of each ballot to be used at the polling place.

(b) The judge shall sign each ballot or an election officer shall stamp a facsimile of the judge's signature on each ballot.

(c) The signing of ballots need not be completed before the polls open, but an unsigned ballot may not be made available for selection by the voters.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.



**Sec. 62.009. DISARRANGING BALLOTS FOR VOTERS' SELECTION.** (a) As needed for voting, an election officer shall disarrange a supply of the ballots so that they are in random numerical order.

(b) The disarranged ballots shall be placed face down on a table in a manner preventing an election officer or other person from ascertaining the number of a ballot selected by a voter.

(c) The provisional ballots shall be placed separately from the regular ballots.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 6, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 22, eff. Jan. 1, 2004.

**Sec. 62.010. DISTANCE MARKER.** (a) An election officer shall place one or more distance markers at the outer limits of the area within which electioneering is prohibited.

(b) A distance marker must contain the following language printed in large letters: "Distance Marker. No electioneering or loitering between this point and the entrance to the polling place."

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 62.011. INSTRUCTION POSTER.** (a) An election officer shall post an instruction poster:

(1) in each voting station; and

(2) in one or more other locations in the polling place where it can be read by persons waiting to vote.

(b) The secretary of state shall prescribe the form and content of the instruction poster. If it is not practical to fit all of the information required by this section on a single poster, the secretary of state may provide for the use of two or more posters to convey the information.

(c) The poster must include instructions applicable to the election on:

(1) marking and depositing the ballot;

(2) voting for a write-in candidate;

(3) casting a provisional ballot; and

(4) securing an additional ballot if the voter's original ballot is spoiled.

(d) The poster must also include the following information:

(1) the date of the election and the hours during which the polling place is open;

(2) general information on voting rights under state and federal laws, including information on the right of an individual to cast a provisional ballot and the individuals to contact if a person believes these rights have been violated; and

(3) general information on state and federal laws that prohibit acts of fraud or misrepresentation.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1315, Sec. 23, eff. Jan. 1, 2004; H.B. 25, 85<sup>th</sup> Leg., R.S., Sec. 3, eff. Sept. 1, 2020.

**Sec. 62.0111. NOTICE OF PROHIBITION OF CERTAIN DEVICES.** (a) At the discretion of the presiding judge, notice of the prohibition of the use of certain devices under Section 61.014 may be posted at one or more locations in the polling place where it can be read by persons waiting to vote.

(b) The secretary of state shall prescribe the wording of a notice posted under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 697 (H.B. 1921), Sec. 2, eff. September 1, 2007. Amended by: Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(3), eff. September 1, 2009.

**Sec. 62.0112. NOTICE OF VOTER COMPLAINT INFORMATION.** (a) At one or more locations in the polling place easily visible to voters, the presiding judge shall post notice in a form prescribed by the secretary of state that informs voters of who to call or write to if a voter has a complaint about the conduct of the election.

(b) The title of the notice must read "Voter Complaint Information" and must be printed in at least 100-point Times New Roman font. The notice must:

(1) include the telephone number for the voting rights hotline established by the secretary of state under Section 31.0055;

(2) include any available telephone number dedicated to reporting complaints about the local election official that is administering the election; and

(3) include mailing addresses or Internet websites, as available, to which voters may direct complaints to the federal, state, or local governments about the conduct of elections.

Added by Acts 2009, 81st Leg., R.S., Ch. 358 (H.B. 1256), Sec. 1, eff. September 1, 2009.

**Sec. 62.0115. PUBLIC NOTICE OF VOTERS' RIGHTS.** (a) The secretary of state shall adopt rules providing for publicizing voters' rights as prescribed by this section. The rules must require that a notice of those rights be publicized:

- (1) by being posted by an election officer in a prominent location at each polling place;
  - (2) on the Internet website of the secretary of state;
  - (3) through material published by the secretary of state; or
  - (4) in another manner designed to give voters notice of their rights.
- (b) Except as revised by the secretary of state under Subsection (d), the notice must state that a voter has the right to:
- (1) vote a ballot and view written instructions on how to cast a ballot;
  - (2) vote in secret and free from intimidation;
  - (3) receive up to two additional ballots if the voter mismarks, damages, or otherwise spoils a ballot;
  - (4) request instructions on how to cast a ballot, but not to receive suggestions on how to vote;
  - (5) bring an interpreter to translate the ballot and any instructions from election officials;
  - (6) receive assistance in casting the ballot if the voter:
    - (A) has a physical disability that renders the voter unable to write or see; or
    - (B) cannot read the language in which the ballot is written;
  - (7) cast a ballot on executing an affidavit as provided by law, if the voter's eligibility to vote is questioned;
  - (8) report an existing or potential abuse of voting rights to the secretary of state or the local election official;
  - (9) except as provided by Section 85.066(b), Election Code, vote at any early voting location in the county in which the voter resides in an election held at county expense, a primary election, or a special election ordered by the governor; and
  - (10) file an administrative complaint with the secretary of state concerning a violation of federal or state voting procedures.
- (c) The notice must also state:
- (1) the information relating to the voting rights hotline required under Section 31.0055; and
  - (2) any other information that the secretary of state considers important for a voter to know.

(d) The secretary of state shall prescribe the form and content of the notice in accordance with this section. The secretary of state shall revise the content of the notice as necessary to ensure that the notice accurately reflects the law in effect at the time the notice is publicized.

Added by Acts 2005, 79th Leg., Ch. 510 (H.B. 719), Sec. 2, eff. September 1, 2005.

**Sec. 62.012. POSTING SAMPLE BALLOT.** An election officer shall post a sample ballot in one or more locations in the polling place where it can be read by persons waiting to vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1315, Sec. 24, eff. Jan. 1, 2004.

**Sec. 62.013. UNAUTHORIZED POSTING OF SIGNS PROHIBITED.** (a) An election officer commits an offense if the officer knowingly posts at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located, a sign, card, poster, or other similar material that:

- (1) is not authorized or required by law; or
- (2) is in a form or contains information that is not authorized or required by law.

(b) A person other than an election officer commits an offense if the person posts a sign, card, poster, or other similar material at a polling place, including the 100-foot area described by Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 62.014. MODIFICATION OF LIST OF REGISTERED VOTERS.** (a) If a registration correction list is provided for a polling place, an election officer shall make the changes to the list of registered voters that are necessary to make it conform to the registration correction list.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 560, Sec. 2, eff. September 1, 2015.

(c) An election officer may make the changes to the list of registered voters required by this section at a location other than the polling place before it is opened for voting.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.49; Acts 1991, 72nd Leg., ch. 554, Sec. 20, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 26, eff. Sept. 1, 1997; Acts 2015, 84th Leg., R.S., Ch. 560 (H.B. 2366), Sec. 2, eff. September 1, 2015.

**Sec. 62.015. PLACING INDELIBLE MARKING INSTRUMENT IN STATION.** (a) An indelible marking instrument shall be placed in each voting station.

(b) In this section, "indelible marking instrument" means an instrument that makes marks that cannot easily be removed or erased.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 5(a), eff. Sept. 1, 1987.

**Sec. 62.016. NOTICE OF ACCEPTABLE IDENTIFICATION OUTSIDE POLLING PLACES.** The presiding judge shall post in a prominent place on the outside of each polling location a list of the acceptable forms of identification. The list must be printed using a font that is at least 24-point. The notice required under this section must be posted separately from any other notice required by state or federal law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 8, eff. January 1, 2012.

## CHAPTER 63. ACCEPTING VOTER

**Sec. 63.001. REGULAR PROCEDURE FOR ACCEPTING VOTER.** (a) Except as otherwise provided by this code, acceptance of voters shall be conducted as provided by this section and Section 63.0011.

(b) Except as provided by Subsection (h), on offering to vote, a voter must present to an election officer at the polling place:

- (1) one form of photo identification listed in Section 63.0101(a); or
- (2) one form of identification listed in Section 63.0101(b) accompanied by the declaration described by Subsection

(i).

(c) On presentation of the documentation required under Subsection (b), an election officer shall determine whether the voter's name on the documentation is on the list of registered voters for the precinct. If in making a determination under this subsection the election officer determines under standards adopted by the secretary of state that the voter's name on the documentation is substantially similar to but does not match exactly with the name on the list, the voter shall be accepted for voting under Subsection (d) if the voter submits an affidavit stating that the voter is the person on the list of registered voters.

(c-1) An election officer may not refuse to accept documentation presented to meet the requirements of Subsection (b) solely because the address on the documentation does not match the address on the list of registered voters.

(d) If, as determined under Subsection (c), the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the documentation presented under Subsection (b), the voter shall be accepted for voting. An election officer may not question the reasonableness of an impediment sworn to by a voter in a declaration described by Subsection (i).

(e) On accepting a voter, an election officer shall indicate beside the voter's name on the list of registered voters that the voter is accepted for voting. If the voter executes a declaration of reasonable impediment to meet the requirement for identification under Subsection (b), the election officer must affix the voter's voter registration number to the declaration either in numeric or bar code form.

(f) After determining whether to accept a voter, an election officer shall return the voter's documentation to the voter.

(g) If the requirements for identification prescribed by Subsection (b) are not met, the voter may be accepted for provisional voting only under Section 63.011. For a voter who is not accepted for voting under this section, an election officer shall:

- (1) inform the voter of the voter's right to cast a provisional ballot under Section 63.011; and
- (2) provide the voter with written information, in a form prescribed by the secretary of state, that:
  - (A) lists the requirements for identification;
  - (B) states the procedure for presenting identification under Section 65.0541;
  - (C) includes a map showing the location where identification must be presented; and
  - (D) includes notice that if all procedures are followed and the voter is found to be eligible to vote and is voting in the correct precinct, the voter's provisional ballot will be accepted.

(h) The requirements for identification prescribed by Subsection (b) do not apply to a voter who is disabled and presents the voter's voter registration certificate containing the indication described by Section 15.001(c) on offering to vote.

(i) If the requirement for identification prescribed by Subsection (b)(1) is not met, an election officer shall notify the voter that the voter may be accepted for voting if the voter meets the requirement for identification prescribed by Subsection (b)(2) and executes a declaration declaring the voter has a reasonable impediment to meeting the requirement for identification prescribed by Subsection (b)(1). A person is subject to prosecution for perjury under Chapter 37, Penal Code, or Section 63.0013 for a false statement or false information on the declaration. The secretary of state shall prescribe the form of the declaration. The form shall include:

(1) a notice that a person is subject to prosecution for perjury under Chapter 37, Penal Code, or Section 63.0013 for a false statement or false information on the declaration;

(2) a statement that the voter swears or affirms that the information contained in the declaration is true, that the person described in the declaration is the same person appearing at the polling place to sign the declaration, and that the voter faces a reasonable impediment to procuring the identification prescribed by Subsection (b)(1);

(3) a place for the voter to indicate one of the following impediments:

- (A) lack of transportation;
- (B) lack of birth certificate or other documents needed to obtain the identification prescribed by Subsection (b)(1);
- (C) work schedule;
- (D) lost or stolen identification;

- (E) disability or illness;
  - (F) family responsibilities; and
  - (G) the identification prescribed by Subsection (b)(1) has been applied for but not received;
- (4) a place for the voter to sign and date the declaration;
  - (5) a place for the election judge to sign and date the declaration;
  - (6) a place to note the polling place at which the declaration is signed; and
  - (7) a place for the election judge to note which form of identification prescribed by Subsection (b)(2) the voter presented.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 38, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 864, Sec. 54, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 9, eff. January 1, 2012. S.B. 5, 85<sup>th</sup> Leg., R.S., eff. January 1, 2018.

**Sec. 63.0011. STATEMENT OF RESIDENCE REQUIRED.** (a) Before a voter may be accepted for voting, an election officer shall ask the voter if the voter's residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county. If the voter's address is omitted from the precinct list under Section 18.005(c), the officer shall ask the voter if the voter's residence, if listed, on identification presented by the voter under Section 63.001(b) is current and whether the voter has changed residence within the county.

(b) If the voter's residence address is not current because the voter has changed residence within the county, the voter may vote, if otherwise eligible, in the election precinct in which the voter is registered if the voter resides in the county in which the voter is registered and, if applicable:

- (1) resides in the political subdivision served by the authority ordering the election if the political subdivision is other than the county; or
- (2) resides in the territory covered by the election in a less-than-countywide election ordered by the governor or a county authority.

(c) Before being accepted for voting, the voter must execute and submit to an election officer a statement including:

- (1) a statement that the voter satisfies the applicable residence requirements prescribed by Subsection (b);
- (2) all of the information that a person must include in an application to register to vote under Section 13.002;

and

- (3) the date the statement is submitted to the election officer.

(c-1) The statement described by Subsection (c) must include a field for the voter to enter the voter's current county of residence.

(d) The voter registrar shall provide to the general custodian of election records a sufficient number of statements of residence for use in each election.

(e) The voter registrar shall retain each statement of residence on file with the voter's voter registration application.

(f) Information included on a statement of residence under Subsection (c)(2) is subject to Section 13.004(c).

Added by Acts 1995, 74th Leg., ch. 797, Sec. 39, eff. Sept. 1, 1995. Amended by: Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 7, eff. September 1, 2007. Acts 2009, 81st Leg., R.S., Ch. 927 (H.B. 3069), Sec. 3, eff. September 1, 2009. Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 10, eff. January 1, 2012; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 8, eff. September 1, 2013; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 41, eff. Sept. 1, 2021.

**Sec. 63.0013. FALSE STATEMENT ON DECLARATION OF REASONABLE IMPEDIMENT.** (a) A person commits an offense if the person intentionally makes a false statement or provides false information on a declaration executed under Section 63.001(i).

(b) An offense under this section is a state jail felony.

Added by S.B. 5, 85<sup>th</sup> Leg., R.S., Sec. 3, eff. January 1, 2018.

**Sec. 63.0015. ACCEPTING VOTERS WITH CERTAIN DISABILITIES.** (a) In this section, "mobility problem that substantially impairs a person's ability to ambulate" has the meaning assigned by Section 681.001, Transportation Code.

(b) An election officer shall accept a person with a mobility problem that substantially impairs a person's ability to ambulate who is offering to vote before accepting others offering to vote at the polling place who arrived before the person.

(c) Notice of the priority given to persons with a mobility problem that substantially impairs a person's ability to ambulate shall be posted:

- (1) at each entrance to a polling place where it can be read by persons waiting to vote;
- (2) on the Internet website of the secretary of state; and
- (3) on each Internet website relating to elections maintained by a county.

(d) The notice required by Subsection (c) must read: "Pursuant to Section 63.0015, Election Code, an election officer shall give voting order priority to individuals with a mobility problem that substantially impairs the person's ability to move around. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order

priority. Disabilities and conditions that may qualify you for voting order priority include paralysis, lung disease, the use of portable oxygen, cardiac deficiency, severe limitation in the ability to walk due to arthritic, neurological, or orthopedic condition, wheelchair confinement, arthritis, foot disorder, the inability to walk 200 feet without stopping to rest, or use of a brace, cane, crutch, or other assistive device."

(e) A person assisting a voter in accordance with Section 64.032(c) may be accepted to vote concurrently with a person accepted under Subsection (b) of this section at the voter's request.

(f) All procedures and accommodations available for voters with disabilities, including voting under Section 64.009, shall be posted in an accessible manner on the county clerk's Internet website.

Added by H.B. 658, 85<sup>th</sup> Leg. R.S., Sec. 1, eff. September 1, 2017. Redesignated from Section 63.0013, by H.B. 4170, 86<sup>th</sup> Leg., Sec. 21.001, eff. Sept. 1, 2019; amended by H.B. 4170, 86<sup>th</sup> Leg., Sec. 21.002, eff. Sept. 1, 2019; S.B. 477, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. June 18, 2023.

**Sec. 63.002. SIGNATURE ROSTER.** (a) A signature roster shall be maintained by an election officer at the polling place.

(b) A voter who is accepted for voting must sign the roster before the voter is permitted to vote.

(c) If the voter cannot sign the voter's name, an election officer shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster.

(d) The signature roster may be in the form of an electronic device approved by the secretary of state that is capable of capturing a voter's signature next to the voter's name on the device. The secretary of state shall adopt rules governing the processing of electronic signatures captured under this subsection.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75<sup>th</sup> Leg., ch. 864, Sec. 55, eff. Sept. 1, 1997; Acts 2013, 83<sup>rd</sup> Leg., R.S., Ch. 1000 (H.B. 2373), Sec. 1, eff. September 1, 2013.

**Sec. 63.003. POLL LIST.** (a) A poll list shall be maintained by an election officer at the polling place.

(b) The poll list shall be maintained as an original and two copies.

(c) An election officer shall enter each accepted voter's name on the list after the voter signs the signature roster. The voters' names shall be entered on the poll list in the same order in which they appear on the signature roster.

(d) The poll list may be in the form of an electronic device approved by the secretary of state. The secretary of state shall adopt rules governing the use of electronic poll lists.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by H.B. 4130, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019.

**Sec. 63.004. COMBINATION FORM.** (a) The secretary of state may prescribe forms that combine the poll list, the signature roster, or any other form used in connection with the acceptance of voters at polling places with each other or with the list of registered voters. The secretary shall prescribe any special instructions necessary for using the combination forms. The combination forms must include space for an election officer to indicate whether a voter executed a declaration of reasonable impediment under Section 63.001(i).

(b) The authority responsible for procuring the supplies for an election may furnish combination forms for use at the polling places.

(c) If a combination form is used, it shall be maintained in the number of copies specified by this code for the separate form incorporated into it for which the largest number of copies is required.

(d) An authority procuring lists of registered voters for use in an election may not require the voter registrar to furnish the lists in combination form without the registrar's consent. A registrar may not require an authority requesting the lists to accept them in combination form without the authority's consent.

(e) A combination form may be in the form of an electronic device approved by the secretary of state. The secretary of state shall adopt rules governing the minimum requirements and approval of an electronic device used for any form used in connection with the acceptance of voters at a polling place.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by S.B. 5, 85<sup>th</sup> Leg., R.S., Sec. 4, eff. Jan. 1, 2018; H.B. 4130, 86<sup>th</sup> Leg., Sec. 3, eff. Sept. 1, 2019.

**Sec. 63.005. REGISTRATION OMISSIONS LIST.** (a) A registration omissions list shall be maintained by an election officer at the polling place.

(b) With respect to each voter who is accepted for voting but whose name is not on the list of registered voters for the precinct in which the voter is accepted, the election officer shall record:

(1) the voter's name, residence address, and voter registration number, if known; and

(2) a notation of the section of this code under which the voter is accepted that provides for accepting voters

who are not on the list.

H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 42, eff. Sept. 1, 2021.

**Sec. 63.0051. CONFIRMING REGISTRATION STATUS OF VOTER.** (a) If the name of a voter who is offering to vote is not on the precinct list of registered voters, an election officer may contact the voter registrar regarding the voter's registration status.

(b) If the election officer determines the voter is a registered voter of the territory covered by the election but is offering to vote in the incorrect precinct, the election officer shall provide the correct precinct location information to the voter.

(c) Notwithstanding Section 63.009, a voter shall be accepted for voting if the voter's identity has been verified from documentation as required by Section 63.001(b) and it can be determined from the voter registrar that:

(1) the voter's registration was improperly canceled and has been reinstated under Section 16.037;

(2) an error in the voter registration record caused the voter's name to not appear on the list of registered voters, and the error has been corrected under Section 15.022; or

(3) the voter's name has been inadvertently left off the list of registered voters for the precinct.

(d) After the voter is accepted under Subsection (c), an election officer shall enter the voter's name on the registration omissions list.

(e) The voter shall be accepted for provisional voting under Section 63.011 if the election officer cannot determine that the voter is a registered voter of the territory covered by the election in which the voter is offering to vote.

H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 42, eff. Sept. 1, 2021.

**Sec. 63.006. VOTER WITH REQUIRED DOCUMENTATION WHO IS NOT ON LIST.** (a) A voter who, when offering to vote, presents the documentation required under Section 63.001(b) but whose name is not on the precinct list of registered voters shall be accepted for voting if the voter also presents a voter registration certificate indicating that the voter is currently registered:

(1) in the precinct in which the voter is offering to vote; or

(2) in a different precinct in the same county as the precinct in which the voter is offering to vote and the voter executes an affidavit stating that the voter:

(A) is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct;

(B) was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar;

(C) did not deliberately provide false information to secure registration in a precinct in which the voter does not reside; and

(D) is voting only once in the election.

(b) After the voter is accepted, an election officer shall:

(1) indicate beside the voter's name on the poll list that the voter was accepted under this section; and

(2) enter the voter's name on the registration omissions list.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 57, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 12, eff. January 1, 2012.

**Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST.** A voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for provisional voting if the voter executes an affidavit in accordance with Section 63.011.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 14, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1078, Sec. 8, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 28, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 26, eff. Jan. 1, 2004; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 13, eff. January 1, 2012.

**Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION.** (a) The following documentation is an acceptable form of photo identification under this chapter:

(1) a driver's license, election identification certificate, or personal identification card issued to the person by the Department of Public Safety that has not expired or that expired no earlier than four years before the date of presentation;

(2) a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than four years before the date of presentation;

(3) a United States citizenship certificate issued to the person that contains the person's photograph;

(4) a United States passport book or card issued to the person that has not expired or that expired no earlier than four years before the date of presentation; or

(5) a license to carry a handgun issued to the person by the Department of Public Safety that has not expired

or that expired no earlier than four years before the date of presentation.

(b) The following documentation is acceptable as proof of identification under this chapter:

(1) a government document that shows the name and address of the voter, including the voter's voter registration certificate;

(2) one of the following documents that shows the name and address of the voter:

(A) a copy of a current utility bill;

(B) a bank statement;

(C) a government check; or

(D) a paycheck; or

(3) a certified copy of a domestic birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity.

(c) A person 70 years of age or older may use a form of identification listed in Subsection (a) that has expired for the purposes of voting if the identification is otherwise valid.

(d) Pursuant to Section 63.001(c), proof of identification is presented only for the purpose of identifying a voter and not for verification of residence.

Added by Acts 1997, 75th Leg., ch. 1078, Sec. 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 30, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1315, Sec. 27, eff. Jan. 1, 2004; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 14, eff. January 1, 2012. Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 9, eff. January 1, 2016; S.B. 5, 85<sup>th</sup> Leg., R.S., Sec. 5, eff. January 1, 2018; H.B. 368, 87<sup>th</sup> Leg., R.S., Sec. 2, eff. September 1, 2021.

**Sec. 63.0102. USE OF CERTAIN ELECTRONICALLY READABLE INFORMATION.** (a) An election officer may access electronically readable information on a driver's license or personal identification card for proof of identification when determining whether a voter shall be accepted for voting.

(b) The secretary of state shall prescribe any necessary procedures to implement this section.

Added by Acts 2005, 79th Leg., Ch. 1189 (H.B. 178), Sec. 1, eff. September 1, 2005.

**Sec. 63.011. PROVISIONAL VOTING.** (a) A person to whom Section 63.001(g) or 63.009 applies may cast a provisional ballot if the person executes an affidavit stating that the person:

(1) is a registered voter in the precinct in which the person seeks to vote; and

(2) is eligible to vote in the election.

(a-1) A person to whom the early voting clerk was required to provide an early voting ballot by mail under Section 86.001 and who did not vote early by mail may cast a provisional ballot on election day if the person executes an affidavit stating that the person:

(1) is a registered voter in the precinct in which the person seeks to vote; and

(2) did not vote early by mail.

(b) A form for an affidavit required by this section must be printed on an envelope in which the provisional ballot voted by the person may be placed and must include:

(1) a space for entering the identification number of the provisional ballot voted by the person; and

(2) a space for an election officer to indicate whether the person presented a form of identification described by Section 63.0101.

(b-1) The affidavit form may include space for disclosure of any necessary information to enable the person to register to vote under Chapter 13. The secretary of state shall prescribe the form of the affidavit under this section.

(c) After executing the affidavit, the person shall be given a provisional ballot for the election. An election officer shall record the number of the ballot on the space provided on the affidavit.

(d) An election officer shall enter "provisional vote" on the poll list beside the name of each voter who is accepted for voting under this section.

(e) A person who is permitted under a state or federal court order to cast a ballot in an election for a federal office after the time allowed by Subchapter B, Chapter 41, must cast the ballot as a provisional vote in the manner required by this section.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 28, eff. Jan. 1, 2004. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1078 (H.B. 2823), Sec. 1, eff. September 1, 2007; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 15, eff. January 1, 2012; Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 9, eff. January 1, 2012.

**Sec. 63.0111. OFFENSES RELATED TO PROVISIONAL VOTING.** (a) An election judge commits an offense if the judge knowingly provides a voter with a form for an affidavit required by Section 63.001 if the form contains information that the judge entered on the form knowing it was false.

(b) An offense under this section is a state jail felony.



Added by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 7.01, eff. Dec. 2, 2021.

**Sec. 63.012. UNLAWFULLY ACCEPTING OR REFUSING TO ACCEPT VOTER.** (a) An election officer commits an offense if the officer knowingly:

- (1) permits an ineligible voter to vote other than as provided by Section 63.011; or
- (2) refuses to accept a person for voting whose acceptance is required by this code.

(b) An offense under this section is a Class A misdemeanor.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78<sup>th</sup> Leg., ch. 1315, Sec. 29, eff. Jan. 1, 2004. Amended by: S.B. 5, 85<sup>th</sup> Leg., R.S., Sec. 6, eff. January 1, 2018.

## **CHAPTER 64. VOTING PROCEDURES**

### **SUBCHAPTER A. VOTING GENERALLY**

**Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT.** (a) After a voter is accepted for voting, the voter shall select a ballot, go to a voting station, and prepare the ballot.

(b) A voter who executes an affidavit in accordance with Section 63.011 shall select a provisional ballot  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 11, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 30, eff. Jan. 1, 2004.

**Sec. 64.002. OCCUPANCY OF VOTING STATION.** (a) Except as otherwise provided by this code, only one person at a time may occupy a voting station.

(b) A child under 18 years of age may accompany the child's parent to a voting station.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 16, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 61, eff. Sept. 1, 1997.

**Sec. 64.003. MARKING THE BALLOT FOR CANDIDATE ON BALLOT.** A vote for a particular candidate whose name is on the ballot must be indicated by placing an "X" or other mark that clearly shows the voter's intent in the square beside the name of the candidate for whom the voter desires to vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 64.005. MARKING THE BALLOT FOR WRITE-IN CANDIDATE.** In an election in which write-in voting is permitted, a vote for a candidate who is not on the ballot must be indicated by writing the candidate's name in the appropriate place provided on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 64.006. MARKING THE BALLOT FOR MEASURE.** A vote on a particular measure must be indicated by placing an "X" or other mark that clearly shows the voter's intent in the appropriate square that is beside the proposition and that indicates the way the voter desires to vote on the measure.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 64.007. SPOILED BALLOT.** (a) If a voter mismarks, damages, or otherwise spoils the ballot in the process of voting, the voter is entitled to receive a new ballot by returning the spoiled ballot to an election officer.

(b) A voter is not entitled to receive more than three ballots.

(c) An election officer shall maintain a register of spoiled ballots at the polling place. An election officer shall enter on the register the name of each voter who returns a spoiled ballot and the spoiled ballot's number. The secretary of state shall create and promulgate a form to be used for this purpose.

(d) After making the appropriate entry on the register, the election officer shall deposit the spoiled ballot in ballot box no. 4.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Amended by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 3.07, eff. Dec. 2, 2021.

**Sec. 64.008. DEPOSITING BALLOT.** (a) Except as provided by Subsection (b), after a voter has marked the ballot, the voter shall fold the ballot to conceal the way it is marked but to expose the presiding judge's signature, and shall deposit it in the ballot box used for the deposit of marked ballots.

(b) After a voter has marked a provisional ballot, the voter shall enclose the ballot in the envelope on which the voter's executed affidavit is printed. The person shall seal the envelope and deposit it in a box available for the deposit of provisional ballots.

(c) At the time a person casts a provisional ballot under Subsection (b), an election officer shall give the person written information describing how the person may use the free access system established under Section 65.059 to obtain information on the disposition of the person's vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1315, Sec. 31, eff. Jan. 1, 2004.

**Sec. 64.009. VOTER UNABLE TO ENTER POLLING PLACE.** (a) If a voter is physically unable to enter the polling place without personal assistance or likelihood of injuring the voter's health, on the voter's request, an election officer shall deliver a ballot to the voter at the polling place entrance or curb.

(a-1) At each polling place an area for parking not smaller than the size of one parking space shall be reserved for voting under this section. The area may not be designated specifically for persons with disabilities. The area must be clearly marked with a sign:

(1) indicating that the space is reserved for use by a voter who is unable to enter the polling place; and

(2) displaying, in large font that is clearly readable from a vehicle, a telephone number that a voter may call or text to request assistance from an election officer at the polling place.

(a-2) As an alternative to displaying a telephone number under Subsection (a-1)(2), a parking space may comply with the requirements of this section by providing the voter with a button or intercom that the voter may use to request assistance from an election officer.

(b) The regular voting procedures, except those in Subchapter B, may be modified by the election officer to the extent necessary to conduct voting under this section.

(c) After the voter is accepted for voting, the voter shall mark the ballot and give it to the election officer who shall deposit it in the ballot box.

(d) On the voter's request, a person accompanying the voter shall be permitted to select the voter's ballot and deposit the ballot in the ballot box.

(e) Except as provided by Section 33.057, a poll watcher is entitled to observe any activity conducted under this section.

(f) A person who simultaneously assists seven or more voters voting under this section by providing the voters with transportation to the polling place must complete and sign a form, provided by an election officer, that contains the person's name and address and whether the person is providing assistance solely under this section or under both this section and Subchapter B.

(f-1) Subsection (f) does not apply if the person is related to each voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code.

(g) A form completed under Subsection (f) shall be delivered to the secretary of state as soon as practicable. The secretary shall retain a form delivered under this section for the period for preserving the precinct election records and shall make the form available to the attorney general for inspection upon request.

(h) The secretary of state shall prescribe the form described by Subsection (f).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 62, eff. Sept. 1, 1997; S.B. 1, 87th Leg., 2nd C.S., Sec. 6.01, eff. Dec. 2, 2021; S.B. 477, 88th Leg., R.S., Sec. 2, eff. June 18, 2023.

**Sec. 64.010. UNLAWFULLY PERMITTING OR PREVENTING DEPOSIT OF BALLOT.** (a) An election officer commits an offense if the officer:

(1) permits a person to deposit in the ballot box a ballot that the officer knows was not provided at the polling place to the voter who is depositing the ballot or for whom the deposit is made; or

(2) prevents the deposit in the ballot box of a marked and properly folded ballot that was provided at the polling place to the voter who is depositing it or for whom the deposit is attempted.

(b) An offense under this section is a Class B misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 64.011. UNLAWFULLY DEPOSITING BALLOT.** (a) A person commits an offense if the person deposits or attempts to deposit in a ballot box a ballot that was not provided to the person who is depositing the ballot or for whom the deposit is made or attempted.

(b) An offense under this section is a Class A misdemeanor unless the person is convicted of an attempt. In that case, the offense is a Class B misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 64.012. ILLEGAL VOTING.** (a) A person commits an offense if the person knowingly or intentionally:

(1) votes or attempts to vote in an election in which the person knows the person is not eligible to vote;

(2) votes or attempts to vote more than once in an election;

(3) votes or attempts to vote a ballot belonging to another person, or by impersonating another person;

(4) marks or attempts to mark any portion of another person's ballot without the consent of that person, or without specific direction from that person how to mark the ballot; or

(5) votes or attempts to vote in an election in this state after voting in another state in an election in which a federal office appears on the ballot and the election day for both states is the same day.

(b) An offense under this section is a felony of the second degree unless the person is convicted of an attempt, in

which event it is a state jail felony.

(c) A person may not be convicted solely upon the fact that the person signed a provisional ballot affidavit under Section 63.011 unless corroborated by other evidence that the person knowingly committed the offense.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 63, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 393, Sec. 3, eff. Sept. 1, 2003; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 16, eff. January 1, 2012.S.B. 5, 85<sup>th</sup> Leg., First Called Session, Sec. 1, eff. December 1, 2017; Added by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 9.03, eff. Dec. 2, 2021; H.B. 1243, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

## SUBCHAPTER B. ASSISTING VOTER

**Sec. 64.031. ELIGIBILITY FOR ASSISTANCE.** A voter is eligible to receive assistance in marking or reading the ballot, as provided by this subchapter, if the voter cannot prepare or read the ballot because of:

- (1) a physical disability that renders the voter unable to write or see; or
- (2) an inability to read the language in which the ballot is written.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: S.B. 1, 87th Leg., 2nd C.S., Sec. 6.02, eff. Dec. 2, 2021.

**Sec. 64.032. PERSONS PROVIDING ASSISTANCE.** (a) Except as provided by Subsection (c), on a voter's request for assistance in marking the ballot, two election officers shall provide the assistance.

(b) If a voter is assisted by election officers in the general election for state and county officers, each officer must be aligned with a different political party unless there are not two or more election officers serving the polling place who are aligned with different parties.

(c) On the voter's request, the voter may be assisted by any person selected by the voter other than the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs.

(d) If assistance is provided by a person of the voter's choice, an election officer shall enter the person's name and address on the poll list beside the voter's name.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 64.0321. DEFINITION.** For purposes of this subchapter and Sections 85.035 and 86.010, assisting a voter includes the following conduct by a person other than the voter that occurs while the person is in the presence of the voter's ballot or carrier envelope:

- (1) reading the ballot to the voter;
- (2) directing the voter to read the ballot;
- (3) marking the voter's ballot; or
- (4) directing the voter to mark the ballot.

Added by Acts 2003, 78th Leg., ch. 393, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 640, Sec. 1, eff. June 20, 2003.

**Sec. 64.0322. SUBMISSION OF FORM BY ASSISTANT.** (a) A person, other than an election officer, who assists a voter in accordance with this chapter is required to complete a form stating:

- (1) the name and address of the person assisting the voter;
- (2) the relationship to the voter of the person assisting the voter; and
- (3) whether the person assisting the voter received or accepted any form of compensation or other benefit from a candidate, campaign, or political committee.

(b) The secretary of state shall prescribe the form required by this section. The form must be incorporated into the official carrier envelope if the voter is voting an early voting ballot by mail and receives assistance under Section 86.010, or must be submitted to an election officer at the time the voter casts a ballot if the voter is voting at a polling place or under Section 64.009.

Added by: S.B. 1, 87th Leg., 2nd C.S., Sec. 6.03, eff. Dec. 2, 2021.

**Sec. 64.033. READING BALLOT TO VOTER.** (a) If a voter is assisted by election officers, one of them shall read the entire ballot to the voter unless the voter tells the officer that the voter desires to vote only on certain offices or measures. In that case, the officer shall read those items on the ballot specified by the voter.

(b) If a voter is assisted by a person of the voter's choice, an election officer shall ask the voter being assisted whether the voter wants the entire ballot read to the voter. If so, the officer shall instruct the person assisting the voter to read the entire ballot to the voter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 64, eff. Sept. 1, 1997.

**Sec. 64.034. OATH.** A person, other than an election officer, selected to provide assistance to a voter must take the following oath, administered by an election officer at the polling place, before providing assistance:

"I swear (or affirm) under penalty of perjury that the voter I am assisting represented to me they are eligible to receive assistance; I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to reading the ballot to the voter, directing the voter to read the ballot, marking the voter's ballot, or directing the voter to mark the ballot; I will prepare the voter's ballot as the voter directs; I did not pressure or coerce the voter into choosing me to provide assistance; I am not the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs; I will not communicate information about how the voter has voted to another person; and I understand that if assistance is provided to a voter who is not eligible for assistance, the voter's ballot may not be counted."

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 358 (H.B. 2475), Sec. 1, eff. September 1, 2013; S.B. 1, 87th Leg., 2nd C.S., Sec. 6.04, eff. Dec. 2, 2021.

**Sec. 64.035. DEPOSITING BALLOT.** After assistance has been provided in marking a ballot, the ballot shall be folded and deposited in the ballot box by the voter or, on the voter's request, by the person assisting the voter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 64.036. UNLAWFUL ASSISTANCE.** (a) A person commits an offense if the person knowingly:

- (1) provides assistance to a voter who is not eligible for assistance;
  - (2) while assisting a voter prepares the voter's ballot in a way other than the way the voter directs or without direction from the voter;
  - (3) while assisting a voter suggests by word, sign, or gesture how the voter should vote; or
  - (4) provides assistance to a voter who has not requested assistance or selected the person to assist the voter.
- (b) A person commits an offense if the person knowingly assists a voter in violation of Section 64.032(c).
- (c) An election officer commits an offense if the officer knowingly permits a person to provide assistance:
- (1) to a voter who is not eligible for assistance; or
  - (2) in violation of Section 64.032(c).
- (d) An offense under this section is a Class A misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 393, Sec. 5, eff. Sept. 1, 2003.

**Sec. 64.037. UNAUTHORIZED ASSISTANCE VOIDS BALLOT.** If assistance is provided to a voter who is not eligible for assistance, the voter's ballot may not be counted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## CHAPTER 65. COUNTING VOTES AND PREPARING RETURNS

### SUBCHAPTER A. COUNTING VOTES GENERALLY

**Sec. 65.001. COUNTING OFFICERS.** At each polling place, the ballots shall be counted by one or more teams of election officers assigned by the presiding judge. Each team must consist of two or more election officers.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 65.002. TIME FOR COUNTING.** (a) Subject to Subsection (b), the presiding judge may direct the counting of ballots to occur at any time after the polls have been open for one hour.

(b) While the polls are open and until voting is concluded after the polls close, the ballot box for the deposit of voters' marked ballots may not be opened for the purpose of counting the ballots unless there are at least 10 ballots in the box.

(c) After the polls close or the last voter has voted, whichever is later, the counting of ballots shall be conducted continuously until all the ballots are counted.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1235, Sec. 26(5), eff. September 1, 2009.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 26(5), eff. September 1, 2009.

**Sec. 65.003. ROTATING BALLOT BOXES NO. 1 AND NO. 2.** (a) If the counting of the ballots is to begin before voting is concluded, ballot box no. 1 and ballot box no. 2 shall be used on a rotating basis at the polling place.

(b) When either ballot box no. 1 or no. 2 containing marked ballots is delivered to the election officers counting the ballots, the other box shall be immediately made available for the deposit of marked ballots.

(c) Before the ballot box is positioned for the receipt of marked ballots, an election officer shall examine it, remove its contents, and lock the box.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 65.004. TALLY LISTS.** Three original tally lists shall be maintained at the polling place to record the number of votes received for the candidates and for and against the measures voted on.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 65.005. TALLYING THE VOTES.** (a) One member of the counting team shall examine each ballot and clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The other members of the counting team shall record the votes on the tally lists as they are announced.

(b) The counting team shall compare the tally lists periodically to determine whether discrepancies exist among them. If a discrepancy is discovered, the ballots shall be recounted and the necessary corrections shall be made on the lists.

(c) On completing the count, each member of the counting team assigned to tally votes shall compute the total number of votes tallied on the list the member has kept and enter the totals on the tally list. After verifying that the three lists are in agreement, each counting officer shall sign the list that the officer has kept.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 12, eff. Sept. 1, 1997.

**Sec. 65.006. REPLACING MEMBER OF COUNTING TEAM.** (a) A member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made.

(b) If a counting officer is replaced on a counting team after the tallying is begun, the officer to be replaced shall certify the accuracy of the list the officer has kept, as of the time of the replacement, by signing the list at that time.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 65.008. TALLYING WRITE-IN VOTES.** (a) In an election in which write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate shall be tallied in the same manner as votes for a candidate whose name appears on the ballot.

(b) A write-in vote may not be counted if a sticker containing a candidate's name is affixed to the ballot by the voter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 65.009. COUNTING IRREGULARLY MARKED BALLOT.** (a) Failure to mark a ballot in strict conformity with this code does not invalidate the ballot.

(b) Marking the ballot by marking through the names of candidates for whom or the statements beside the propositions for which the voter does not desire to vote does not invalidate the ballot.

(c) A vote on an office or measure shall be counted if the voter's intent is clearly ascertainable unless other law prohibits counting the vote.

(d) The intent of the voter in marking a ballot may be determined by:

(1) a distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;

(2) an oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;

(3) a line drawn through:

(A) the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;

(B) the name of each political party except one in a manner that clearly indicates a preference for the political party not marked; or

(C) a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or

(4) any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 2003, 78th Leg., ch. 1315, Sec. 33, eff. Jan. 1, 2004.

**Sec. 65.010. BALLOTS NOT COUNTED.** (a) The following ballots may not be counted:

(1) a ballot that is not provided to the voter at the polling place;

(2) two or more ballots that are folded together in a manner indicating that they were folded together when deposited in the ballot box;

(3) a write-in envelope containing a write-in vote without an attached ballot;

(4) a ballot that has not been deposited in the ballot box used for the deposit of marked ballots; or

(5) a provisional ballot that is not accepted under Subchapter B.

(b) If a ballot is unnumbered or the signature of the presiding judge does not appear on the back of a ballot, the presiding judge shall examine it to determine whether the ballot is not to be counted under Subsection (a)(1).

(c) If a ballot is not counted, an election officer shall indicate on the back of the ballot the reason for not counting it.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 18, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1078, Sec. 13, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 34, eff. Jan. 1, 2004.

**Sec. 65.011. OVERVOTING.** If a voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, none of the votes may be counted for that office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 19, eff. Sept. 1, 1993; H.B. 25, 85th Leg., R.S., Sec. 4, eff. Sept. 1, 2020.

**Sec. 65.012. DEPOSITING BALLOT IN BALLOT BOX NO. 3.** (a) After a ballot is counted, it shall be deposited in ballot box no. 3.

(b) A voted ballot that is not counted shall also be deposited in ballot box no. 3.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 65.013. BALLOT REGISTER.** (a) Each presiding judge shall prepare a ballot register as provided by this section.

(b) The register must state:

(1) the total number of ballots received for conducting voting at the polling place;

(2) the number of defectively printed ballots received;

(3) the number of ballots provided to voters as indicated by the number of voters on the poll list;

(4) the number of spoiled ballots returned by voters; and

(5) the number of unused ballots that are not accounted for as defectively printed ballots.

(c) The ballot register shall be prepared as an original and one copy, and on completing the register, the presiding

judge shall sign each one to certify its accuracy.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 65.014. PREPARING THE PRECINCT RETURNS.** (a) On completion of the vote count, the presiding judge shall prepare the returns of the election for the precinct.

(b) The returns must state:

- (1) the total number of voters who voted at the polling place as indicated by the poll list; and
- (2) the total number of votes counted for each candidate and for and against each measure.

(c) The returns shall be prepared as an original and three copies, and on completing the returns, the presiding judge shall sign each one to certify its accuracy.

(d) A presiding judge commits an offense if the judge knowingly fails:

- (1) to include in the precinct returns the applicable information required by this code; or
- (2) to complete the returns in time for them to be delivered by the deadline prescribed by Section 66.053(c) for delivery of the precinct election records.

(e) An offense under Subsection (d) is a Class B misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 65.015. ANNOUNCING PARTIAL RESULTS.** (a) Subject to Subsection (b), after the polls close and the last voter has voted, the presiding judge may announce the status of the vote count from time to time.

(b) The local canvassing authority may require the announcements or prohibit them.

(c) The announcements shall be made at the entrance to the polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 65.016. INTERNET POSTING OF ELECTION RESULTS.** (a) A county that holds or provides election services for an election and maintains an Internet website shall post on its public Internet website for an election of public officials or of a governmental entity authorized by law to impose a tax administered by the county:

- (1) the results of each election;
- (2) the total number of votes cast;
- (3) the total number of votes cast for each candidate or for or against each measure;
- (4) the total number of votes cast by personal appearance on election day;
- (5) the total number of votes cast by personal appearance or mail during the early voting period; and
- (6) the total number of counted and uncounted provisional ballots cast.

(b) A city or independent school district that holds an election and maintains an Internet website shall post on its public Internet website for the city or independent school district, as applicable:

- (1) the results of each election;
- (2) the total number of votes cast;
- (3) the total number of votes cast for each candidate or for or against each measure;
- (4) the total number of votes cast by personal appearance on election day;
- (5) the total number of votes cast by personal appearance or mail during the early voting period; and
- (6) the total number of counted and uncounted provisional ballots cast.

(c) The information described by Subsections (a) and (b) must be:

- (1) posted as soon as practicable after the election;

and

(2) accessible without having to make more than two selections or view more than two network locations after accessing the Internet website home page of the county, city, or district, as applicable.

S.B. 1116, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2021.

**Sec. 65.017. VIDEO RECORDING OF BALLOT COUNTING AND PROCESSING.** (a) Except as provided by Subsection (d), the secretary of state shall establish a pilot program requiring a county to use a video recording device to record:

(1) all areas containing voted ballots in:

(A) each central counting station in the manner required by Section 127.1232; or

(B) if the county has not established a central counting station, not less than 20 percent of precinct in the county; and

(2) ballot counting activity performed by the early voting ballot board after the polls close on election day, including the processing of:



- (A) early voting ballots voted by mail;
  - (B) early voting ballots voted by mail that have had a defect corrected under Section 87.0411; and
  - (C) provisional ballots.
- (b) The secretary of state shall select six counties to take part in the pilot program, including:
- (1) two counties with a population of more than 100,000 and not more than 500,000;
  - (2) two counties with a population of not less than 50,000 and not more than 100,000; and
  - (3) two counties with a population of not more than 5,000.
- (c) The secretary of state shall adopt procedures to implement this section, including procedures to determine which counties may participate in the pilot program under this section.
- (d) The procedures adopted under Subsection (c) may not violate the requirements of Section 61.014.
- (e) The secretary of state shall operate the pilot program established under this section until January 1, 2025.
- (f) Not later than January 1, 2025, the secretary of state shall file a report with the legislature. The report must state:
- (1) which counties participated in the pilot program;
  - (2) the number of precincts and central counting stations that recorded video;
  - (3) any best practices for placement and use of the video recording devices, including:
    - (A) best angles for visibility;
    - (B) best distance between device and counting station; and
    - (C) best devices for clarity;
  - (4) the cost and availability of broadband Internet connectivity required to implement the program; and
  - (5) any other information and recommendations considered necessary by the secretary of state.
- (g) This section expires January 1, 2025.

H.B. 246, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

## SUBCHAPTER B. VERIFICATION AND COUNTING OF PROVISIONAL BALLOTS

**Sec. 65.051. DUTY OF EARLY VOTING BALLOT BOARD.** (a) The early voting ballot board shall verify and count provisional ballots as provided by this subchapter not later than the ninth day after the date of an election.

(a-1) Notwithstanding Subsection (a), for an election held on the date of the general election for state and county officers, the early voting ballot board shall verify and count provisional ballots as provided by this subchapter not later than the 13th day after the date of the election.

(b) Except as provided by this subchapter, the conduct of the board is governed by the same procedures as are provided by Chapter 87.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 35, eff. Jan. 1, 2004. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 7, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 891 (H.B. 985), Sec. 1, eff. September 1, 2013; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 5, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 31, eff. September 1, 2015.

**Sec. 65.052. DUTY OF VOTER REGISTRAR.** The secretary of state shall prescribe procedures by which the voter registrar of the county in which a provisional ballot is cast shall provide assistance to the early voting ballot board in executing its authority under this subchapter. In an election described by Section 65.051(a-1), the procedures must allow for 10 calendar days for the voter registrar to review a provisional voter's eligibility.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 35, eff. Jan. 1, 2004. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 891 (H.B. 985), Sec. 2, eff. September 1, 2013; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 43, eff. Sept. 1, 2021.

**Sec. 65.053. DELIVERY OF PROVISIONAL BALLOTS.** The presiding judge of an election precinct shall deliver in person to the general custodian of election records the box containing each envelope containing a provisional ballot that was cast in the precinct. The secretary of state shall prescribe procedures by which the early voting ballot board may have access to the provisional ballots as necessary to implement this subchapter.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 35, eff. Jan. 1, 2004.

**Sec. 65.054. ACCEPTING PROVISIONAL BALLOT.** (a) The early voting ballot board shall examine each affidavit executed under Section 63.011 and determine whether to accept the provisional ballot of the voter who executed the affidavit.

(b) A provisional ballot shall be accepted if the board determines that:

- (1) from the information in the affidavit or contained in public records, the person is eligible to vote in the election and has not previously voted in that election;
- (2) the person:

(A) meets the identification requirements of Section 63.001(b) at the time the ballot was cast or in the period prescribed under Section 65.0541;

(B) notwithstanding Chapter 110, Civil Practice and Remedies Code, executes an affidavit under penalty of perjury that states the voter has a religious objection to being photographed and the voter has consistently refused to be photographed for any governmental purpose from the time the voter has held this belief; or

(C) executes an affidavit under penalty of perjury that states the voter does not have any identification meeting the requirements of Section 63.001(b) as a result of a natural disaster that was declared by the president of the United States or the governor, occurred not earlier than 45 days before the date the ballot was cast, and caused the destruction of or inability to access the voter's identification; and

(3) the voter has not been challenged and voted a provisional ballot solely because the voter did not meet the requirements for identification prescribed by Section 63.001(b).

(c) If a provisional ballot is accepted, the board shall enter the voter's name on a list of voters whose provisional ballots are accepted.

(d) If a provisional ballot is rejected, the board shall indicate the rejection by marking "rejected" on the envelope containing the provisional ballot.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 35, eff. Jan. 1, 2004. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1078 (H.B. 2823), Sec. 2, eff. September 1, 2007; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 17, eff. January 1, 2012.

**Sec. 65.0541. PRESENTATION OF IDENTIFICATION FOR CERTAIN PROVISIONAL BALLOTS.** (a) A voter who is accepted for provisional voting under Section 63.011 because the voter does not meet the identification requirements of Section 63.001(b) may, not later than the sixth day after the date of the election:

(1) present a form of identification described by Section 63.0101 to the voter registrar for examination; or

(2) execute an affidavit described by Section 65.054(b)(2)(B) or (C) in the presence of the voter registrar.

(b) The secretary of state shall prescribe procedures as necessary to implement this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 18, eff. January 1, 2012.

**Sec. 65.055. DISPOSITION OF ACCEPTED PROVISIONAL BALLOT AND AFFIDAVIT.** (a) The early voting ballot board shall open each envelope containing an accepted provisional ballot without defacing the affidavit located on the outside of the envelope and shall remove the ballot.

(b) The board shall place the ballot in a ballot box containing all the provisional ballots accepted for voting in the election.

(c) For each accepted provisional ballot, the board shall place the corresponding envelope on which is printed the voter's affidavit executed under Section 63.011 in a sealed envelope and shall deliver the envelope to the general custodian of election records, to be retained for the period for preserving precinct election returns.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 35, eff. Jan. 1, 2004.

**Sec. 65.056. DISPOSITION OF REJECTED PROVISIONAL BALLOT.** (a) If the affidavit on the envelope of a rejected provisional ballot contains the information necessary to enable the person to register to vote under Chapter 13, the voter registrar shall make a copy of the affidavit under procedures prescribed by the secretary of state. The voter registrar shall treat the copy as an application for registration under Chapter 13.

(b) The early voting ballot board shall place the envelopes containing rejected provisional ballots in an envelope and shall seal the envelope. More than one envelope may be used if necessary.

(c) The envelope for the rejected provisional ballots must indicate the date and identity of the election, be labeled "rejected provisional ballots," and be signed by the board's presiding judge.

(d) A board member shall deliver the envelope containing the rejected provisional ballots to the general custodian of election records to be preserved for the period for preserving the precinct election records. The envelope may not be placed in the box containing the accepted provisional ballots.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 35, eff. Jan. 1, 2004.

**Sec. 65.057. PROCESSING ACCEPTED PROVISIONAL BALLOTS.** (a) The early voting ballot board shall count accepted provisional ballots as follows:

(1) for ballots to be counted manually, in the manner provided by Subchapter D, Chapter 87;

(2) for ballots to be counted by automatic tabulating equipment at a central counting station, in the manner provided by Subchapter F, Chapter 87; and

(3) for ballots to be counted by any other means, in the manner provided by rules adopted by the secretary of state.

(b) On counting the ballots under this section, the board shall report the results to the local canvassing authority for the election.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 35, eff. Jan. 1, 2004.

**Sec. 65.058. PRESERVATION OF PROVISIONAL VOTING RECORDS GENERALLY.** The returns of provisional ballots that are accepted, the accepted ballots, and other provisional voting records shall be preserved after the election in the same manner as the corresponding precinct election returns.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 35, eff. Jan. 1, 2004.

**Sec. 65.0581. PUBLIC INSPECTION OF PROVISION VOTING RECORDS.** Provisional voting records are not available for public inspection until the first business day after the date the early voting ballot board completes the verification and counting of provisional ballots under Section 65.051 and delivers the provisional ballots and other provisional voting records to the general custodian of election records..

Added by H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 44, eff. Sept. 1, 2021.

**Sec. 65.059. NOTICE TO PROVISIONAL VOTER.** The secretary of state shall prescribe procedures to implement a system to allow a person who casts a provisional ballot under Section 63.011 to obtain access free of charge to information on the disposition of the person's ballot. The system:

(1) must allow the person to determine whether the person's ballot was counted, and, if the person's ballot was not accepted, must indicate the reason why;

(2) must provide the information only to the person who cast the provisional ballot; and

(3) may involve the use of a toll-free telephone number or the Internet.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 35, eff. Jan. 1, 2004.

**Sec. 65.060. DISCLOSURE OF SOCIAL SECURITY, DRIVER'S LICENSE, OR PERSONAL IDENTIFICATION NUMBER ON PROVISIONAL BALLOT AFFIDAVIT.** A social security number, Texas driver's license number, or number of a personal identification card issued by the Department of Public Safety furnished on a provisional ballot affidavit is confidential and does not constitute public information for purposes of Chapter 552, Government Code. The general custodian of election records shall ensure that a social security number, Texas driver's license number, or number of a personal identification card issued by the Department of Public Safety is excluded from disclosure.

Added by Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.13, eff. September 1, 2005.

## **CHAPTER 66. DISPOSITION OF RECORDS AND SUPPLIES AFTER ELECTION**

### **SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 66.001. GENERAL CUSTODIAN OF ELECTION RECORDS.** The general custodian of election records is:

- (1) the county clerk of each county wholly or partly situated in the territory covered by the election, for an election ordered by the governor or by a county authority or for a primary election;
- (2) the city secretary, for an election ordered by a city authority; and
- (3) the secretary of the political subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer, for an election ordered by an authority of a political subdivision other than a county or city.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 66.002. PRECINCT ELECTION RECORDS.** In this chapter, "precinct election records" means the precinct election returns, voted ballots, and other records of an election that are assembled and distributed under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 66.0021. ELECTION DAY VOTE TOTAL FOR CERTAIN ELECTIONS.** (a) This section applies only to a primary election or the general election for state and county officers.

(b) The general custodian of election records for a primary election or the general election for state and county officers shall maintain a list that states the total number of votes cast in each precinct by personal appearance on election day that is available for public inspection not later than the day after election day.

(c) Each vote total shall be maintained in a downloadable format approved by the secretary of state and posted on the Internet website of the secretary of state.

(d) The secretary of state shall create a system for an early voting clerk for a primary election or the general election for state and county officers to provide the information to the secretary of state for posting on the secretary of state's Internet website under Subsection (c).

Added by S.B. 902, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019.

**Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS.** (a) Four envelopes shall be furnished to each polling place for use in assembling and distributing the precinct election records.

(b) The envelopes shall be labeled and addressed as follows:

- (1) "Envelope No. 1," addressed to the presiding officer of the local canvassing authority;
- (2) "Envelope No. 2," addressed to the general custodian of election records;
- (3) "Envelope No. 3," addressed to the presiding judge; and
- (4) "Envelope No. 4," addressed to the voter registrar.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1078, Sec. 14, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 36, eff. Jan. 1, 2004.

**Sec. 66.004. POLLING PLACE CHECKLISTS.** The secretary of state shall adopt rules and create a checklist or similar guidelines to assist the presiding judge of a polling place in processing forms and conducting procedures required by this code at the opening and closing of the polling place.

Added by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 3.08, eff. Dec. 2, 2021.

### **SUBCHAPTER B. ASSEMBLING RECORDS FOR DISTRIBUTION**

**Sec. 66.021. ASSEMBLING ELECTION RECORDS.** (a) On completing the election returns for the precinct, the presiding judge shall assemble the precinct election records and place them in the appropriate envelopes and ballot boxes for distribution.

(b) The judge shall seal envelopes no. 1, no. 2, and no. 4 and lock ballot boxes no. 3 and no. 4 as soon as they are ready for distribution.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1078, Sec. 15, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 37, eff. Jan. 1, 2004.

**Sec. 66.022. CONTENTS OF ENVELOPE NO. 1.** Envelope no. 1 must contain:

- (1) the original of the election returns for the precinct; and

(2) a tally list.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 66.023. CONTENTS OF ENVELOPE NO. 2.** Envelope no. 2 must contain:

- (1) a copy of the precinct returns;
- (2) a tally list;
- (3) the original of the poll list;
- (4) the signature roster;
- (5) the precinct early voting list;
- (6) any affidavits completed at the polling place except affidavits required to be placed in envelope no. 4; and
- (7) any certificates of appointment of watchers.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.50; Acts 1991, 72nd Leg., ch. 554, Sec. 21, eff. Sept. 1, 1991.

**Sec. 66.024. CONTENTS OF ENVELOPE NO. 3.** Envelope no. 3 must contain:

- (1) a copy of the precinct returns;
- (2) a copy of the poll list; and
- (3) a copy of the ballot register.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4.** Envelope no. 4 must contain:

- (1) the precinct list of registered voters;
- (2) the registration correction list;
- (3) any statements of residence executed under Section 63.0011; and
- (4) any affidavits executed under Section 63.006 or 63.011.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 24, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 40, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1315, Sec. 38, eff. Jan. 1, 2004; Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 19, eff. January 1, 2012; Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 10, eff. January 1, 2012. Reenacted by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 5.006, eff. September 1, 2013.

**Sec. 66.025. CONTENTS OF BALLOT BOX NO. 3.** (a) Ballot box no. 3 must contain:

- (1) the voted ballots;
- (2) a copy of the precinct returns;
- (3) a tally list; and
- (4) a copy of the poll list.

(b) The copy of the poll list may be placed in a container other than ballot box no. 3 on approval by the secretary of state if the secretary determines that placement in the other container is more suitable for a particular election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 18, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 500, Sec. 1, eff. Sept. 1, 1987.

**Sec. 66.026. CONTENTS OF BALLOT BOX NO. 4.** Ballot box no. 4 must contain:

- (1) the original of the ballot register;
- (2) the register of spoiled ballots;
- (3) any spoiled ballots;
- (4) any ballot to be voted by mail returned at the polling place;
- (5) any defectively printed ballots;
- (6) any envelope containing cancellation requests and canceled ballots; and
- (7) any other unused ballots.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 20, eff. Sept. 1, 1993; S.B. 1599, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1., 2023.

## **SUBCHAPTER C. DISPOSITION OF RECORDS AND SUPPLIES**

**Sec. 66.051. DISTRIBUTION OF ELECTION RECORDS.** (a) The presiding judge shall deliver envelope no. 1 in person to the presiding officer of the local canvassing authority. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records who shall then deliver it to the local canvassing

authority before the time set for convening the local canvass.

(b) The presiding judge shall deliver envelope no. 2, ballot box no. 3, and ballot box no. 4 and its key in person to the general custodian of election records.

(c) The presiding judge shall retain envelope no. 3.

(d) The presiding judge shall deliver envelope no. 4 in person to the voter registrar. If the voter registrar is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the voter registrar on the next regular business day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 21, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1078, Sec. 17, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 39, eff. Jan. 1, 2004.

**Sec. 66.052. DELIVERY BY ELECTION CLERK.** A delivery of election records or supplies that is to be performed by the presiding judge may be performed by an election clerk designated by the presiding judge.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 66.053. TIME FOR DELIVERING ELECTION RECORDS.** (a) The precinct election records shall be delivered to the appropriate authorities immediately after the precinct returns are completed.

(b) If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2 a.m. of the day after election day, the presiding judge, between midnight of election day and 1 a.m. of the following day, shall notify the general custodian of election records by telephone of:

- (1) the total number of voters who voted at the polling place as indicated by the poll list;
- (2) the vote totals tallied for each candidate and for and against each measure at the time of notification; and
- (3) the expected time of finishing the count.

(c) The precinct election records shall be delivered not later than 24 hours after the polls close in each election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 66.054. FAILURE TO DELIVER ELECTION RETURNS AND VOTED BALLOTS.** (a) An election officer responsible for delivering precinct election returns or voted ballots commits an offense if the officer:

- (1) fails to make the delivery to the appropriate authority;
- (2) fails to make the delivery by the deadline prescribed by Section 66.053(c); or
- (3) fails to prevent another person from handling in an unauthorized manner the returns or voted ballots that the officer is responsible for delivering while they are in the officer's custody.

(b) If the officer is an election clerk, it is an exception to the application of Subsection (a)(2) that the election clerk did not receive the returns from the presiding judge in time to permit a timely delivery.

(c) An offense under this section is a Class B misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 66.055. JUDICIAL IMPOUNDMENT OF ELECTION RECORDS.** (a) If the precinct election records are not delivered by the deadline prescribed by Section 66.053(c), on application by a member of the canvassing authority, a district judge shall order the precinct election records to be impounded.

(b) The district judge shall supervise the activities necessary to complete the count, prepare the precinct returns, and distribute the records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 66.056. UNOFFICIAL TABULATION OF PRECINCT RESULTS.** (a) As the general custodian of election records receives the precinct election records from each polling place, the custodian shall:

- (1) open the envelopes and remove the precinct election returns; and
- (2) prepare a tabulation stating for each candidate and for and against each measure:
  - (A) the total number of votes received in each precinct; and
  - (B) the sum of the precinct totals tabulated under Paragraph (A).

(b) The custodian shall periodically make a public announcement of the current state of the tabulation made under Subsection (a).

(c) The tabulation made under Subsection (a) is unofficial and does not affect the outcome of the election.

(d) The custodian shall preserve the unofficial tabulation for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 66.057. REGULATING PUBLIC INSPECTION OF CERTAIN ELECTION RECORDS.** (a) The election returns

for a particular precinct that are delivered to the general custodian of election records do not become public information until the custodian completes the unofficial tabulation of the results for that precinct.

(b) The general custodian of election records or the custodian's designee shall be present at all times when the records delivered in ballot box no. 4 are inspected.

(c) The election records in envelope no. 3 become public information when delivery of the precinct election records is completed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 65, eff. Sept. 1, 1997.

**Sec. 66.058. PRESERVATION OF PRECINCT ELECTION RECORDS.** (a) Except as otherwise provided by this code, the precinct election records shall be preserved by the authority to whom they are distributed for at least 22 months after election day.

(b) For a period of at least 60 days after the date of the election, the voted ballots shall be preserved securely in a locked room in the locked ballot box in which they are delivered to the general custodian of election records. On the 61st day after election day, the general custodian of election records may:

(1) require a person who has possession of a key that operates the lock on a ballot box containing voted ballots to return the key to the custodian; and

(2) unlock the ballot box and transfer the voted ballots to another secure container for the remainder of the preservation period.

(b-1) Except as permitted by this code, a ballot box or other secure container containing voted ballots may not be opened during the preservation period.

(c) If during the preservation period an authorized entry is made into a ballot box or other secure container containing voted ballots, when the purpose for the entry is fulfilled, the box or container shall be relocked or resecured, and the box and key or secure container returned to the custodian.

(d) A custodian of a ballot box or secure container containing voted ballots commits an offense if, during the preservation period prescribed by Subsection (a), the custodian:

(1) makes an unauthorized entry into the box or container; or

(2) fails to prevent another person from handling the box or container in an unauthorized manner or from making an unauthorized entry into the box or container.

(e) An offense under Subsection (d) is a Class A misdemeanor.

(f) The records in ballot box no. 4 may be preserved in that box or by any other method chosen by the custodian. If the records are removed from the box, they may not be commingled with any other election records kept by the custodian.

(g) Electronic records created under Chapter 129 shall be preserved in a secure container.

(h) For the preservation of precinct election records in an election involving a federal office, the secretary of state shall instruct the affected authorities on the actions necessary to comply with federal law and otherwise implement this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 18, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 40, eff. Jan. 1, 2004; Acts 2005, 79th Leg., Ch. 950 (H.B. 1580), Sec. 1, eff. September 1, 2005; Acts 2007, 80th Leg., R.S., Ch. 1197 (H.B. 1446), Sec. 1, eff. June 15, 2007; Acts 2007, 80th Leg., R.S., Ch. 1197 (H.B. 1446), Sec. 2, eff. June 15, 2007; Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 1, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 13, eff. September 1, 2011; S.B. 5, 85<sup>th</sup> Leg., First Called Session, Sec. 1, eff. December 1, 2017.

**Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.** (a) On written application by the presiding officer of the local canvassing authority or the presiding judge of the election precinct, a district judge of the county in which a ballot box containing voted ballots is in custody may order the box opened to retrieve an election record that was erroneously placed in the box.

(b) If the political subdivision holding the election is not a county or is a county that does not maintain an Internet website, the district judge shall post a notice of the date, hour, and place for opening the box on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision served by the general custodian of election records. The notice must remain posted continuously for the 24 hours immediately preceding the hour set for opening the box.

(b-1) If the political subdivision holding the election is a county that maintains an Internet website, the district judge shall post a notice of the date, hour, and place for opening the box on the county's Internet website. The notice must remain posted continuously for the 24 hours preceding the hour set for opening the box.

(c) Any interested person may observe the opening of the box.

(d) The district judge shall issue the orders necessary to safeguard the contents of a ballot box opened under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 19, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 41, eff. Jan. 1, 2004; H.B. 933, 86<sup>th</sup> Leg., Sec. 7, eff. Sept. 1, 2019.

**Sec. 66.060. DELIVERY AND PRESERVATION OF KEY TO BALLOT BOX NO. 3.** (a) The presiding judge shall deliver the key to ballot box no. 3 in person to the following authority:

(1) the sheriff, for an election ordered by the governor or a county authority or for a primary election, except that in a year in which the office of sheriff is regularly on the ballot the presiding judge shall deliver the key to the county judge, and if both those offices are on the same ballot because of the filling of an unexpired term the key shall be delivered to the county auditor or to a designated member of the commissioners court who is not on the ballot and who is appointed by the court if the county does not have a county auditor;

(2) the chief of police or city marshal, for an election ordered by a city authority; or

(3) the constable of the justice precinct in which the office of the political subdivision's governing body is located, or if the office of constable is vacant, the sheriff of the county in which the governing body's office is located, for an election ordered by an authority of a political subdivision other than a county or city.

(b) The ballot box key shall be delivered at the same time as the precinct election records.

(c) The custodian of the key to ballot box no. 3 shall keep the key for the period for preserving the precinct election records except for the time the key is temporarily out of the custodian's custody in accordance with this code.

(d) A person commits an offense if the person is the custodian of the key to a ballot box containing voted ballots and, during the period for keeping the key, the person knowingly relinquishes custody of the key except as permitted by law. An offense under this subsection is a Class B misdemeanor.

(e) After the period for keeping a key to ballot box no. 3 expires, the key's custodian shall return the key to the custodian of the ballot box.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 430, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 66, eff. Sept. 1, 1997.

**Sec. 66.061. CUSTODY OF LIST OF REGISTERED VOTERS TO BE REUSED IN SUBSEQUENT ELECTION.** The custodian of a precinct list of registered voters that is to be reused in a subsequent election occurring during the preservation period shall return the list to the authority responsible for delivering the election supplies not earlier than the fourth day before the date it is needed for the subsequent election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 66.062. RETURNING EQUIPMENT AND SUPPLIES.** (a) At the same time the precinct election records are delivered, the unused election supplies shall be delivered to the authority responsible for distributing the election supplies.

(b) The presiding judge shall follow the directions of the authority responsible for distributing the election supplies regarding the storage or return after the election of ballot boxes no. 1 and no. 2, the keys to those boxes, voting booths, and other election equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Renumbered from Election Code Sec. 66.063 and amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987.



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## CHAPTER 67. CANVASSING ELECTIONS

**Sec. 67.001. APPLICABILITY OF CHAPTER.** This chapter applies to each general or special election conducted in this state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 67.002. CANVASS OF PRECINCT RETURNS.** (a) Except as otherwise provided by law, the precinct election returns for each election shall be canvassed by the following authority:

(1) for an election ordered by the governor or by a county authority, the commissioners court of each county in which the election is held; and

(2) for an election ordered by an authority of a political subdivision other than a county, the political subdivision's governing body.

(b) The canvass of precinct returns shall be conducted in accordance with this chapter except as otherwise provided by this code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 67.003. TIME FOR LOCAL CANVASS.** (a) Repealed by H.B. 929, 85<sup>th</sup> Leg., R.S., Sec. 3, eff. Sept. 1, 2017.

(b) Except as provided by Subsection (c), each local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority's presiding officer not later than the 11th day after election day and not earlier than the later of:

(1) the third day after election day;

(2) the date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or

(3) the date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

(c) In an election described by Section 65.051(a-1), the time for the local canvass may be set not later than the 14th day after election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 22, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 31, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 42, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 1316, Sec. 17, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 1, Sec. 3, eff. Jan. 11, 2004; Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 7, eff. October 1, 2005; Acts 2013, 83rd Leg., R.S., Ch. 891 (H.B. 985), Sec. 3, eff. September 1, 2013; H.B. 929, 85th Leg., R.S., Secs. 1&3, eff. Sept. 1, 2017.

**Sec. 67.004. PROCEDURE FOR LOCAL CANVASS.** (a) At the time set for convening the canvassing authority for the local canvass, the presiding officer of the canvassing authority shall deliver the sealed precinct returns to the authority. The authority shall open the returns for each precinct and canvass them as provided by this section. Two members of the authority constitute a quorum for purposes of canvassing an election.

(b) The canvassing authority shall prepare a tabulation stating for each candidate and for and against each measure:

(1) the total number of votes received in each precinct; and

(2) the sum of the precinct totals tabulated under Subdivision (1).

(b-1) The tabulation in Subsection (b) must also include for each precinct the total number of voters who cast a ballot for a candidate or for or against a measure in the election. The secretary of state shall prescribe any procedures necessary to implement this subsection.

(c) The canvassing authority may prepare the tabulation as a separate document or may enter the tabulation directly in the local election register maintained for the authority. The authority shall attach or include as part of the tabulation the report of early voting votes by precinct received under Section 87.1231.

(d) The canvassing authority may compare the precinct returns with the corresponding tally list. If a discrepancy is discovered between the vote totals shown on the returns and those shown on the tally list for a precinct, the presiding judge of the precinct shall examine the returns and tally list and make the necessary corrections on the returns.

(e) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the tabulation to the custodian of the local election register unless it is entered directly in the election register. The custodian shall preserve the tabulation for the period for preserving the precinct election records.

(f) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the precinct returns, tally lists, and early voting precinct report used in the canvass to the general custodian of election records. The custodian shall preserve them for the period for preserving the precinct election records.

(g) The presiding officer of the canvassing authority shall note the completion of the canvass in the minutes or in the

recording required by Section 551.021, Government Code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 114, Sec. 10, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 1.01, 2.51; Acts 1991, 72nd Leg., ch. 554, Sec. 22, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 23, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 32, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.14, eff. September 1, 2005; H.B. 1001, 85<sup>th</sup> Leg., R.S., Sec. 1, eff. September 1, 2017.

**Sec. 67.005. DETERMINING OFFICIAL RESULT OF ELECTION NOT CANVASSED AT STATE LEVEL.** (a) Except as provided by Subsection (b), the official result of an election that is not canvassed at the state level is determined from the canvass of the precinct returns conducted by the local canvassing authority.

(b) In an election in which there is more than one local canvassing authority but no canvass at the state level, the official result is determined in the manner prescribed by the law providing for the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 67.006. LOCAL ELECTION REGISTER.** (a) An election register shall be maintained for each local canvassing authority.

(b) For each election, the election register must contain in tabulated form the information required to appear in the tabulation of precinct results prepared by the local canvassing authority.

(c) The general custodian of election records for the elections canvassed by a local canvassing authority is the custodian of the authority's election register.

(d) On receipt of the local canvassing authority's tabulation of votes, the custodian shall make the appropriate entries in the election register.

(e) The election register shall be preserved as a permanent record.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 67.007. COUNTY ELECTION RETURNS.** (a) For each election for a statewide, district, county, or precinct office, a statewide measure, or president and vice-president of the United States, the county clerk of each county in the territory covered by the election shall prepare county election returns.

(b) The county election returns shall state, for each candidate and for and against each measure, the total number of votes received in the county as stated by the local canvassing authority's tabulation of votes.

(c) The county clerk shall certify the county returns.

(d) Not later than 24 hours after completion of the local canvass, the county clerk shall deliver to the secretary of state, in the manner directed by the secretary, the county returns.

(e) The county clerk shall retain a copy of the county returns for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Amended by H.B. 2628, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 67.008. SEPARATE COUNTY RETURNS FOR GOVERNOR AND LIEUTENANT GOVERNOR.** (a) In addition to the returns required by Section 67.007, each county clerk shall prepare separate county election returns of an election for the office of governor or lieutenant governor that contain the same information as the returns for those offices prepared under Section 67.007.

(b) The returns shall be delivered to the secretary of state as provided by Section 67.007.

(c) The secretary of state shall retain the returns until the first day of the next regular legislative session, when the secretary shall deliver the returns to the speaker of the house of representatives.

(d) The county clerk shall retain a copy of the county returns for the offices of governor and lieutenant governor for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by H.B. 2628, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019.

**Sec. 67.009. FORMS AND INSTRUCTIONS FOR COUNTY RETURNS.** (a) Before each election for which county election returns are required, the secretary of state shall deliver to each county clerk in the territory covered by the election two copies of the officially prescribed form for reporting county election returns. The secretary shall also deliver two copies of the official form for the separate returns for the offices of governor and lieutenant governor, if applicable.

(b) With the delivery of the official county returns forms, the secretary of state shall deliver written instructions on the preparation and delivery of the county election returns.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Amended by H.B. 2628, 86<sup>th</sup> Leg., Sec. 3, eff. Sept. 1, 2019.

**Sec. 67.010. COUNTY RETURNS CANVASSED BY GOVERNOR.** (a) The county election returns for an election for a statewide office other than governor or lieutenant governor, a statewide measure, a district office, or president and vice-

president of the United States shall be canvassed by the governor.

(b) When this code refers to the presiding officer of the final canvassing authority, the secretary of state is considered to be the presiding officer when the final canvassing authority is the governor.

(c) The canvass of county returns shall be conducted in accordance with this chapter except as otherwise provided by this code.

(d) The presiding officer may make a clerical correction to the officially canvassed returns based on any authorized amended county canvass filed with the presiding officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 18(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 163, Sec. 1, eff. Sept. 1, 1989; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 7, eff. September 1, 2009.

**Sec. 67.011. COUNTY RETURNS CANVASSED BY LEGISLATURE.** (a) The county election returns for an election for the office of governor or lieutenant governor shall be canvassed by the legislature and the official result declared by the speaker of the house of representatives in accordance with Article IV, Section 3, of the Texas Constitution.

(b) If a county's election returns are incomplete or missing, the legislature may substitute the secretary of state's tabulation for that county or may obtain the necessary information from the county. On request of the legislature, the secretary of state or the county shall promptly transmit the information to the legislature by the most expeditious means available.

(c) On completion of the canvass, the speaker of the house of representatives shall deliver the county returns to the secretary of state, who shall retain them for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 24, eff. Sept. 1, 1993.

**Sec. 67.012. TIME FOR CANVASS BY GOVERNOR.** (a) The governor shall conduct the state canvass at the time set by the secretary of state:

(1) not earlier than the 15th or later than the 30th day after election day; or

(2) for an election described by Section 65.051(a-1), not earlier than the 18th or later than the 33rd day after election day.

(b) The secretary of state shall post, on the secretary of state's Internet website, a notice of the date, hour, and place of the canvass at least 72 hours before the canvass is conducted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 6(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 163, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 728, Sec. 25, eff. Sept. 1, 1993; Acts 2013, 83rd Leg., R.S., Ch. 891 (H.B. 985), Sec. 4, eff. September 1, 2013; H.B. 933, 86th Leg., Sec. 8, eff. Sept. 1, 2019.

**Sec. 67.013. PROCEDURE FOR CANVASS BY GOVERNOR.** (a) At the time set for the state canvass, the secretary of state shall deliver the county returns to the governor.

(b) The secretary of state shall prepare a tabulation stating for each candidate and for and against each measure required to be canvassed by the governor:

(1) the total number of votes received in each county; and

(2) the sum of the county totals tabulated under Subdivision (1).

(c) At the canvass of an election in which the office of governor or lieutenant governor is voted on, the secretary of state shall prepare a separate tabulation on the candidates for governor and lieutenant governor, indicating for each candidate the information required by Subsection (b).

(d) The governor shall certify the tabulations.

(e) The secretary of state shall retain the county election returns used in the canvass and the tabulations for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 1, eff. Sept. 1, 1989.

**Sec. 67.014. DETERMINING OFFICIAL RESULT OF ELECTION CANVASSED AT STATE LEVEL.** The official result of an election canvassed by the governor or by the legislature is determined from the canvass of the county returns conducted by that authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 1, eff. Sept. 1, 1989.

**Sec. 67.015. STATE ELECTION REGISTER.** (a) An election register shall be maintained for the governor.

(b) Except as provided by Subsection (e), for each election the election register shall contain in tabulated form the information required to appear in the tabulations of the county results prepared by the secretary of state.

(c) The secretary of state is the custodian of the election register for the governor.

(d) After each canvass conducted by the governor, the secretary of state shall make the appropriate entries in the election register.

(e) If a discrepancy exists between the legislature's canvass of the election for governor or lieutenant governor and the register entries pertaining to either of those offices that are made from the secretary of state's tabulation, the secretary shall make the entries in the register necessary to make it correspond to the legislature's canvass.

(f) The election register shall be preserved as a permanent record of the state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 1, eff. Sept. 1, 1989.

**Sec. 67.016. CERTIFICATE OF ELECTION.** (a) After the completion of a canvass, the presiding officer of the local canvassing authority shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority's canvass.

(b) The governor shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by the canvass conducted by the governor.

(c) A certificate of election must contain:

- (1) the candidate's name;
- (2) the office to which the candidate is elected;
- (3) a statement of election to an unexpired term, if applicable;
- (4) the date of the election;
- (5) the signature of the officer preparing the certificate; and
- (6) any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

(d) After the canvass of a presidential election, the secretary of state shall prepare a certificate of election for each presidential elector candidate who is elected.

(e) The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared, subject to Section 212.0331.

(f) A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

(g) This section does not apply to the offices of governor and lieutenant governor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 2, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 1144, Sec. 1, eff. Sept. 1, 2001.

**Sec. 67.017. REPORTING PRECINCT RESULTS TO SECRETARY OF STATE.** (a) After each election for a statewide office or the office of United States representative, state senator, or state representative, a district office, a county office, or a precinct office, the county clerk shall prepare a report of the number of votes, including early voting votes cast by mail and early voting votes cast by personal appearance, received in each county election precinct for each candidate for each of those offices. In a presidential election year, the report must include the number of votes received in each precinct for each set of candidates for president and vice-president of the United States.

(b) The county clerk shall deliver the report to the secretary of state not later than the 30th day after election day in an electronic format prescribed by the secretary of state.

(c) The report may be:

- (1) an electronic copy of the precinct returns;
- (2) an electronic copy of the tabulation prepared by the local canvassing authority; or
- (3) in any other electronic form approved by the secretary of state.

(d) The secretary of state shall preserve a report received under this section for 10 years unless the secretary prepares a written tabulation of the information contained in the report received. In that case, the secretary shall preserve the original report for two years and the tabulation for 10 years after receipt of the original report.

(e) After the applicable preservation period prescribed by Subsection (d) expires, the secretary of state shall transfer the report or tabulation to the state library.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 2(c), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 114, Sec. 11, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.52; Acts 1991, 72nd Leg., ch. 554, Sec. 23, eff. Sept. 1, 1991; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.15(a), eff. September 1, 2005; H.B. 2640, 86th Leg., Sec. 1, eff. Sept. 1, 2019.

# **CHAPTER 68. TABULATION OF UNOFFICIAL RESULTS OF CERTAIN RACES BY SECRETARY OF STATE**

## **SUBCHAPTER A. CONDUCT OF TABULATION**

**Sec. 68.001. DUTY TO TABULATE GENERALLY.** (a) The secretary of state shall tabulate the unofficial results as provided by this subchapter in each primary election and general election for state and county officers on each proposed amendment to the state constitution and for each contested race for nomination or election to:

- (1) a federal office or statewide office of the state government;
- (2) the office of state senator;
- (3) the office of state representative; and
- (4) the office of member, State Board of Education.

(b) The secretary may tabulate the unofficial results for other contested races, political party referenda, and any special elections ordered by the governor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.002. ACCESS TO TABULATION SYSTEM.** (a) During the tabulation, the secretary of state shall provide a sufficient number of display terminals for representatives of the news media to monitor the tabulation. The secretary shall provide direct lines between computers for use by the media, if practicable.

(b) The secretary shall charge reasonable fees, which shall approximate actual costs, to defray the costs of providing the news media access to the tabulation system.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.003. DISPLAY TERMINALS FOR CERTAIN STATE OFFICERS.** (a) For monitoring the tabulations, the secretary of state shall provide display terminals without charge to the governor, lieutenant governor, and speaker of the house of representatives in their Capitol offices. The secretary shall also provide printers at those locations if printers are made available at any location.

(b) The officers who are provided terminals or printers under this section may not provide access to data from those terminals or printers to members of the working news media.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.004. PERIODIC REPORTS DURING TABULATION.** (a) Periodically during the tabulation, the secretary of state shall publish reports covering the races being tabulated.

(b) The periodic reports may include:

- (1) vote totals for all contested races being tabulated;
- (2) vote totals by county for federal offices and statewide offices of the state government;
- (3) vote totals for federal offices and statewide offices of the state government in each of the six most populous counties, the total for the next 19 most populous counties, and the total for the remaining 229 counties; and
- (4) any other information the secretary of state determines to be relevant.

(c) The secretary shall distribute the periodic reports on publication to the participating news media.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.005. FINAL REPORTS OF TABULATION.** (a) After completion of the tabulation, the secretary of state shall publish a final report covering the races being tabulated.

(b) The final report may include:

- (1) the information described by Section 68.004(b);
- (2) vote totals by county for all races being tabulated; and
- (3) vote totals for federal offices and statewide offices of the state government in a minimum of eight regions designated by the secretary on the basis of the geographic scope of the electronic media markets.

(c) The secretary shall distribute a copy of the final report on publication to the participating news media, governor, lieutenant governor, speaker of the house of representatives, and members of the elections advisory committee. A copy of the report shall also be furnished to other persons on payment of a reasonable fee prescribed by the secretary to defray the costs of

preparing and furnishing the copy.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.006. REPORT OF RECEIPT OF COUNTY RESULTS.** The secretary of state shall publish a report indicating the times the first and last reports of results from each county were received by the secretary.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.007. POSTING REPORTS FOR PUBLIC INSPECTION.** (a) The secretary of state shall post for public inspection, on publication, one copy of each report published under Section 68.004.  
(b) The secretary of state may post for public inspection any of the reports prepared under this subchapter.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.008. BACKUP SYSTEM.** The secretary of state shall provide a backup system for the tabulation of the results.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.009. OPERATIONS MANUAL.** Not later than the 90th day before the date of each election covered by this subchapter, the secretary of state shall prepare an operations manual that explains the procedures to be used by the secretary in tabulating the results.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.010. DISPOSITION OF FUNDS.** Funds collected under this chapter may be appropriated only to the secretary of state for the administration of this chapter.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.011. ADDITIONAL PROCEDURES PRESCRIBED BY SECRETARY OF STATE.** The secretary of state shall prescribe any additional procedures necessary to implement the tabulation of unofficial results.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER B. DUTIES OF LOCAL ELECTION OFFICIALS FOR CERTAIN RACES**

**Sec. 68.031. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to each election covered by Subchapter A in addition to and notwithstanding other provisions of this code.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.032. DELIVERY OF RETURNS AND VOTED BALLOTS.** (a) In precincts using paper ballots, voting machines, or electronic voting system ballot counters, the copy of the returns required to be delivered to the county clerk shall be delivered not later than two hours, or as soon thereafter as practicable, after the closing of the polls or after the last person voted, whichever is later.

(b) In a precinct using electronic voting system ballots to be counted at a central counting station, the ballots shall be delivered to the station not later than two hours, or as soon thereafter as practicable, after the closing of the polls or after the last person voted, whichever is later. The copy of the returns required to be delivered to the county clerk shall be delivered by the presiding judge of the counting station immediately on completion of the returns.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.033. COUNTING OF EARLY VOTING BALLOTS.** The early voting ballot board shall count the early voting ballots periodically throughout the day.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.53; Acts 1991, 72nd Leg., ch. 554, Sec. 24, eff. Sept. 1, 1991.

**Sec. 68.034. TRANSMISSION OF RESULTS TO SECRETARY OF STATE.** (a) The county clerk shall transmit periodically, by telephone or other electronic means, to the secretary of state the results for the races being tabulated by the secretary. The results shall be transmitted continuously until complete.

(b) The county clerk shall transmit the complete or partial results of the early voting for the appropriate races at 7 p.m. on election day. If only partial results are available, the results shall be transmitted periodically until complete.

(c) Costs of transmission of the results may be paid by the state.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## SUBCHAPTER C. ELECTIONS ADVISORY COMMITTEE

**Sec. 68.051. MEMBERSHIP.** (a) Not later than January 1 of each even-numbered year, the lieutenant governor, speaker of the house of representatives, and secretary of state shall each appoint six persons to serve on an elections advisory committee in connection with the tabulation and reporting of election results under this chapter.

(b) Each member of the committee serves a two-year term beginning on January 1 of even-numbered years.

(c) Appointments to the committee shall be made without regard to race, creed, sex, religion, and national origin.

(d) Instead of making one of the required appointments, each appointing officer or the officer's designee may serve on the committee.

(e) Each appointing officer shall allocate at least four of the officer's appointments among members of the various media organizations covering elections in this state.

(f) The following persons or their designees shall also serve on the committee:

(1) the president of the Texas Association of Broadcasters;

(2) the president of the Texas Press Association;

(3) the president of the Texas Daily Newspaper Association; and

(4) the chief state executive officers of the Associated Press and United Press International.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 67, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.16(a), eff. September 1, 2005.

**Sec. 68.052. CHAIR AND MEETINGS.** (a) The secretary of state shall designate a chair and vice chair of the committee from among the media organization membership.

(b) Meetings of the committee shall be held at the call of the chair.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 68, eff. Sept. 1, 1997.

**Sec. 68.053. REVIEW OF OPERATIONS MANUAL.** The committee shall review the operations manual prepared under Section 68.009 and make any recommendations it considers appropriate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.054. MEMBERS PRESENT DURING TABULATION.** One or more members chosen by the committee shall be present during the tabulation of the results at each election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 68.055. EVALUATION AND RECOMMENDATIONS REGARDING TABULATION.** The committee shall submit a written report after each election to the secretary of state, governor, lieutenant governor, and speaker of the house of representatives evaluating the tabulation process and making any recommendations it considers appropriate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.



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# TITLE 7. EARLY VOTING

## SUBTITLE A. EARLY VOTING

### CHAPTER 81. GENERAL PROVISIONS

**Sec. 81.001. EARLY VOTING REQUIRED.** (a) In each election in this state, early voting shall be conducted by personal appearance at an early voting polling place and by mail.

(b) A reference in a law outside this code to "absentee voting" means "early voting."

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.03; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 81.002. APPLICABILITY OF OTHER CODE PROVISIONS.** The other titles of this code apply to early voting except provisions that are inconsistent with this title or that cannot feasibly be applied to early voting.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.03; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 81.003. SUBSTITUTION OF ELECTRONIC SYSTEM BALLOTS FOR PAPER BALLOTS.** In an election in which an electronic voting system is used in regular voting but not for all or part of the early voting, the electronic system ballots prepared for use in regular voting may be used for early voting, if practicable, at the discretion of the authority responsible for having the official ballot prepared for the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.03; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 81.004. LOCATION OF PUBLIC ELECTION RECORDS.** Election records for which the early voting clerk is custodian and that are public information shall be kept:

(1) for an election in which a county clerk or city secretary is the early voting clerk, at the early voting clerk's main business office; or

(2) for any other election, at a location designated by the authority appointing the clerk.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.03; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 81.005. COMMON OR CONTRACT CARRIER.** (a) A common or contract carrier may not be used to perform an act in accordance with this title unless the carrier:

(1) is a bona fide, for profit carrier, the primary business of which is transporting or delivering property for compensation and the business practices of which are reasonable and prudent according to the usual standards for the business in which it is engaged;

(2) routinely uses receipts that:

(A) permit the carrier to retrieve a receipt or information contained in a receipt;

(B) provide space for the name and residence address of a person who delivers a parcel to the carrier; and

(C) provide space for the date, time, and address at which parcels are received by the carrier; and

(3) complies with laws requiring the carrier to file an assumed name with each county in which the carrier receives or delivers parcels or with the secretary of state, as appropriate.

(b) A common or contract carrier may not be used to perform an act in accordance with this title if the carrier transports property as an incidental activity of a nontransportation business activity regardless of whether the carrier imposes a separate charge for the transportation.

Added by Acts 1997, 75th Leg., ch. 1381, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 393, Sec. 6, eff. Sept. 1, 2003.

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## **CHAPTER 82. ELIGIBILITY FOR EARLY VOTING**

**Sec. 82.001. ABSENCE FROM COUNTY OF RESIDENCE.** (a) Subject to Subsection (b), a qualified voter is eligible for early voting by mail if the voter expects to be absent from the county of the voter's residence on election day and during the regular hours for conducting early voting at the main early voting polling place for that part of the period for early voting by personal appearance remaining after the voter's early voting ballot application is submitted to the early voting clerk.

(b) If a voter's early voting ballot application is submitted on or after the first day of the period for early voting by personal appearance, the voter is ineligible for early voting by mail unless the voter is absent from the county when the application is submitted and satisfies the requirements prescribed by Subsection (a).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 19, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.05; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 82.002. DISABILITY OR CONFINEMENT FOR CHILDBIRTH.** (a) A qualified voter is eligible for early voting by mail if the voter:

(1) has a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter's health; or

(2) is expecting to give birth within three weeks before or after election day.

(b) The following do not constitute sufficient cause to entitle a voter to vote under Subsection (a)

(1) a lack of transportation;

(2) a sickness that does not prevent the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter's health;

or

(3) a requirement to appear at the voter's place of employment on election day.

(c) To be eligible for an early voting ballot by mail under Subsection (a)(1), an applicant must affirmatively indicate that he or she agrees with the statement prescribed by Section 84.002(c).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 19, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.05; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 69, eff. Sept. 1, 1997; H.B. 3920, 87th Leg., R.S., Sec. 1, eff. Sept. 1, 2021.

**Sec. 82.003. AGE.** A qualified voter is eligible for early voting by mail if the voter is 65 years of age or older on election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 19, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.05; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 82.004. CONFINEMENT IN JAIL.** (a) A qualified voter is eligible for early voting by mail if, at the time the voter's early voting ballot application is submitted, the voter is confined in jail:

(1) serving a misdemeanor sentence for a term that ends on or after election day;

(2) pending trial after denial of bail;

(3) without bail pending an appeal of a felony conviction; or

(4) pending trial or appeal on a bailable offense for which release on bail before election day is unlikely.

(b) A voter confined in jail who is eligible for early voting is not entitled to vote by personal appearance unless the authority in charge of the jail, in the authority's discretion, permits the voter to do so.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 19, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991. Renumbered from Election Code Sec. 82.005 and amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.02; Acts 1997, 75th Leg., ch. 864, Sec. 70, eff. Sept. 1, 1997.

**Sec. 82.005. ELIGIBILITY FOR EARLY VOTING BY PERSONAL APPEARANCE.** Any qualified voter is eligible for early voting by personal appearance.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 19, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991. Renumbered from Election Code Sec. 82.006 and amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.02.

**Sec. 82.007. PARTICIPATION IN ADDRESS CONFIDENTIALITY PROGRAM.** A qualified voter is eligible for early voting by mail if:

(1) the voter submitted a registration application by personal delivery as required by Section 13.002(e); and

(2) at the time the voter's early voting ballot application is submitted, the voter is certified for participation in the address confidentiality program administered by the attorney general under Subchapter B, Chapter 58, Code of Criminal

Procedure.

Added by Acts 2007, 80th Leg., R.S., Ch. 1295 (S.B. 74), Sec. 7, eff. June 15, 2007. Amended by H.B. 4173, 86<sup>th</sup> Leg., Sec. 2.28, eff. Jan 1, 2021..

**Sec. 82.008. INVOLUNTARY CIVIL COMMITMENT.** A qualified voter is eligible for early voting by mail if, at the time the voter's early voting ballot application is submitted, the voter is a person who is civilly committed as a sexually violent predator under Chapter 841, Health and Safety Code, and is ordered as a condition of civil commitment to reside in a facility operated by or under contract with the Texas Civil Commitment Office.

Added by H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 45, eff. Sept. 1, 2021.

## **CHAPTER 83. OFFICER CONDUCTING EARLY VOTING**

### **SUBCHAPTER A. EARLY VOTING CLERK**

**Sec. 83.001. EARLY VOTING CLERK GENERALLY.** (a) The early voting clerk shall conduct the early voting in each election.

(b) The clerk is an officer of the election in which the clerk serves.

(c) The clerk has the same duties and authority with respect to early voting as a presiding election judge has with respect to regular voting, except as otherwise provided by this title.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.002. COUNTY CLERK AS EARLY VOTING CLERK.** The county clerk is the early voting clerk for the county in:

(1) the general election for state and county officers and any other countywide election held at county expense;

(2) a primary election; and

(3) a special election ordered by the governor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.003. CLERK FOR LESS-THAN-COUNTYWIDE ELECTIONS HELD AT COUNTY EXPENSE.** (a) In a less-than-countywide election ordered by the commissioners court, county judge, county board of school trustees, or any other county authority and held at county expense, the county clerk is the early voting clerk unless the authority appoints a person other than the county clerk.

(b) To be eligible for appointment as early voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the county and is not required to be a qualified voter of any other particular territory.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.004. CLERK FOR ELECTIONS ORDERED BY COUNTY AUTHORITY NOT HELD AT COUNTY EXPENSE.** (a) In an election ordered by the commissioners court, county judge, county board of school trustees, or any other county authority and not held at county expense, the authority ordering the election shall appoint the early voting clerk.

(b) If the county clerk is appointed as early voting clerk under this section, the county clerk shall serve in that capacity, and the authority responsible for paying the expenses of the election shall reimburse the county for the time spent by the county clerk as the early voting clerk and by the county clerk's deputies as deputy early voting clerks.

(c) To be eligible for appointment as early voting clerk under this section, a person other than the county clerk must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the county and is not required to be a qualified voter of any other particular territory.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.005. CLERK FOR CITY ELECTIONS.** The city secretary is the early voting clerk for an election ordered by an authority of a city.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.006. CLERK FOR ELECTIONS OF OTHER POLITICAL SUBDIVISIONS.** (a) In an election ordered by an authority of a political subdivision other than a county or city, the authority ordering the election shall appoint the early voting clerk.

(b) To be eligible for appointment as early voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that:

(1) an appointee must be a qualified voter of the political subdivision and is not required to be a qualified voter of any other particular territory;

(2) in an election in which an officer of the political subdivision is a candidate, an appointee's status as an employee of the political subdivision does not make the appointee ineligible for appointment as the clerk; and

(3) an appointee who is a permanent employee of the political subdivision and a qualified voter of any territory is not required to be a qualified voter of the political subdivision.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1316, Sec. 18, eff. Sept. 1, 2003.

**Sec. 83.007. CLERK FOR OTHER ELECTIONS.** (a) In an election for which this code does not provide for an early voting clerk, the authority ordering the election shall appoint the early voting clerk.

(b) To be eligible for appointment as early voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that:

(1) an appointee must be a qualified voter of the territory covered by the election and is not required to be a qualified voter of any other particular territory; and

(2) an appointee who is a permanent employee of the authority ordering the election and a qualified voter of any territory is not required to be a qualified voter of the territory covered by the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1316, Sec. 19, eff. Sept. 1, 2003.

**Sec. 83.008. ADDITIONAL CLERKS FOR CERTAIN ELECTIONS.** (a) In an election on the creation, organization, functioning, or existence of one or more political subdivisions that affects more than one political subdivision, more than one early voting clerk may be appointed.

(b) An area within the territory covered by the election may not be served by more than one clerk.

(c) Each clerk shall serve the one or more political subdivisions designated by the authority appointing the clerk.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.009. EMPLOYEE OF POLITICAL SUBDIVISION SERVING AS CLERK.** An employee of a political subdivision may serve as early voting clerk in an election affecting the political subdivision if the political subdivision's governing body approves the appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.010. PUBLIC NOTICE OF CLERK'S MAILING ADDRESS.** An election order and the election notice must state the early voting clerk's official mailing address or street address at which the clerk may receive delivery by common or contract carrier, if different, phone number, e-mail address, and Internet website, if the early voting clerk has an Internet website.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; H.B. 3107, 87th Leg., R.S., Sec. 46, eff. Sept. 1, 2021.

**Sec. 83.011. OFFICE HOURS ON ELECTION DAY.** The early voting clerk's office shall remain open for early voting activities during the hours the polls are required to be open for voting on election day.

Added by Acts 1991, 72nd Leg., ch. 203, Sec. 1.03, eff. Sept. 1, 1991.

**Sec. 83.012. STUDENT EARLY VOTING CLERKS.** (a) The early voting clerk may appoint student early voting clerks as necessary to assist the early voting clerk.

(b) A person is eligible to serve as a student early voting clerk under this section if the person is ineligible to serve as a clerk of an election precinct under Section 32.051(c) but meets the eligibility requirements to be a student election clerk under Section 32.0511.

(c) A student early voting clerk serving under this section:

(1) is entitled to compensation under Section 83.052 in the same manner as other early voting clerks; and

(2) when communicating with a voter who cannot communicate in English, may communicate with the voter in a language the voter and the clerk understand as authorized by Subchapter B, Chapter 61.

(d) Not more than four student early voting clerks may serve at an early voting polling place.

(e) The secretary of state may initiate or assist in the development of a statewide program promoting the use of student early voting clerks appointed under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 542 (S.B. 553), Sec. 3, eff. June 14, 2013.

## SUBCHAPTER B. DEPUTY CLERK

**Sec. 83.031. DEPUTY EARLY VOTING CLERK GENERALLY.** (a) Deputy early voting clerks may be appointed as provided by this subchapter to assist the early voting clerk.

(b) A deputy is an officer of the election in which the deputy serves.

(c) A deputy early voting clerk has the same authority as the early voting clerk in conducting early voting, subject to the early voting clerk's supervision.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.032. DEPUTY FOR COUNTY CLERK OR CITY SECRETARY.** (a) In an election in which a county clerk or a city secretary is the early voting clerk, the county clerk or city secretary by written order may appoint one or more of that officer's permanent deputies as deputy early voting clerks. The clerk or secretary may appoint temporary deputies to serve as deputy early voting clerks in accordance with the law applicable to the appointment of deputies generally.

(b) For a temporary deputy to be eligible for appointment as a deputy early voting clerk under this section, the temporary deputy must meet the requirements for eligibility for service as a presiding election judge, except that:

(1) an appointee is not required to be a qualified voter of any particular territory other than the county, in the case of an appointment by a county clerk, or the city, in the case of an appointment by a city secretary;

(2) in an election in which the early voting clerk is a candidate, an appointee's status as an employee of the clerk does not make the appointee ineligible for appointment as a deputy early voting clerk; and

(3) an appointee who is a permanent employee of the county or city, as applicable, and a qualified voter of any territory is not required to be a qualified voter of the county or city, as applicable.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1316, Sec. 20, eff. Sept. 1, 2003.

**Sec. 83.033. DEPUTY FOR OTHER CLERKS.** (a) In an election in which a person other than a county clerk or a city secretary is the early voting clerk, the authority appointing the clerk, by written order, may appoint one or more deputy early voting clerks.

(b) To be eligible for appointment as a deputy early voting clerk under this section, a person must meet the requirements for eligibility for appointment as the early voting clerk.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.034. EMPLOYEE OF POLITICAL SUBDIVISION SERVING AS DEPUTY.** An employee of a political subdivision may serve as deputy early voting clerk in an election affecting the political subdivision if the political subdivision's governing body approves the appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

## SUBCHAPTER C. COMPENSATION

**Sec. 83.051. COMPENSATION OF COUNTY CLERK OR CITY SECRETARY.** A county clerk or a city secretary is not entitled to receive additional compensation for serving as early voting clerk.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.052. COMPENSATION OF OTHER CLERKS AND THEIR DEPUTIES.** An early voting clerk who is not a county clerk or city secretary and the deputy early voting clerks appointed to assist the clerk are entitled to compensation in an amount fixed by the authority ordering the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 83.053. SERVICE WITHOUT COMPENSATION BY PUBLIC EMPLOYEE.** (a) An employee of the authority ordering an election who is appointed as early voting clerk or deputy early voting clerk may be appointed to serve without additional compensation.



(b) An employee of a political subdivision who is appointed as early voting clerk or deputy early voting clerk for an election affecting the political subdivision may be appointed to serve without additional compensation if the political subdivision's governing body approves appointment on that basis.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.06; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

## **CHAPTER 84. APPLICATION FOR BALLOT**

### **SUBCHAPTER A. APPLICATION FOR BALLOT**

**Sec. 84.001. APPLICATION REQUIRED.** (a) To be entitled to vote an early voting ballot by mail, a person who is eligible for early voting must make an application for an early voting ballot to be voted by mail as provided by this title.

(b) Subject to Section 1.011, an application must be submitted in writing and signed by the applicant using ink on paper. An electronic signature or photocopied signature is not permitted.

(c) An applicant is not required to use an official application form.

(d) An application must be submitted by mail to the early voting clerk for the election who serves the election precinct of the applicant's residence.

(d-1) A timely application that is addressed to the wrong early voting clerk shall be forwarded to the proper early voting clerk not later than the day after the date it is received by the wrong clerk.

(e) An applicant for a ballot to be voted by mail may apply for ballots for the main election and any resulting runoff election on the same application. If an application for the main election and any resulting runoff is not timely for the main election, it will be considered timely for any resulting runoff if received not later than the deadline, determined using the date of the runoff election, for submitting a regular application for a ballot to be voted by mail.

(f) A person who has not made an application as provided by this title is not entitled to receive an early voting ballot to be voted by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 20, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.07; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 33, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 890, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 854, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 633, Sec. 1, eff. Sept. 1, 2003; Acts 2015, 84th Leg., R.S., Ch. 1050 (H.B. 1927), Sec. 1, eff. Sept. 1, 2015; S.B. 5, 85<sup>th</sup> Leg., First C.S., Sec. 3, eff. Dec. 1, 2017; S.B. 1, 87th Leg., 2nd C.S., Sec. 5.01, eff. Dec. 2, 2021.

**Sec. 84.002. CONTENTS OF APPLICATION.** (a) An early voting ballot application must include:

(1) the applicant's name and the address at which the applicant is registered to vote;

(1-a) the following information:

(A) the number of the applicant's driver's license, election identification certificate, or personal identification card issued by the Department of Public Safety;

(B) if the applicant has not been issued a number described by Paragraph (A), the last four digits of the applicant's social security number; or

(C) a statement by the applicant that the applicant has not been issued a number described by Paragraph (A) or (B);

(2) for an application for a ballot to be voted by mail on the ground of absence from the county of residence, the address outside the applicant's county of residence to which the ballot is to be mailed;

(3) for an application for a ballot to be voted by mail on the ground of age or disability, the address of the hospital, nursing home or other long-term care facility, or retirement center, or of a person related to the applicant within the second degree by affinity or the third degree by consanguinity, as determined under Chapter 573, Government Code, if the applicant is living at that address and that address is different from the address at which the applicant is registered to vote;

(4) for an application for a ballot to be voted by mail on the ground of confinement in jail, the address of the jail or of a person related to the applicant within the degree described by Subdivision (3);

(5) for an application for a ballot to be voted by mail on any ground, an indication of each election for which the applicant is applying for a ballot;

(6) an indication of the ground of eligibility for early voting; and

(7) for an application for a ballot to be voted by mail on the ground of involuntary civil commitment, the address of the facility operated by or under contract with the Texas Civil Commitment Office or of a person related to the applicant within the degree of consanguinity described by Subdivision (3).

(b) An application for a ballot to be voted by mail on the ground of absence from the county of residence must indicate that the applicant satisfies the requirements prescribed by Section 82.001.

(b-1) A person may use the number of a driver's license, election identification certificate, or personal identification card that has expired for the purpose of fulfilling the requirement under Subsection (a)(1-a) if the license or identification is otherwise valid.

(c) An application for a ballot to be voted by mail on the ground of disability must require the applicant to affirmatively indicate that the applicant agrees with the statement, "I have a sickness or physical condition that prevents me from appearing at the polling place on election day without a likelihood of needing personal assistance or injuring my health," as prescribed by Section 82.002(a).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 21, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 203, Sec. 1.04; Acts 1997, 75th Leg., ch. 565, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 3, eff. Sept. 1, 1997; H.B. 3107, 87th Leg., R.S., Sec. 47, eff. Sept. 1, 2021; H.B. 3920, 87th Leg., R.S., Sec. 2, eff. Sept. 1, 2021; S.B. 1, 87th Leg., 2nd C.S., Sec. 5.02, eff. Dec. 2, 2021.

**Sec. 84.0021. CONTENTS OF APPLICATION FOR PARTICIPANT IN ADDRESS CONFIDENTIALITY PROGRAM; CONFIDENTIAL INFORMATION.** (a) An early voting ballot application submitted by a qualified voter who is eligible for early voting by mail under Section 82.007 must include:

- (1) the applicant's name and address at which the applicant is registered to vote;
- (2) the substitute post office box address designated by the attorney general under Article 58.052(b), Code of Criminal Procedure, for use by the voter in place of the voter's true residential, business, or school address; and
- (3) an indication of each election for which the applicant is applying for a ballot.

(b) The information contained in an application under this section relating to the address at which the applicant is registered to vote is confidential, except that the information must be disclosed if:

- (1) requested by a law enforcement agency; or
- (2) required by court order.

Added by Acts 2007, 80th Leg., R.S., Ch. 1295 (S.B. 74), Sec. 8, eff. June 15, 2007. Amended by H.B. 4173, 86th Leg., Sec. 2.29, eff. Sept 1, 2019.

**Sec. 84.003. SIGNING APPLICATION BY WITNESS; ASSISTING APPLICANT.** (a) An early voting ballot application signed for the applicant by a witness other than the early voting clerk or a deputy must indicate the witness's relationship to the applicant or, if unrelated, indicate that fact.

(b) A person who acts as a witness for an applicant for an early voting ballot application commits an offense if the person knowingly fails to comply with Section 1.011. A person who in the presence of the applicant otherwise assists an applicant in completing an early voting ballot application commits an offense if the person knowingly fails to comply with Section 1.011(d) in the same manner as a witness.

(c) An offense under this section is a Class A misdemeanor.

(d) Subsection (b) does not apply if the person is related to the applicant within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or is registered to vote at the same address as the applicant.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.07; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 393, Sec. 7, eff. Sept. 1, 2003.

**Sec. 84.004. UNLAWFULLY WITNESSING APPLICATION FOR MORE THAN ONE APPLICANT.** (a) A person commits an offense if:

- (1) the person signs an application for a ballot to be voted by mail as a witness for more than one applicant in the same election; or
- (2) the person signs an application for annual ballots by mail as a witness for more than one applicant in the same calendar year.

(b) It is an exception to the application of Subsection (a) that the person signed early voting ballot applications for more than one applicant:

- (1) as an early voting clerk or deputy early voting clerk; or
- (2) and the person is related to the additional applicants as a parent, grandparent, spouse, child, or sibling.

(c) A violation of this section does not affect the validity of an application involved in the offense.

(d) Each application signed by the witness in violation of this section constitutes a separate offense.

(e) An offense under this section is a Class B misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.07; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 393, Sec. 8, eff. Sept. 1, 2003; Acts 2015, 84th Leg., R.S., Ch. 1050 (H.B. 1927), Sec. 2, eff. Sept. 1, 2015.

**Sec. 84.0041. FRAUDULENT USE OF APPLICATION FOR BALLOT BY MAIL.** (a) A person commits an offense if the person:

- (1) knowingly provides false information on an application for ballot by mail;
- (2) intentionally causes false information to be provided on an application for ballot by mail;

- (3) knowingly submits an application for ballot by mail without the knowledge and authorization of the voter; or
- (4) knowingly and without the voter's authorization alters information provided by the voter on an application for ballot by mail.

(b) An offense under this section is a state jail felony.

(c) An offense under Subsection (a)(4) does not apply to an early voting clerk or deputy early voting clerk who receives and marks an application for administrative purposes only.

(d) An offense under this section is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

- (1) the defendant was previously convicted of an offense under this code;
- (2) the offense involved a voter 65 years of age or older; or
- (3) the defendant committed another offense under this section in the same election.

Added by Acts 1987, 70th Leg., ch. 472, Sec. 22, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.07; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 565, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 393, Sec. 9, eff. Sept. 1, 2003; S.B. 5, 85<sup>th</sup> Leg., 1<sup>st</sup> C.S., Sec. 4, eff. December 1, 2017.

**Sec. 84.005. APPLICATION COMPONENTS.** Each document that contains information required for an early voting ballot application and that is submitted to the early voting clerk and any envelope in which an application is submitted are part of the early voting ballot application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.07; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 84.007. SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: GENERAL RULE.** (a) Except as provided by Sections 84.008 and 84.009, an application for a ballot to be voted by mail must be submitted as provided by this section.

(b) An application must be submitted to the early voting clerk by:

- (1) mail;
- (2) common or contract carrier;
- (3) subject to Subsection (b-1), telephonic facsimile machine, if a machine is available in the clerk's office;

or

(4) subject to Subsection (b-1), electronic transmission of a scanned application containing an original signature.

(b-1) For an application for ballot by mail submitted by telephonic facsimile machine or electronic transmission to be effective, the application also must be submitted by mail and be received by the early voting clerk not later than the fourth business day after the transmission by telephonic facsimile machine or electronic transmission is received.

(c) Except as provided by Section 86.0015(b), an application may be submitted at any time in the year of the election for which a ballot is requested, but not later than the close of regular business in the early voting clerk's office or 12 noon, whichever is later, on the 11th day before election day unless that day is a Saturday, Sunday, or legal state or national holiday, in which case the last day is the first preceding regular business day.

(d) An application is considered to be submitted at the time of its receipt by the clerk.

(e) The early voting clerk shall designate an e-mail address for receipt of an application under Subsection (b)(4). The secretary of state shall include the e-mail address designated by each early voting clerk on the secretary of state's website.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 23, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 203, Sec. 1.05; Acts 1993, 73rd Leg., ch. 728, Sec. 26, eff. Sept. 1, 1993; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 14, eff. Sept. 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 9, eff. Sept. 1, 2013; Acts 2015, 84th Leg., R.S., Ch. 1050 (H.B. 1927), Sec. 3, eff. Sept. 1, 2015; S.B. 5, 85<sup>th</sup> Leg., 1<sup>st</sup> C.S., Sec. 5, eff. Dec. 1, 2017; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 48, eff. Sept. 1, 2021.

**Sec. 84.008. SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: PERSONAL DELIVERY.** (a) Except as otherwise provided by this code, an applicant for a ballot to be voted by mail may submit the application by delivering it in person to the early voting clerk if the application is submitted not later than the deadline provided by Section 84.007(c).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.07; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 71, eff. Sept. 1, 1997; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 49 & 99 eff. Sept. 1, 2021.

**Sec. 84.009. SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: CONFINEMENT IN JAIL.** (a) On request of the applicant, an application for a ballot to be voted by mail on the ground of confinement in jail may be submitted to the early voting clerk, at the discretion of the authority in charge of the jail, by personal delivery by the jail authority or by

a designated subordinate of the authority.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1050, Sec. 8, eff. September 1, 2015.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.07; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2015, 84th Leg., R.S., Ch. 1050 (H.B. 1927), Sec. 8, eff. Sept. 1, 2015.

**Sec. 84.010. PRESERVATION OF APPLICATION.** Each early voting ballot application shall be preserved after the election for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.07; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 84.011. OFFICIAL APPLICATION FORM.** (a) The officially prescribed application form for an early voting ballot must include:

(1) immediately preceding the signature space the statement: "I certify that the information given in this application is true, and I understand that giving false information in this application is a crime.";

(2) a statement informing the applicant of the offenses prescribed by Sections 84.003 and 84.004;

(3) spaces for entering an applicant's voter registration number and county election precinct of registration, with a statement informing the applicant that failure to furnish that information does not invalidate the application;

(3-a) a space for entering the information required under Section 84.002(a)(1-a); and

(4) on an application for a ballot to be voted by mail:

(A) a space for an applicant applying on the ground of absence from the county of residence to indicate the date on or after which the applicant can receive mail at the address outside the county;

(B) a space for indicating the fact that an applicant whose application is signed by a witness cannot make the applicant's mark and a space for indicating the relationship or lack of relationship of the witness to the applicant;

(C) a space for entering an applicant's telephone number, with:

(i) a statement informing the applicant that failure to furnish that information does not invalidate the application; and

(ii) a statement prescribed by the secretary of state explaining the benefits of furnishing that information, including how that information assists the early voting clerk;

(D) a space or box for an applicant applying on the ground of age or disability to indicate that the address to which the ballot is to be mailed is the address of a facility or relative described by Section 84.002(a)(3), if applicable;

(E) a space or box for an applicant applying on the ground of confinement in jail or involuntary civil commitment to indicate that the address to which the ballot is to be mailed is the address of a relative described by Section 84.002(a)(4) or (7), if applicable;

(F) a space for an applicant applying on the ground of age or disability to indicate if the application is an application under Section 86.0015;

(G) spaces for entering the signature, printed name, and residence address of any person assisting the applicant;

(H) a statement informing the applicant of the condition prescribed by Section 81.005; and

(I) a statement informing the applicant of the requirement prescribed by Section 86.003(c).

(b) The officially prescribed application form for an early voting ballot to be voted by mail must be at least eight inches by nine inches in size and be printed in at least six-point type.

(c) The secretary of state shall make the statement prescribed by Subsection (a)(4)(C)(ii) available on the secretary's Internet website.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 24, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 203, Sec. 1.06; Acts 1997, 75th Leg., ch. 565, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 864, Sec. 72, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 5, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 393, Sec. 10, eff. Sept. 1, 2003; Acts 2015, 84th Leg., R.S., Ch. 1050 (H.B. 1927), Sec. 4, eff. Sept. 1, 2015; H.B. 3107, 87th Leg., R.S., Sec. 50, eff. Sept. 1, 2021; S.B. 1, 87th Leg., 2nd C.S., Sec. 5.03, eff. Dec. 2, 2021; H.B. 315, 88th Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 84.0111. DISTRIBUTION OF APPLICATION FORM.** (a) Except as provided by Subsection (c) or as otherwise authorized by this code, an officer or employee of this state or of a political subdivision of this state may not distribute an application form for an early voting ballot to a person who did not request an application under Section 84.001.

(b) An officer or employee of this state or of a political subdivision of this state may not use public funds to facilitate the distribution by another person of an application form for an early voting ballot to a person who did not request an application

under Section 84.001.

(c) A political party or a candidate for office may distribute an application form for an early voting ballot to a person who did not request an application under Section 84.001.

Added by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 5.04, eff. Dec. 2, 2021.

**Sec. 84.012. CLERK TO MAIL APPLICATION FORM ON REQUEST.** The early voting clerk shall mail without charge an appropriate official application form for an early voting ballot to each applicant requesting the clerk to send the applicant an application form.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72<sup>nd</sup> Leg., ch. 203, Sec. 2.07; Acts 1991, 72<sup>nd</sup> Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75<sup>th</sup> Leg., ch. 864, Sec. 73, eff. Sept. 1, 1997; Acts 1997, 75<sup>th</sup> Leg., ch. 1381, Sec. 6, eff. Sept. 1, 1997.

**Sec. 84.0121. CLERK TO POST APPLICATION FORM ONLINE.** (a) The early voting clerk shall post the official application form for an early voting ballot on the clerk's Internet website, if the clerk maintains an Internet website, in a format that allows a person to easily complete the application directly on the website before printing.

(b) The early voting clerk may use the application form provided by the secretary of state under Section 84.013 or the early voting clerk's own application form.

S.B. 477, 88<sup>th</sup> Leg., R.S., Sec. 3, eff. June 18, 2023.

**Sec. 84.013. APPLICATION FORMS FURNISHED BY SECRETARY OF STATE.** (a) The secretary of state shall maintain a supply of the official application forms for ballots to be voted by mail and shall furnish the forms in reasonable quantities without charge to individuals or organizations requesting them for distribution to voters.

(b) The secretary of state shall provide a printable application for a ballot by mail in a format that complies with Section 84.0121(a) to the early voting clerk for use under that section.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72<sup>nd</sup> Leg., ch. 203, Sec. 2.07; Acts 1991, 72<sup>nd</sup> Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; S.B. 477, 88<sup>th</sup> Leg., R.S., Sec. 4, eff. June 18, 2023.

**Sec. 84.014. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS.** If an applicant provides a date of birth, driver's license number, or social security number on the applicant's application for an early voting ballot to be voted by mail that is different from or in addition to the information maintained by the voter registrar in accordance with Title 2, the early voting clerk shall notify the voter registrar. The voter registrar shall update the voter's record with the information provided by the applicant.

Added by H.B. 4034, 85<sup>th</sup> Leg. R.S., Sec. 6, eff. June 12, 2017.

## **SUBCHAPTER B. CANCELING APPLICATION FOR BALLOT TO BE VOTED BY MAIL**

**Sec. 84.031. CANCELLATION OF APPLICATION.** (a) An application for an early voting ballot to be voted by mail that has been submitted to the early voting clerk may be canceled only as provided by this subchapter.

(b) A person whose application is canceled, if otherwise eligible, may vote in the same manner as if the application had not been submitted.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72<sup>nd</sup> Leg., ch. 203, Sec. 2.08; Acts 1991, 72<sup>nd</sup> Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 84.032. REQUEST FOR CANCELLATION.** (a) A person desiring to cancel the person's application for a ballot to be voted by mail must submit a request for the cancellation to an election officer as provided by this section.

(b) A request must:

(1) be in writing and signed by the applicant;

(2) specify the election for which the application was made; and

(3) except as provided by Subsection (c), (d), or (e), be received by the early voting clerk:

(A) not later than the third day before election day; and

(B) if an early voting ballot sent to the applicant is returned to the clerk as a marked ballot, before the marked ballot's arrival at the address on the carrier envelope.

(c) An applicant may submit a request after the close of early voting by personal appearance by appearing in person and:

(1) returning the ballot to be voted by mail to the early voting clerk; or

(2) executing an affidavit that the applicant:

(A) has not received the ballot to be voted by mail;

(B) never requested a ballot to be voted by mail; or

(C) received notice of a defect under Section 87.0271(b) or (c) or 87.0411(b) or (c).

(d) An applicant may also submit a request by appearing in person and returning the ballot to be voted by mail or presenting a notice received under Section 86.006(h) to:

(1) the early voting clerk or deputy early voting clerk at any polling place that is open for early voting by personal appearance; or

(2) the presiding election judge on election day at the applicant's precinct polling place.

(d-1) An election officer shall maintain a register of ballots to be voted by mail returned at a polling place under Subsection (d). An election officer shall enter on the register the name of each voter who returns a ballot to be voted by mail and the ballot's number. The secretary of state shall adopt a form to be used for this purpose.

(e) An applicant may also submit a request at any time after the early voting ballot is returned to the early voting clerk as a marked ballot and before the ballot is delivered to the early voting ballot board by appearing in person and executing an affidavit that the applicant did not mark the ballot.

(f) A request for cancellation in a manner other than as authorized by this section, including a request by letter, has no effect.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.08; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 27, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1381, Sec. 7, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 393, Sec. 11, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1316, Sec. 21, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 5A.001, eff. September 1, 2005; Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(23), eff. Sept. 1, 2005; S.B. 5, 85<sup>th</sup> Leg., 1<sup>st</sup> C.S., Sec. 6, eff. Dec. 1, 2017; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 5.05, eff. Dec. 2, 2021; S.B. 1599, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept 1., 2023.

**Sec. 84.033. ACTION ON REQUEST.** (a) The election officer shall review each cancellation request to determine whether it complies with Section 84.032.

(b) If the request complies, the early voting clerk shall cancel the application and enter on the application "canceled" and the date of cancellation.

(c) If the request complies, the presiding election judge shall enter on the returned ballot or the notice, as applicable, "canceled," place it and the request in an envelope, and deposit the envelope in ballot box no. 4. The applicant's application is considered to be canceled.

(d) If the request does not comply, the election officer shall deny the request and enter on the request "denied" and the date of and reason for the denial. The presiding election judge shall place the request in an envelope and deposit the envelope in ballot box no. 4.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.08; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 27, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1381, Sec. 8, eff. Sept. 1, 1997.

**Sec. 84.034. NOTICE OF DENIAL.** Immediately after denying a cancellation request, the election officer shall notify the applicant of the denial. The notice must state the reason for the denial.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.08; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 27, eff. Sept. 1, 1993.

**Sec. 84.035. BALLOT SENT TO APPLICANT.** (a) If the early voting clerk cancels an application by an applicant to whom an early voting ballot has been sent, the clerk shall:

(1) remove the applicant's name from the early voting roster; and

(2) make any other entries in the records and take any other action necessary to prevent the ballot from being counted if returned.

(b) An election judge may permit a person to whom an early voting ballot has been sent who cancels the person's application for a ballot to be voted by mail in accordance with Section 84.032 but fails to return the ballot to be voted by mail to the early voting clerk, deputy early voting clerk, or presiding judge as provided by that section to vote only a provisional ballot under Section 63.011.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.08; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 5.06, eff. Dec. 2, 2021.

**Sec. 84.036. DISPOSITION OF RETURNED BALLOT.** (a) If an early voting ballot sent to an applicant whose application is canceled is returned to the early voting clerk as a marked ballot, the ballot shall be treated as a marked ballot not timely returned.

(b) After making the appropriate entry on a register maintained under Section 84.032(d-1), an election officer shall deposit a ballot to be voted by mail returned at a polling place under Section 84.032(d) in ballot box no. 4.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.08; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; S.B. 1599, 88<sup>th</sup> Leg., R.S., Sec. 3, eff. Sept 1., 2023.

**Sec. 84.037. PRESERVATION OF DOCUMENTS.** (a) The early voting clerk shall preserve each cancellation request for the period for preserving the precinct election records. If the application is canceled, the clerk shall attach it and the corresponding ballot materials, if available, to the cancellation request and preserve it with the request.

(b) The early voting clerk as defined by Subchapter A, Chapter 83, shall, not later than the 30th day after election day, deliver notice to the attorney general of cancellation requests received, including certified copies of cancellation requests, applications, and carrier envelopes, if available.

(c) The attorney general shall prescribe the form and manner of submission under Subsection (b). The secretary of state shall adopt rules as necessary to implement the requirements prescribed under this subsection.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.08; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; S.B. 5, 85th Leg., 1st C.S., Sec. 7, eff. Dec. 1, 2017.

**Sec. 84.038. CANCELLATION EFFECTIVE FOR SINGLE ELECTION.** The cancellation of an application for a ballot to be voted by mail under Section 84.032(c), (d), or (e) is effective for a single ballot only and does not cancel the application with respect to a subsequent election, including a subsequent election to which the same application applies under Section 84.001(c) or 86.0015(b).

Added by Acts 2015, 84th Leg., R.S., Ch. 1050 (H.B. 1927), Sec. 5, eff. Sept. 1, 2015.



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## **CHAPTER 85. CONDUCT OF VOTING BY PERSONAL APPEARANCE**

### **SUBCHAPTER A. TIME AND PLACE FOR VOTING; ELECTION OFFICERS**

**Sec. 85.001. EARLY VOTING PERIOD.** (a) The period for early voting by personal appearance begins on the 17th day before election day and continues through the fourth day before election day, except as otherwise provided by this section.

(b) For a special runoff election for the office of state senator or state representative or for a runoff primary election, the period begins on the 10th day before election day.

(c) If the date prescribed by Subsection (a) or (b) for beginning the period is a Saturday, Sunday, or legal state holiday, the early voting period begins on the next regular business day.

(d) If because of the date for which an election is ordered it is not possible to begin early voting by personal appearance on the prescribed date, the early voting period shall begin on the earliest date practicable after the prescribed date as set by the authority ordering the election.

(e) For an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the 12th day before election day and continues through the fourth day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 115, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 22, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 8, eff. October 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 8, eff. September 1, 2009.

**Sec. 85.002. MAIN EARLY VOTING POLLING PLACE.** (a) Early voting by personal appearance for each election shall be conducted at the main early voting polling place.

(b) In an election in which a county clerk or city secretary is the early voting clerk under Section 83.002 or 83.005, the main early voting polling place shall be located in any room selected by the early voting clerk in the building that houses the main business office of the county clerk or city secretary, as applicable. However, if the commissioners court or city governing body determines that locating the polling place in that building is impracticable, the commissioners court or city governing body may designate a different location in the city in which the business office is located that is as near as practicable to the business office.

(c) In an election in which a county clerk is the early voting clerk under Section 83.003 or 83.004, the authority authorized to appoint the clerk shall designate the location of the main early voting polling place. The location must be in the territory covered by the election or in any room selected by the clerk in the building that houses the county clerk's main business office, whether or not the office is located in the territory covered by the election. However, if the commissioners court determines that locating the polling place in that building is impracticable, the commissioners court may designate a different location in the city in which the business office is located that is as near as practicable to the business office.

(d) In an election in which a person other than a county clerk or city secretary is early voting clerk, the authority appointing the clerk shall designate the location of the main early voting polling place. The location must be in the territory covered by the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 85.003. VOTERS SERVED BY MAIN POLLING PLACE.** Any person entitled to vote an early voting ballot by personal appearance may do so at the main early voting polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 85.004. PUBLIC NOTICE OF MAIN POLLING PLACE LOCATION.** The election order and the election notice must designate and state the location of the main early voting polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 9, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 15, eff. September 1, 2011; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 51, eff. Sept. 1, 2021.

**Sec. 85.005. REGULAR DAYS AND HOURS FOR VOTING.** (a) Except as provided by Subsection (c), in an election in which a county clerk is the early voting clerk under Section 83.002, early voting by personal appearance at the main early voting polling place shall be conducted on each weekday of the early voting period that is not a legal state holiday and for a period of at least nine hours, except that voting may not be conducted earlier than 6 a.m. or later than 10 p.m.

(b) In an election to which Subsection (a) does not apply, early voting by personal appearance at the main early voting polling place shall be conducted at least nine hours each weekday of the early voting period that is not a legal state holiday unless the territory covered by the election has fewer than 1,000 registered voters. In that case, the voting shall be conducted at least four hours each day. The authority ordering the election, or the county clerk if that person is the early voting clerk, shall determine which hours the voting is to be conducted.

(c) Voting in a primary election or the general election for state and county officers shall be conducted at the main early voting polling place for at least 12 consecutive hours on each weekday of the last week of the early voting period, and the voting in a special election ordered by the governor shall be conducted at the main early voting polling place for at least 12 consecutive hours on each of the last two days of the early voting period. Voting under this subsection may not be conducted earlier than 6 a.m. or later than 10 p.m.

(d) A voter who has not voted before the scheduled time for closing a polling place is entitled to vote after that time if the voter is in line at the polling place by closing time. The secretary of state shall promulgate any materials and provide any training to presiding judges necessary to properly process voters under this subsection.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 1142, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 1.07; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.17, eff. September 1, 2005; S.B. 1, 87th Leg., 2nd C.S., Sec. 3.09, eff. Dec. 2, 2021; H.B. 1217, 88th Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 85.006. VOTING ON SATURDAY OR SUNDAY.** (a) Except as provided by Subsection (b), the authority ordering an election may order early voting by personal appearance at the main early voting polling place to be conducted on one or more Saturdays or Sundays during the early voting period.

(b) In an election in which a county clerk is the early voting clerk under Section 83.002, only the early voting clerk may order voting on a Saturday or Sunday. The clerk must do so by written order.

(c) The authority ordering voting on a Saturday or Sunday shall determine the hours during which voting is to be conducted.

(d) The authority authorized to order early voting on a Saturday or Sunday under Subsection (a) or (b) shall order the voting under the applicable subsection on receipt of a written request submitted by at least 15 registered voters of the territory covered by the election. The request must be submitted in time to enable compliance with Section 85.007. The authority is not required to order the voting on a particular date specified by the request but shall order the voting on at least one Saturday if a Saturday is requested and on at least one Sunday if a Sunday is requested.

(e) In a primary election or the general election for state and county officers, the early voting clerk shall order voting by personal appearance at the main early voting polling place to be conducted on the last Saturday of the early voting period for at least 12 consecutive hours, except that voting may not be conducted earlier than 6 a.m. or later than 10 p.m., and on the last Sunday of the early voting period for at least six consecutive hours, except that voting may not be conducted earlier than 9 a.m. or later than 10 p.m. This subsection supersedes any provision of this subchapter to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 25, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1142, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 1.08; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; S.B. 1, 87th Leg., 2nd C.S., Sec. 3.10, eff. Dec. 2, 2021; H.B. 1217, 88th Leg., R.S., Sec. 3, eff. Sept. 1, 2023.

**Sec. 85.007. PUBLIC NOTICE OF TIME FOR VOTING.** (a) The election order and the election notice must state:

(1) the date that early voting will begin if under Section 85.001(d) the early voting period is to begin later than the prescribed date;

(2) the regular dates and hours that voting will be conducted under Section 85.005(b); and

(3) the dates and hours that voting on Saturday or Sunday is ordered to be conducted under Section 85.006(a).

(b) The early voting clerk shall post notice for each election stating the dates and hours that voting on a Saturday or Sunday is ordered to be conducted under Section 85.006(b).

(c) Notice under Subsection (b) shall be posted continuously for at least 72 hours immediately preceding the first hour that the voting to which the notice pertains will be conducted. The notice shall be posted on:

(1) the bulletin board used for posting notice of meetings of the commissioners court if the early voting clerk is the county clerk of a county that does not maintain an Internet website, or of the city governing body if the early voting clerk is the city secretary; or

(2) the county's Internet website if the early voting clerk is the county clerk of a county that maintains an Internet website.

(d) Any notice required under this section must also be posted:

(1) on the Internet website of the authority ordering the election, if the authority maintains a website; and

(2) for a primary election or the general election for state and county officers, by the secretary of state on the secretary's Internet website.

(e) The authority ordering an election shall forward its election notice to the secretary of state in a manner that affords the secretary of state sufficient time to comply with Subsection (d)(2).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2015, 84th Leg., R.S., Ch. 1092 (H.B. 2721), Sec. 1, eff. June 19, 2015; H.B. 933, 86th Leg., Sec. 9, eff. Sept. 1, 2019; H.B. 3107, 87th Leg., R.S., Sec. 52, eff. Sept. 1, 2021.

**Sec. 85.008. DAYS AND HOURS FOR VOTING: ELECTION IN CERTAIN CITIES.** (a) This section applies only to a city with a population of more than 450,000 in which all members of the governing body are elected on an at-large basis.

(b) Notwithstanding and in addition to other applicable provisions of this code, in an election in which the city secretary is the early voting clerk under Section 83.005, early voting by personal appearance shall be conducted on the corresponding days and for the same number of hours that the voting is required to be conducted in the general election for state and county officers in the county in which a majority of the population of the city is located.

Added by Acts 1997, 75th Leg., ch. 172, Sec. 1, eff. Sept. 1, 1997.

**Sec. 85.009. ELECTION OFFICERS FOR GENERAL ELECTION FOR STATE AND COUNTY OFFICERS.** (a)

The county clerk shall select election officers for the main early voting polling place and any branch polling place from a list provided under Subsection (b), in a manner that provides equal representation to the extent possible for each political party holding a primary election in the county.

(b) Before July of each year, the county chair of each political party holding a primary election in the county shall submit in writing to the county clerk a list of names of persons in order of preference for each early voting polling place who are eligible for selection as an election officer. The county chair may supplement the list of names of persons until the 30th day before early voting begins in case an appointed election officer becomes unable to serve. The county clerk shall appoint the first person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the highest number of votes in the county as the presiding judge of that polling place and the first person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the second highest number of votes in the county as the alternate presiding judge of that polling place. The county clerk shall appoint additional election officers for each polling place in the manner described by Subsection (a). The county clerk may reject the list if the persons whose names are submitted on the list are determined not to meet the applicable eligibility requirements.

(c) The county clerk, after making a reasonable effort to consult with the party chair of the appropriate political party or parties, may select election officers for each early voting polling place in which a list is not submitted in a manner that attempts to ensure equal representation to the extent possible for the parties holding a primary election in the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 558 (S.B. 1434), Sec. 2, eff. September 1, 2007.

Amended by H.B. 1735, 85th Leg., R.S., Sec. 13, eff. September 1, 2017.

**Sec. 85.0091. EARLY VOTING ELECTION OFFICERS FOR PRIMARY ELECTIONS.** (a) The early voting clerk shall select election officers for a primary election for the main early voting polling place and any branch polling place in a manner consistent with Section 85.009, except that the early voting clerk shall prescribe the deadline by which county chairs must submit names of persons eligible to serve as election officers during early voting.

(b) This section does not apply to a joint primary governed by Section 172.126.

Added by H.B. 1735, 85th Leg., R.S., Sec. 14, eff. Sept. 1, 2017.

**Sec. 85.010. EARLY VOTING POLLING PLACE FOR CERTAIN ELECTIONS HELD BY POLITICAL SUBDIVISIONS.** (a) This section applies to an election held by a political subdivision, other than a county, on the November uniform election date in which the political subdivision:

(1) is not holding a joint election with a county in accordance with Chapter 271; and

(2) has not executed a contract with a county elections officer under which the political subdivision and the county share early voting polling places for the election.

(a-1) In this section, "eligible county polling place" means an early voting polling place established by a county.

(b) A political subdivision that holds an election described by Subsection (a):

(1) shall designate as an early voting polling place for the election an eligible county polling place located in the political subdivision ; and

(2) may not designate as an early voting polling place a location other than an eligible county polling place unless each eligible county polling place located in the political subdivision is designated as an early voting polling place by the political subdivision.

(c) A shared polling place established under Subsection (b) that is designated as a main early voting polling place by any political subdivision must be open for voting for all political subdivisions the polling place serves for at least the days and

hours required of a main early voting polling place under Section 85.002 for the political subdivision making the designation. Added by Acts 2013, 83rd Leg., R.S., Ch. 636 (H.B. 506), Sec. 1, eff. September 1, 2013. Amended by H.B. 1048, 86<sup>th</sup> Leg., Sec. 1, eff. June 14, 2019; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 3.11, eff. Dec. 2, 2021.

## SUBCHAPTER B. POLLING PLACE PROCEDURE

**Sec. 85.031. ACCEPTING VOTER.** (a) For each person entitled to vote an early voting ballot by personal appearance, the early voting clerk shall follow the procedure for accepting a regular voter on election day, with the modifications necessary for the conduct of early voting.

(b) On accepting a voter, the clerk shall indicate beside the voter's name on the list of registered voters that the voter is accepted to vote by personal appearance unless the form of the list makes it impracticable to do so, and the clerk shall enter the voter's name on the poll list.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 34, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 9, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 11, eff. January 1, 2012.

**Sec. 85.0311. EARLY VOTING CLERK TO SIGN BALLOTS.** (a) The early voting clerk's initials shall be placed on the back of each ballot to be used at the polling place.

(b) The early voting clerk shall enter the initials on each ballot or a deputy early voting clerk shall stamp a facsimile of the initials on each ballot.

Added by Acts 1997, 75th Leg., ch. 1381, Sec. 10, eff. Sept. 1, 1997.

**Sec. 85.032. SECURITY OF EARLY VOTING BALLOT BOX.** (a) The procedure for rotating two ballot boxes applicable to a precinct polling place does not apply to an early voting polling place. Once locked for use in an election, the early voting ballot box may not be unlocked except as provided by this subtitle.

(b) The ballot box in which voters deposit their marked early voting ballots must have two locks, each with a different key, and must be designed and constructed so that the box can be sealed to detect any unauthorized opening of the box and that the ballot slot can be sealed to prevent any unauthorized deposit in the box. The seals for the boxes must be serially numbered for each election. The procedures prescribed by Sections 127.064, 127.065, 127.066, and 127.068 governing the use of sealed ballot boxes in electronic voting system elections apply to the use of sealed ballot boxes under this title to the extent those procedures can be made applicable. The secretary of state shall prescribe any procedures necessary to implement the use of sealed ballot boxes in early voting.

(c) During the period for early voting by personal appearance, the early voting clerk shall keep the key to one of the locks to the early voting ballot box, and the custodian of keys to ballot boxes for preserving voted ballots after the election shall keep the key to the second lock.

(d) Each custodian shall retain possession of the key entrusted to the custodian until it is delivered to the presiding judge of the central counting station.

(e) A sealed case may be used for transferring voted early voting ballots in accordance with procedures approved by the secretary of state.

(f) The secretary of state shall prescribe procedures providing for the security of the voted early voting ballots from the last day of voting by personal appearance at a polling place until the day the ballots are counted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 562, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 74, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 11, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 16, eff. September 1, 2011.

**Sec. 85.033. SECURITY OF VOTING MACHINE.** At the close of early voting each day, the early voting clerk shall secure each voting machine used for early voting in the manner prescribed by the secretary of state so that its unauthorized operation is prevented. The clerk shall unsecure the machine before the beginning of early voting the following day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 85.034. VOTER UNABLE TO ENTER POLLING PLACE.** Early voting by personal appearance by a voter who is voting outside the early voting polling place shall be conducted pursuant to Section 64.009.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.01, eff. January 1, 2006; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 10, eff. September 1, 2013.

**Sec. 85.035. ASSISTING VOTER.** A person voting an early voting ballot by personal appearance who is assisted in preparing the ballot by election officers under Subchapter B, Chapter 64, may be assisted by a single officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 85.036. ELECTIONEERING.** (a) During the time an early voting polling place is open for the conduct of early voting, a person may not electioneer for or against any candidate, measure, or political party in or within 100 feet of an outside door through which a voter may enter the building or structure in which the early voting polling place is located.

(b) The entity that owns or controls a public building being used as an early voting polling place may not, at any time during the early voting period, prohibit electioneering on the building's premises outside of the area described in Subsection (a), but may enact reasonable regulations concerning the time, place, and manner of electioneering.

(c) During the early voting period, the early voting clerk shall keep continuously posted:

(1) at the entrance to the room or area, as applicable, in which the early voting polling place is located, a sign on which is printed in large letters "Early Voting Polling Place"; and

(2) at the outer limits of the area within which electioneering is prohibited, a sign on which is printed in large letters "Distance Marker. No electioneering between this point and the entrance to the early voting polling place."

(d) A person commits an offense if the person electioneers in violation of Subsection (a).

(e) An offense under this section is a Class C misdemeanor.

(f) In this section:

(1) "Early voting period" means the period prescribed by Section 85.001.

(2) "Electioneering" includes the posting, use, or distribution of political signs or literature.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.09; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 498, Sec. 1, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 639, Sec. 1, 2, eff. Sept. 1, 2003; Acts 2013, 83rd Leg., R.S., Ch. 235 (H.B. 259), Sec. 3, eff. June 14, 2013; Acts 2013, 83rd Leg., R.S., Ch. 235 (H.B. 259), Sec. 4, eff. June 14, 2013.

**Sec. 85.037. BYSTANDERS EXCLUDED; UNLAWFUL PRESENCE OF CANDIDATE.** Section 61.001 applies to an early voting polling place except that the period for which the conduct is proscribed is during the time the polling place is open for the conduct of early voting.

Added by Acts 1997, 75th Leg., ch. 1350, Sec. 4, eff. Sept. 1, 1997.

## **SUBCHAPTER C. BRANCH EARLY VOTING POLLING PLACE**

**Sec. 85.061. PERMANENT BRANCH POLLING PLACE.** (a) In a countywide election in which the county clerk is the early voting clerk under Section 83.002, an early voting polling place shall be located inside each branch office that is regularly maintained for conducting general clerical functions of the county clerk, except as provided by Subsection (b). If a suitable room is unavailable inside the branch office, the polling place may be located in another room inside the same building as the branch office.

(b) In an election in which a temporary branch polling place is established under Section 85.062(a)(1) or (d), the commissioners court may provide by resolution, order, or other official action that any one or more of the county clerk's regularly maintained branch clerical offices are not to be branch early voting polling places in the election.

(c) In this subchapter, "permanent branch polling place" means an early voting polling place established under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.10; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; S.B. 1, 87th Leg., 2nd C.S., Sec. 3.12, eff. Dec. 2, 2021.

**Sec. 85.062. TEMPORARY BRANCH POLLING PLACE.** (a) Except as provided by Subsection (d) or (e), one or more early voting polling places other than the main early voting polling place may be established by:

(1) the commissioners court, for an election in which the county clerk is the early voting clerk; or

(2) the governing body of the political subdivision served by the authority ordering the election, for an election in which a person other than the county clerk is the early voting clerk.

(b) A polling place established under this section may be located, subject to Subsection (d), at any place in the territory served by the early voting clerk and may be located inside any building as directed by the authority establishing the branch office. The polling place may not be located in a movable structure in the general election for state and county officers, general primary election, or runoff primary election. Ropes or other suitable objects may be used at the polling place to ensure compliance with Section 62.004. Persons who are not expressly permitted by law to be in a polling place shall be excluded

from the polling place to the extent practicable.

(c) In any election, the location of a polling place established under this section shall be fixed at one place for the duration of the period that voting is required to be conducted at the polling place.

(d) In a primary election, the general election for state and county officers, or a special election to fill a vacancy in the legislature or in congress:

(1) the commissioners court of a county with a population of 400,000 or more shall establish one or more early voting polling places other than the main early voting polling place in each state representative district containing territory covered by the election, except that the polling place or places shall be established in the state senatorial or congressional district, as applicable, in a special election to fill a vacancy in the office of state senator or United States representative;

(2) the commissioners court of a county with a population of 120,000 or more but less than 400,000 shall establish one or more early voting polling places other than the main early voting polling place in each commissioners precinct containing territory covered by the election; and

(3) the early voting clerk of a county with a population of 100,000 or more but less than 120,000 shall establish one or more early voting polling places as described by Subdivision (2) in each precinct for which the early voting clerk receives in time to enable compliance with Section 85.067 a written request for that action submitted by at least 15 registered voters of that precinct.

(e) Repealed by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S. Sec. 10.01, eff. Dec. 2, 2021.

(f) In a countywide election, the total number of permanent branch polling places and temporary branch polling places open for voting at the same time in a commissioners precinct may not exceed twice the number of permanent branch and temporary branch polling places open at that time in another commissioners precinct.

(f-1) Notwithstanding any other provision of this section concerning the location of temporary branch polling places, in an election in which countywide polling places are used, the commissioners court of a county shall employ the same methodology it uses to determine the location of countywide polling places to determine the location of temporary branch polling places.

(g) In this subchapter, "temporary branch polling place" means an early voting polling place established under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.11, 1.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 35, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1350, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 12, eff. Sept. 1, 1997; H.B. 1888, 86<sup>th</sup> Leg., Sec. 3, eff. Sept. 1, 2019; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 53, eff. Sept. 1, 2021; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 3.13, Sec. 10.01, eff. Dec. 2, 2021.

**Sec. 85.063. DAYS AND HOURS FOR VOTING: PERMANENT BRANCH.** Early voting by personal appearance at each permanent branch polling place shall be conducted on the same days and during the same hours as voting is conducted at the main early voting polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.11; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 85.064. DAYS AND HOURS FOR VOTING: TEMPORARY BRANCH.** (a) Repealed by H.B. 1217, 88<sup>th</sup> Leg., R.S., Sec. 7, eff. Sept. 1, 2023.

(b) Early voting by personal appearance at each temporary branch polling place shall be conducted on the days that voting is required to be conducted at the main early voting polling place under Section 85.005 and remain open for at least:

(1) eight hours each day; or

(2) three hours each day if the city or county clerk does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters.

(c) Repealed by H.B. 1888, 86<sup>th</sup> Leg., Sec. 6, eff. Sept. 1, 2019.

(d) The authority authorized under Section 85.006 to order early voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. In addition, the early voting clerk shall order such voting in accordance with Section 85.006(e) at each temporary branch polling place established under Section 85.062(d).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 1142, Sec. 3, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 1.13; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 36, eff. Sept. 1, 1997; H.B. 1888, 86<sup>th</sup> Leg., Secs. 4-6, eff. Sept. 1, 2019; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 54 & 55, eff. Sept. 1, 2021; H.B. 1217, 88<sup>th</sup> Leg., R.S., Sec. 3 and Sec. 7, eff. Sept. 1, 2023.

**Sec. 85.066. VOTERS SERVED BY BRANCH POLLING PLACE.** (a) Except as provided by Subsection (b), any voter who is entitled to vote an early voting ballot by personal appearance may do so at any branch polling place in the territory

served by the early voting clerk.

(b) For a countywide election in a county with a population of more than 3.3 million and a primary election in a county with a population of more than 1 million in which temporary branch polling places are established under Section 85.062(d)(1), the commissioners court may limit voting at a temporary branch polling place to the voters of particular state representative districts. To the extent practicable, the state representative districts shall be grouped so that the temporary branch polling places in each group serve substantially equal numbers of voters. A maximum of four groups of state representative districts may be established under this subsection.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.15; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; H.B. 4559, 88<sup>th</sup> Leg., R.S., Sec. 28, eff. Sept. 1, 2023..

**Sec. 85.067. PUBLIC NOTICE OF BRANCH VOTING SCHEDULE.** (a) The early voting clerk shall post for each election a schedule stating:

(1) the location of each permanent and temporary branch polling place at which voting will be conducted and the election precincts served by each branch polling place; and

(2) except as provided by Subsection (b), the dates and hours that temporary branch voting will be conducted.

(b) The schedule is not required to include dates and hours for which public notice is posted under Section 85.068.

(c) The schedule shall be posted continuously for a period beginning not later than the fifth day before the first day of the period for early voting by personal appearance and ending on the last day of that period. The schedule may be amended after the beginning of early voting by personal appearance to include notice of additional temporary branch polling place locations, dates, and hours, but any amendment must be made not later than the fifth day before the date the voting is scheduled to begin at the additional temporary branch.

(d) The schedule shall be posted on:

(1) the bulletin board used for posting notice of meetings of the governing body of the political subdivision served by the authority ordering the election or, if the early voting clerk is the county clerk of a county that does not maintain an Internet website or city secretary, meetings of the commissioners court or city governing body, as applicable ; or

(2) the county's Internet website if the early voting clerk is the county clerk of a county that maintains an Internet website.

(e) The early voting clerk shall make copies of the schedule available to the public in reasonable quantities without charge during the posting period.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 7(a), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 1.16; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; H.B. 933, 86<sup>th</sup> Leg., Sec. 10, eff. Sept. 1, 2019.

**Sec. 85.068. PUBLIC NOTICE OF ADDITIONAL VOTING TIME ORDERED BY CLERK.** (a) The early voting clerk shall post notice for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Section 85.064(d), if the early voting clerk is a county clerk or city secretary under Section 83.002 or 83.005.

(b) The notice is not required to include the dates and hours that appear in the branch office voting schedule posted under Section 85.067.

(c) The notice shall be posted as provided by Section 85.007(c).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 1142, Sec. 5, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 1.17; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; H.B. 1888, 86<sup>th</sup> Leg., Sec. 6, eff. Sept 1, 2019; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 57, eff. Sept. 1, 2021; H.B. 1217, 88<sup>th</sup> Leg., R.S., Sec. 6, eff. Sept. 1, 2023.

**Sec. 85.070. DELIVERY OF APPLICATIONS TO MAIN POLLING PLACE.** Each early voting ballot application submitted at a branch polling place shall be delivered by an election officer to the main polling place not later than 1 p.m. on the day after the date the application is submitted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.11; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 85.071. DELIVERY OF BALLOTS TO MAIN POLLING PLACE.** (a) During the period for early voting by personal appearance, the ballots voted at a branch polling place, other than those cast on a voting machine, shall be:

(1) retained securely at the branch polling place in a locked room accessible only to election officers; or

(2) delivered by an election officer or designated law enforcement officer to the main early voting polling place at the close of voting each day.

(b) The unvoted ballots at the branch polling place, other than voting machine ballots, shall be retained or delivered



with the voted ballots but in a separate locked container.

(c) All voted and unvoted ballots shall be delivered by an election officer or designated law enforcement officer to the main polling place at the close of voting on the last day of voting at the branch polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.11; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 85.072. BRANCH DAILY REGISTER.** (a) Each day early voting is conducted at a branch polling place, an election officer in charge of the branch shall prepare a register listing the voters who cast ballots at the branch that day.

(b) The register must include for each voter the information necessary for entering the voter's name on the early voting roster for the election.

(c) The election officer preparing the register shall deliver it to the early voting clerk at the close of each day's voting at the branch polling place.

(d) The early voting clerk shall preserve each daily register for the period for preserving the precinct election records.

(e) A current copy of the register shall be kept at the branch polling place during the period voting is conducted there.

(f) The early voting clerk shall provide, in a downloadable database format, a current copy of the register for posting on the Internet website of the authority ordering the election, if the authority maintains a website, each day early voting is conducted. At a minimum, the voter registration number for each voter listed in the register must be posted.

(g) The early voting clerk shall compile the registers and electronically submit to the secretary of state a record of each voter participating in a primary, a runoff primary, a general election, or any special election ordered by the governor not later than the day the voter votes in person or the early voting clerk receives a ballot voted by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.11; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; H.B. 1850, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

## CHAPTER 86. CONDUCT OF VOTING BY MAIL

**Sec. 86.001. REVIEWING APPLICATION AND PROVIDING BALLOT.** (a) The early voting clerk shall review each application for a ballot to be voted by mail.

(b) If the applicant is entitled to vote an early voting ballot by mail, the clerk shall provide an official ballot to the applicant as provided by this chapter.

(c) Except as provided by Section 86.008, if the applicant is not entitled to vote by mail, the clerk shall reject the application, enter on the application "rejected" and the reason for and date of rejection, and deliver written notice of the reason for the rejection to the applicant at both the residence address and mailing address on the application. A ballot may not be provided to an applicant whose application is rejected.

(d) If the application does not include the applicant's correct voter registration number or county election precinct of residence, the clerk shall enter the appropriate information on the application before providing a ballot to the applicant.

(e) If the applicant does not have an effective voter registration for the election, the clerk shall reject the application unless the clerk can determine from the voter registrar that the applicant has submitted a voter registration application and the registration will be effective on election day.

(f) If the information required under Section 84.002(a)(1-a) included on the application does not identify the same voter identified on the applicant's application for voter registration under Section 13.002(c)(8), the clerk shall reject the application.

(f-1) If an application is rejected under Subsection (f), the clerk shall provide notice of the rejection in accordance with Subsection (c). The notice must include information regarding the ability to correct or add information required under Section 84.002(a)(1-a) through the online tool described by Section 86.015(c).

(f-2) If an applicant corrects an application for a ballot to be voted by mail online and that application subsequently identifies the same voter identified on the applicant's application for voter registration, the clerk shall provide a ballot to the applicant as provided by this chapter. (g) If a ballot is provided to the applicant, the clerk shall indicate beside the applicant's name on the list of registered voters that a ballot to be voted by mail was provided to the applicant and the date of providing the ballot unless the form of the list makes it impracticable to do so.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 26, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1381, Sec. 13, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 23, eff. Sept. 1, 2013; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 5.07, eff. Dec. 2, 2021.

**Sec. 86.0015. ANNUAL BALLOTS BY MAIL.** (a) This section applies only to an application for a ballot to be voted by mail that:

(1) indicates the ground of eligibility is age or disability; and

(2) does not specify the election for which a ballot is requested or has been marked by the applicant as an application for more than one election.

(b) An application described by Subsection (a) is considered to be an application for a ballot for each election, including any ensuing runoff:

(1) in which the applicant is eligible to vote; and

(2) that occurs before the earlier of:

(A) except as provided by Subsection (b-2), the end of the calendar year in which the application was submitted;

(B) the date the county clerk receives notice from the voter registrar under Subsection (f) that the voter has changed residence to another county; or

(C) the date the voter's registration is canceled.

(b-1) An application submitted under this section must be submitted before the close of regular business in the early voting clerk's office or 12 noon, whichever is later, on the 11th day before election day unless that day is a Saturday, Sunday, or legal state or national holiday, in which case the last day is the first preceding regular business day.

(b-2) An application is considered to be submitted in the following calendar year for purposes of this section if:

(1) the applicant is eligible to vote in an election occurring in January or February of the next calendar year;

and

(2) the application is submitted in the last 60 days of a calendar year but not earlier than the 60th day before the date of the January or February election.

(c) In an election of a political subdivision located in a county in which the county clerk is not the early voting clerk, the county clerk shall provide the early voting clerk of the political subdivision that is holding the election a list of voters in the

portion of the political subdivision located in the county who have ballot applications on file under this section along with copies of the applications submitted by those voters. The early voting clerk shall provide a ballot to be voted by mail to each voter on the list for whom the early voting clerk received a copy of an application submitted under this section.

(d) The secretary of state shall provide a method by which counties and political subdivisions located in the county can exchange and update information on applications received under this section.

(e) An application described by Subsection (a) shall be preserved for the period for preserving the precinct election records for the last election for which the application is effective.

(f) The voter registrar shall notify the county clerk when a voter's voter registration has been canceled or a voter's address or name has changed. The county clerk must update any list of voters who have ballot applications on file under this section based on the information received from the voter registrar. A voter's ballot application on file under this section may not be canceled if a correction in registration information for the voter is a change of address within the county in which the voter is registered or a change of the voter's name.

Added by Acts 2013, 83rd Leg., R.S., Ch. 53 (H.B. 666), Sec. 1, eff. Jan. 1, 2014. Amended by: Acts 2015, 84th Leg., R.S., Ch. 1050 (H.B. 1927), Sec. 6, eff. Sept. 1, 2015; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 58, eff. Sept. 1, 2021.

**Sec. 86.002. ADDITIONAL BALLOTING MATERIALS.** (a) The early voting clerk shall provide an official ballot envelope and carrier envelope with each ballot provided to a voter. If the voter's name appears on the list of registered voters with the notation "S", or a similar notation, or the residence address on the voter's early voting ballot application is not the same as the voter's residence address on the list of registered voters, the clerk shall provide a form for a statement of residence to the voter.

(b) Before providing the balloting materials to the voter, the clerk shall enter on the carrier envelope the identity and date of the election.

(c) The clerk shall enter on a carrier envelope the voter's name in printed form, a notation that a statement of residence is enclosed, if applicable, and any other information the clerk determines necessary for proper processing of the ballot.

(d) The secretary of state shall prescribe instructions to be printed on the balloting materials for the execution and return of a statement of residence. The instructions must include an explanation of the circumstances under which the ballot must be rejected with respect to the statement.

(e) If the clerk determines that the carrier envelope and other balloting materials will weigh more than one ounce when returned by mail to the clerk, the clerk shall include with the balloting materials a notice of the amount of first class postage that will be required for the return by mail of the carrier envelope and enclosed materials.

(f) The clerk shall include with the balloting materials:

(1) a notice of the clerk's physical address for purposes of return by common or contract carrier or personal delivery in accordance with Section 86.006(a-1); and

(2) the list of declared write-in candidates for the election, if applicable.

(g) The carrier envelope must include a space that is hidden from view when the envelope is sealed for the voter to enter the following information:

(1) the number of the voter's driver's license, election identification certificate, or personal identification card issued by the Department of Public Safety;

(2) if the voter has not been issued a number described by Subdivision (1), the last four digits of the voter's social security number; or

(3) a statement by the applicant that the applicant has not been issued a number described by Subdivision (1) or (2).

(h) A person may use the number of a driver's license, election identification certificate, or personal identification card that has expired for purposes of Subsection (g) if the license or identification is otherwise valid.

(i) No record associating an individual voter with a ballot may be created.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 8(b), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 472, Sec. 27, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 916, Sec. 25, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 41, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 620, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1315, Sec. 43, eff. Jan. 1, 2004; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 59, eff. Sept. 1, 2021; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 5.08, eff. Dec. 2, 2021.

**Sec. 86.003. METHOD OF PROVIDING BALLOT TO VOTER: REQUIRED ADDRESS.** (a) The balloting materials for voting by mail shall be provided to the voter by mail. A ballot provided by any other method may not be counted.

(b) Subject to Subsection (c), the balloting materials shall be addressed to the applicable address specified in the voter's application. The election officer providing the ballot may not knowingly mail the materials to an address other than that prescribed by this section.

(c) The address to which the balloting materials must be addressed is the address at which the voter is registered to vote, or the registered mailing address if different, unless the ground for voting by mail is:

(1) absence from the county of residence, in which case the address must be an address outside the voter's county of residence;

(2) confinement in jail, in which case the address must be the address of the jail or of a relative described by Section 84.002(a)(4);

(3) age or disability and the voter is living at a hospital, nursing home or other long-term care facility, or retirement center, or with a relative described by Section 84.002(a)(3), in which case the address must be the address of that facility or relative; or

(4) involuntary civil commitment, in which case the address must be the address of the facility or of a relative described by Section 84.002(a)(7).

(d) If the applicable address specified in a voter's application is an address other than that prescribed by Subsection (c) or subject to Section 86.002(a), the voter's application shall be rejected in accordance with Section 86.001(c).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 565, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 14, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 23, eff. Sept. 1, 2003; S.B. 5, 85th Leg., 1st C.S., Sec. 8 & 18, eff. Dec. 1, 2017; H.B. 3107, 87th Leg., R.S., Sec. 60, eff. Sept. 1, 2021.

**Sec. 86.004. TIME FOR PROVIDING BALLOT TO VOTER.** (a) Except as provided by Subsection (b), the balloting materials for voting by mail shall be mailed to a voter entitled to vote by mail not later than the seventh calendar day after the later of the date the clerk accepts the voter's application for a ballot to be voted by mail or the date the ballots become available for mailing, except that if that mailing date is earlier than the 37th day before election day, the balloting materials shall be mailed not later than the 30th day before election day.

(b) For an election to which Section 101.104 applies, the balloting materials for a voter who indicates on the application for a ballot to be voted by mail or the federal postcard application that the voter is eligible to vote early by mail as a consequence of the voter's being outside the United States shall be mailed on or before the later of the 45th day before election day or the seventh calendar day after the date the clerk receives the application. However, if it is not possible to mail the ballots by the deadline of the 45th day before election day, the clerk shall notify the secretary of state within 24 hours of knowing that the deadline will not be met. The secretary of state shall monitor the situation and advise the clerk, who shall mail the ballots as soon as possible in accordance with the secretary of state's guidelines.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 393, Sec. 12, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 1, eff. Sept. 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 8, eff. Sept. 1, 2011; S.B. 5, 85th Leg., 1st C.S., Sec. 9 & 18, eff. Dec. 1, 2017; H.B. 273, 96th Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 86.005. MARKING AND SEALING BALLOT.** (a) A voter must mark a ballot voted by mail in accordance with the instructions on the ballot envelope.

(b) A voter may mark the ballot at any time after receiving it.

(c) After marking the ballot, the voter must place it in the official ballot envelope and then seal the ballot envelope, place the ballot envelope in the official carrier envelope and then seal the carrier envelope, and sign the certificate on the carrier envelope using ink on paper. An electronic signature or photocopied signature is not permitted.

(d) Failure to use the official ballot envelope does not affect the validity of the ballot.

(e) After the carrier envelope is sealed by the voter, it may not be opened except as provided by Chapter 87.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1315, Sec. 44, eff. Jan. 1, 2004; H.B. 1299, 88th Leg., R.S., Sec. 1, eff. Sept 1, 2023.

**Sec. 86.0051. UNLAWFUL CARRIER ENVELOPE ACTION BY PERSON OTHER THAN VOTER.** (a) A person commits an offense if the person acts as a witness for a voter in signing the certificate on the carrier envelope and knowingly fails to comply with Section 1.011.

(b) A person other than the voter who assists a voter by depositing the carrier envelope in the mail or with a common or contract carrier or who obtains the carrier envelope for that purpose must provide the person's signature, printed name, and residence address on the reverse side of the envelope. The person must sign the envelope using ink on paper. An electronic signature or photocopied signature is not permitted.

(c) A person commits an offense if the person knowingly violates Subsection (b). It is not a defense to an offense under this subsection that the voter voluntarily gave another person possession of the voter's carrier envelope.

(d) An offense under this section is a Class A misdemeanor, unless it is shown on the trial of an offense under this section that the person committed an offense under Section 64.036 for providing unlawful assistance to the same voter in

connection with the same ballot, in which event the offense is a state jail felony.

(e) This section does not apply if the person is related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or was physically living in the same dwelling as the voter at the time of the event.

(f) If conduct that constitutes an offense under this section also constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Added by Acts 2003, 78th Leg., ch. 393, Sec. 13, eff. Sept. 1, 2003. Amended by S.B. 5, 85<sup>th</sup> Leg., 1<sup>st</sup> C.S., Secs. 10 & 11, eff. Dec. 1, 2017; H.B. 1299, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2023.

**Sec. 86.0052. COMPENSATION FOR CARRIER ENVELOPE ACTION PROHIBITED.** (a) A person commits an offense if the person:

(1) compensates another person for depositing the carrier envelope in the mail or with a common or contract carrier as provided by Section 86.0051(b), as part of any performance-based compensation scheme based on the number of ballots deposited or in which another person is presented with a quota of ballots to deposit as provided by Section 86.0051(b);

(2) engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of ballots deposited as provided by Section 86.0051(b); or

(3) with knowledge that accepting compensation for such activity is illegal, accepts compensation for an activity described by Subdivision (1) or (2).

(b) Except as provided by Subsection (c), an offense under this section is a misdemeanor punishable by:

(1) confinement in jail for a term of not more than one year or less than 30 days; or

(2) confinement described by Subdivision (1) and a fine not to exceed \$4,000.

(c) An offense under this section is a state jail felony if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under this section.

(d) An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.

(e) For purposes of this section, compensation means any form of monetary payment, goods, services, benefits, or promises or offers of employment, or any other form of consideration offered to another person in exchange for depositing ballots.

Added by Acts 2013, 83rd Leg., R.S., Ch. 846 (H.B. 148), Sec. 1, eff. Sept. 1, 2013.

**Sec. 86.006. METHOD OF RETURNING MARKED BALLOT.** (a) A marked ballot voted under this chapter must be returned to the early voting clerk in the official carrier envelope. The carrier envelope may be delivered in another envelope and must be transported and delivered only by:

(1) mail;

(2) common or contract carrier; or

(3) subject to Subsections (a-1) and (a-2), in-person delivery by the voter who voted the ballot.

(a-1) The voter may deliver a marked ballot in person to the early voting clerk's office only while the polls are open on election day. A voter who delivers a marked ballot in person must present an acceptable form of identification described by Section 63.0101.

(a-2) An in-person delivery of a marked ballot voted under this chapter must be received by an election official at the time of delivery. The receiving official shall record the voter's name, signature, and type of identification provided under Section 63.0101 on a roster prescribed by the secretary of state. The receiving official shall attest on the roster that the delivery complies with this section.

(b) Except as provided by Subsection (c), a carrier envelope may not be returned in an envelope or package containing another carrier envelope.

(c) The carrier envelopes of persons who are registered to vote at the same address may be returned in the same envelope or package.

(d) Each carrier envelope that is delivered by a common or contract carrier must be accompanied by an individual delivery receipt for that particular carrier envelope that indicates the name and residence address of the individual who actually delivered the envelope to the carrier and the date, hour, and address at which the carrier envelope was received by the carrier. A delivery of carrier envelopes is prohibited by a common or contract carrier if the delivery originates from the address of:

(1) an office of a political party or a candidate in the election;

(2) a candidate in the election unless the address is the residence of the early voter;

(3) a specific-purpose or general-purpose political committee involved in the election; or

(4) an entity that requested that the election be held, unless the delivery is a forwarding to the early voting clerk.

(e) Carrier envelopes may not be collected and stored at another location for subsequent delivery to the early voting clerk. The secretary of state shall prescribe appropriate procedures to implement this subsection and to provide accountability for the delivery of the carrier envelopes from the voting place to the early voting clerk.

(f) A person commits an offense if the person knowingly possesses an official ballot or official carrier envelope provided under this code to another. Unless the person possessed the ballot or carrier envelope with intent to defraud the voter or the election authority, this subsection does not apply to a person who, on the date of the offense, was:

(1) related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code;

(2) physically living in the same dwelling as the voter;

(3) an early voting clerk or a deputy early voting clerk;

(4) a person who possesses a ballot or carrier envelope solely for the purpose of lawfully assisting a voter who was eligible for assistance under Section 86.010 and complied fully with:

(A) Section 86.010; and

(B) Section 86.0051, if assistance was provided in order to deposit the envelope in the mail or with a common or contract carrier;

(5) an employee of the United States Postal Service working in the normal course of the employee's authorized duties; or

(6) a common or contract carrier working in the normal course of the carrier's authorized duties if the official ballot is sealed in an official carrier envelope that is accompanied by an individual delivery receipt for that particular carrier envelope.

(g) An offense under Subsection (f) is a Class A misdemeanor unless the defendant possessed the ballot or carrier envelope without the rerequest of the voter, in which case it is a felony of the third degree. If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

(g-1) An offense under Subsection (g) is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

(1) the defendant was previously convicted of an offense under this code;

(2) the offense involved an individual 65 years of age or older; or

(3) the defendant committed another offense under this section in the same election.

(h) A ballot returned in violation of this section may not be counted. If the early voting clerk determines that the ballot was returned in violation of this section, the clerk shall make a notation on the carrier envelope and treat it as a ballot not timely returned in accordance with Section 86.011(c). If the ballot is returned before the end of the period for early voting by personal appearance, the early voting clerk shall promptly mail or otherwise deliver to the voter a written notice informing the voter that:

(1) the voter's ballot will not be counted because of a violation of this code; and

(2) the voter may vote if otherwise eligible at an early voting polling place or the election day precinct polling place on presentation of the notice.

(i) In the prosecution of an offense under Subsection (f):

(1) the prosecuting attorney is not required to negate the applicability of the provisions of Subsections (f)(1)-(6) in the accusation charging commission of an offense;

(2) the issue of the applicability of a provision of Subsection (f)(1), (2), (3), (4), (5), or (6) is not submitted to the jury unless evidence of that provision is admitted; and

(3) if the issue of the applicability of a provision of Subsection (f)(1), (2), (3), (4), (5), or (6) is submitted to the jury, the court shall charge that a reasonable doubt on the issue requires that the defendant be acquitted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 431, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 472, Sec. 28, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 1.18; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1381, Sec. 15, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 393, Sec. 14, eff. Sept. 1, 2003; Acts 2007, 80th Leg., R.S., Ch. 238 (H.B. 1987), Sec. 1, eff. September 1, 2007; Acts 2011, 82nd Leg., R.S., Ch. 1159 (H.B. 2449), Sec. 1, eff. Sept. 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 1050 (H.B. 1927), Sec. 7, eff. Sept. 1, 2015; S.B. 5, 85<sup>th</sup> Leg., 1<sup>st</sup> C.S., Sec. 12, eff. Dec. 1, 2017; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 4.12, eff. Dec. 2, 2021.

**Sec. 86.007. DEADLINE FOR RETURNING MARKED BALLOT.** (a) Except as provided by Subsection (d), a marked ballot voted by mail must arrive at the address on the carrier envelope:

(1) before the time the polls are required to close on election day; or

(2) not later than 5 p.m. on the day after election day, if the carrier envelope was placed for delivery by mail or common or contract carrier before election day and bears a cancellation mark of a common or contract carrier or a courier indicating a time not later than 7 p.m. at the location of the election on election day.

(b) If the early voting clerk cannot determine whether a ballot arrived before the deadline, the ballot is considered to have arrived at the time the place at which the carrier envelopes are deposited was last inspected for removal of returned ballots. The clerk shall check for returned ballots, at least once before the deadline, after the normal delivery time on the last day at the place at which the carrier envelopes are deposited.

(c) A marked ballot that is not timely returned may not be counted.

(d) A marked ballot voted by mail that arrives after the time prescribed by Subsection (a) shall be counted if:

(1) the ballot was cast from an address outside the United States;

(2) the carrier envelope was placed for delivery before the time the ballot is required to arrive under Subsection (a)(1); and

(3) the ballot arrives at the address on the carrier envelope not later than the fifth day after the date of the election.

(d-1) If the deadline for the arrival of a ballot voted by mail falls on a Saturday, Sunday, or legal state or national holiday, then the deadline is extended to the next regular business day.

(e) A delivery under Subsection (a)(2) or (d) is timely, except as otherwise provided by this title, if the carrier envelope or, if applicable, the envelope containing the carrier envelope:

(1) is properly addressed with postage or handling charges prepaid; and

(2) bears a cancellation mark of a recognized postal service or a receipt mark of a common or contract carrier or a courier indicating a time before the deadline.

(f) The envelope must bear the cancellation mark or receipt mark as required by Subsection (e)(2) to be timely under this section are met.

(g) The secretary of state shall prescribe procedures as necessary to implement Subsection (d).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 29, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 38, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 24, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 1, Sec. 4, eff. Jan. 11, 2004; Acts 2005, 79th Leg., Ch. 1062 (H.B. 1414), Sec. 1, eff. Sept. 1, 2005; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.18, eff. Sept. 1, 2005; H.B. 1151, 85<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2017.

**Sec. 86.008. OPPORTUNITY TO CORRECT DEFECT: APPLICATION.** (a) This section applies to an application for a ballot to be voted by mail for which the applicant failed to comply with a requirement provided by Section 84.002, 84.0021, or 84.003(a) in a manner that would lead, if not corrected, to the rejection of the applicant's application.

(a-1) Not later than the second day after the early voting clerk discovers a defect described by Subsection (a), the early voting clerk shall:

(1) determine if it would be possible for the applicant to correct the defect and return an application form by mail before the deadline provided by Section 84.007(c) or 86.0015(b-1), as applicable; and

(2) notwithstanding any other law, if the clerk determines it would be possible to correct the defect and return an application form before the deadline provided by Section 84.007(c) or 86.0015(b-1), either return the application to the applicant or deliver an official application form to the applicant.

(b) The clerk shall include with the returned application or an application form delivered to the applicant under Subsection (a-1)(2) a written notice containing:

(1) a brief explanation of each defect in the noncomplying application;

(2) a statement informing the voter that the voter is not entitled to vote an early voting ballot unless the application complies with all legal requirements; and

(3) instructions for submitting the corrected or second application.

(c) If the early voting clerk determines that it would not be possible for the applicant to correct the defect and return an application form by mail before the deadline provided by Section 84.007(c) or 86.0015(b-1), as applicable, the clerk may notify the applicant by telephone or e-mail of the defect, including the information required under Subsection (b), and inform the applicant that the applicant may come to the early voting clerk's office before the deadline provided by Section 84.007(c) or 86.0015(b-1), as applicable, and correct the defect in person.

(c-1) The clerk shall:

(1) in addition to returning an application or providing an application form under Subsection (a-1)(2) or notifying an applicant under Subsection (c), notify the applicant of a defect discovered under this section and provide the information required to be included under Subsection (b) using the online tool described by Section 86.015; and

(2) if possible, permit the applicant to correct a defect using the online tool described by Section 86.015.

(d) Notwithstanding any other provisions of this code, the clerk may deliver in person to the voter a second application if the defective original application is timely and may receive, before the deadline, the corrected application in person from the voter. If a procedure authorized by this subsection is used, it must be applied uniformly to all applications covered by this subsection. The clerk shall enter a notation on the application indicating any information added by the clerk under this subsection. A poll watcher is entitled to accompany the clerk and observe the procedures under this subsection. The secretary of state may prescribe any other procedures necessary to implement this subsection including requirements for posting notice of any deliveries.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 30, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 75, eff. Sept. 1, 1997; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 6, eff. Sept. 1, 2015; S.B. 1599, 88<sup>th</sup> Leg., R.S., Sec. 4, eff. Sept 1, 2023.

**Sec. 86.009. PROVIDING CORRECTED BALLOT TO VOTER.** (a) If, after a ballot to be voted by mail is provided to a voter, the official ballot is changed in a way that affects the choices available to the voter in the election or the validity of the ballot provided to the voter if cast, the early voting clerk shall mail a corrected ballot and corresponding balloting materials to the voter unless in the clerk's opinion there is not sufficient time for the voter to timely return the corrected ballot to the clerk.

(b) The clerk shall include with the balloting materials provided to the voter a written notice containing:

(1) a brief explanation of the reason for providing another ballot; and

(2) an instruction to destroy the defective ballot if it has not already been returned to the clerk.

(c) Before mailing the corrected ballot to the voter, the clerk shall place a notation on the carrier envelope indicating that the ballot is a corrected ballot being provided under this section. The clerk shall also indicate on the voter's application that the voter was provided a corrected ballot.

(d) The clerk shall prepare a list containing the name of each voter who is provided a corrected ballot under this section. The clerk shall preserve the list for the period for preserving the precinct election records.

(e) Except as provided by Subsection (f), a voter's defective ballot that is timely returned to the clerk as a marked ballot shall be treated as:

(1) a marked ballot not timely returned if the corrected ballot is timely returned as a marked ballot by the close of the polls on election day; or

(2) as the voter's ballot for the election if the corrected ballot is not timely returned by the close of the polls on election day.

(f) A ballot to be voted by mail under Chapter 101 corrected under this section may be counted if it is timely returned as required by Section 101.057.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 76, eff. Sept. 1, 1997; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 61, eff. Sept. 1, 2021.

**Sec. 86.010. UNLAWFULLY ASSISTING VOTER VOTING BALLOT BY MAIL.** (a) A voter casting a ballot by mail who would be eligible under Section 64.031 to receive assistance at a polling place may select a person as provided by Section 64.032(c) to assist the voter in preparing the ballot.

(b) Assistance rendered under this section is limited to that authorized by this code at a polling place, except that a voter with a disability who is physically unable to deposit the ballot and carrier envelope in the mail may also select a person as provided by Section 64.032(c) to assist the voter by depositing a sealed carrier envelope in the mail.

(c) The person assisting the voter must sign a written oath prescribed by Section 64.034 that is part of the certificate on the official carrier envelope.

(d) If a voter is assisted in violation of this section, the voter's ballot may not be counted.

(e) A person who assists a voter to prepare a ballot to be voted by mail shall enter on the official carrier envelope of the voter:

(1) the person's signature, printed name, and residence address;

(2) the relationship of the person providing the assistance to the voter; and

(3) whether the person received or accepted any form of compensation or other benefit from a candidate, campaign, or political committee in exchange for providing assistance.

(f) A person who assists a voter commits an offense if the person knowingly fails to comply with Subsections (c) and (e).

(g) An offense under this section is a state jail felony.

(h) Subsection (f) does not apply:

(1) to a violation of Subsection (c), if the person is related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or was



physically living in the same dwelling as the voter at the time of the event; or

(2) to a violation of Subsection (e), if the person is related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, 573, Government Code.

(i) An offense under this section for a violation of Subsection (c) is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

(1) the defendant was previously convicted of an offense under this code;

(2) the offense involved a voter 65 years of age or older; or

(3) the defendant committed another offense under this section in the same election.

(j) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1381, Sec. 16, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 393, Sec. 15, eff. Sept. 1, 2003; S.B. 5, 85th Leg., 1st C.S., Sec. 13, eff. Dec/ 1, 2017; S.B. 1, 87th Leg., 2nd C.S., Sec. 6.05, eff. Dec. 2, 2021.

**Sec. 86.0105. COMPENSATION FOR ASSISTING VOTERS PROHIBITED.** (a) A person commits an offense if the person:

(1) compensates or offers to compensate another person for assisting voters as provided by Section 86.010;

or

(2) solicits, receives, or accepts compensation for an activity described by Subdivision (1).

(b) Repealed by S.B. 1, 87th Leg., 2nd C.S., Sec. 10.01, eff. Dec. 2, 2021.

(c) An offense under this section is a state jail felony.

(d) An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.

(e) For purposes of this section, compensation means an economic benefit as defined by Section 38.01, Penal Code.

(f) This section does not apply if the person assisting a voter is an attendant or caregiver previously known to the voter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 846 (H.B. 148), Sec. 2, eff. Sept. 1, 2013; S.B. 1, 87th Leg., 2nd C.S., Sec. 6.06, Sec. 10.01, eff. Dec. 2, 2021.

**Sec. 86.011. ACTION BY CLERK ON RETURN OF BALLOT.** (a) The early voting clerk shall determine whether the return of a voter's official carrier envelope for a ballot voted by mail is timely.

(b) If the return is timely, the clerk shall enclose the carrier envelope and the voter's early voting ballot application in a jacket envelope. The clerk shall also include in the jacket envelope:

(1) a copy of the voter's federal postcard application if the ballot is voted under Chapter 101; and

(2) the signature cover sheet, if the ballot is voted under Chapter 105.

(c) If the return is not timely, the clerk shall enter the time of receipt on the carrier envelope and retain it in a locked container for the period for preserving the precinct election records. The clerk shall destroy the unopened envelope and its contents after the preservation period.

(d) Notwithstanding any other provisions of this code, if the clerk receives a timely carrier envelope that does not fully comply with the applicable requirements prescribed by this title, the clerk may deliver the carrier envelope in person or by mail to the voter and may receive, before the deadline, the corrected carrier envelope from the voter, or the clerk may notify the voter of the defect by telephone and advise the voter that the voter may come to the clerk's office in person to correct the defect or cancel the voter's application to vote by mail and vote on election day. If the procedures authorized by this subsection are used, they must be applied uniformly to all carrier envelopes covered by this subsection. A poll watcher is entitled to observe the procedures under this subsection. The secretary of state may prescribe any other procedures necessary to implement this subsection including requirements for posting notice of any deliveries.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 31, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 1.19; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 77, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 9, eff. Sept. 1, 2011; S.B. 1, 87th Leg., 2nd C.S., Sec. 5.09, eff. Dec. 2, 2021.

**Sec. 86.012. OFFICIAL BALLOT ENVELOPE.** (a) "Ballot Envelope" must be printed on the face of each officially prescribed ballot envelope for a ballot to be voted by mail.

(b) The following textual material, as prescribed by the secretary of state, must be printed on the face of each official ballot envelope and may be continued on the reverse side if necessary:

(1) instructions for marking the ballot and returning the marked ballot to the early voting clerk;

(2) the deadline for returning the marked ballot to the clerk;

(3) limitations on assistance to the voter; and

(4) criminal penalties for unlawful assistance in preparing the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 86.013. OFFICIAL CARRIER ENVELOPE.** (a) "Carrier Envelope for Early Voting Ballot," the name and official title of the early voting clerk as addressee, and the clerk's official mailing address must be printed on the face of each official carrier envelope for a ballot to be voted by mail.

(b) Spaces must appear on the reverse side of the official carrier envelope for:

- (1) indicating the identity and date of the election;
- (2) entering the signature, printed name, and residence address of a person other than the voter who deposits the carrier envelope in the mail or with a common or contract carrier; and
- (3) indicating the relationship of that person to the voter.

(c) A certificate in substantially the following form must be printed on the reverse side of the official carrier envelope in a manner that requires the voter to sign across the flap of the envelope:

"I certify that the enclosed ballot expresses my wishes independent of any dictation or undue persuasion by any person.

\_\_\_\_\_  
Signature of voter

By: \_\_\_\_\_

Signature of person assisting voter, if applicable (see Ballot Envelope for restrictions and penalties)

\_\_\_\_\_  
Printed name of person assisting voter, if applicable

\_\_\_\_\_  
Residence address of person assisting voter, if applicable"

(d) The following textual material, as prescribed by the secretary of state, must be printed on the reverse side of the official carrier envelope or on a separate sheet accompanying the carrier envelope when it is provided:

- (1) the prohibition prescribed by Section 86.006(b);
- (2) the conditions for delivery by common or contract carrier prescribed by Sections 81.005 and 86.006;
- (3) the requirements for the legal execution and delivery of the carrier envelope, including the prohibition on compensation for depositing carrier envelopes containing ballots voted by other persons under Section 86.0052;
- (4) the prohibition prescribed by Section 86.006(e); and
- (5) the offenses prescribed by Sections 86.006(f) and 86.010(f).

(e) The following notice must be printed on the reverse side of the official carrier envelope, near the space provided for the voter's signature: "This envelope must be sealed by the voter before it leaves the voter's hands. Do not sign this envelope unless the ballot has been marked by you or at your direction."

(f) The oath of a person assisting a voter must be included on the official carrier envelope as part of the certificate prescribed by Subsection (c).

(g) The secretary of state by rule shall require that a notice informing voters of the telephone number established under Section 31.0055 and the purpose of the telephone number be printed on:

- (1) the official carrier envelope; or
- (2) an insert enclosed with the balloting materials for voting by mail sent to the voter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.20; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1381, Sec. 17, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 393, Sec. 16, eff. Sept. 1, 2003; Acts 2013, 83rd Leg., R.S., Ch. 846 (H.B. 148), Sec. 3, eff. Sept. 1, 2013; S.B. 1, 87th Leg., 2nd C.S., Sec. 6.07, eff. Dec. 2, 2021.

**Sec. 86.014. PUBLIC INSPECTION OF EARLY VOTING RECORDS.** (a) A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after the election day of the earliest occurring election for which the application is submitted.

(b) Originals of the applications and carrier envelopes are not available for public inspection until those materials are delivered to the general custodian of election records after the election.

Added by Acts 1987, 70th Leg., ch. 472, Sec. 32, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.12; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 565, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 18, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1159 (H.B. 2449), Sec. 2, eff. Sept. 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 11, eff. Sept. 1, 2013; H.B. 2559, 85<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2017.

**Sec. 86.015. ELECTRONIC TRACKING OF APPLICATION FOR BALLOT VOTED BY MAIL OR BALLOT**

**VOTED BY MAIL.** (a) The secretary of state shall develop or otherwise provide an online tool to each early voting clerk on the secretary's Internet website and on the county's Internet website if the early voting clerk is the county clerk of a county that maintains an Internet website that enables a person who submits an application for a ballot to be voted by mail to:

(1) track the location and status of the person's application and ballot; and

(2) receive notice of and, if possible, correct a defect in the person's application and ballot under Sections 86.008(c-1), 87.0271(e-1), and 87.0411(e-1).

(b) The online tool developed or provided under Subsection (a) must require the voter to provide, before permitting the voter to access information described by that subsection:

(1) the voter's name and date of birth and the last four digits of the voter's social security number; and

(2) the voter's:

(A) driver's license number; or

(B) personal identification card number issued by the Department of Public Safety.

(c) An online tool used under this section must:

(1) for each election, record:

(A) each application for a ballot to be voted by mail received by the clerk; and

(B) each carrier envelope sent to a voter by the clerk;

(2) for each carrier envelope, record or assign a serially numbered and sequentially issued barcode or tracking number that is unique to each envelope; and

(3) update the applicable Internet website as soon as practicable after each of the following events occurs:

(A) receipt by the early voting clerk of the person's application for a ballot to be voted by mail;

(B) acceptance or rejection by the early voting clerk of the person's application for a ballot to be voted by mail;

(C) placement in the mail by the early voting clerk of the person's official ballot;

(D) receipt by the early voting clerk of the person's marked ballot; and

(E) acceptance or rejection by the early voting ballot board of a person's marked ballot.

(4) allow a voter to add or correct information required under Section 84.002(a)(1-a) or Section 86.002(g).

(d) The secretary of state shall adopt rules and prescribe procedures as necessary to implement this section.

(e) The information contained in Subsection (c) is not public information for purposes of Chapter 552, Government Code, until after election day.

Added by H.B. 1382, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Jan. 1, 2022; Amended by S.B. 1, 87<sup>th</sup> Leg., 2nd C.S., Sec. 5.10, eff. Dec. 2, 2021; S.B. 1599, 88<sup>th</sup> Leg., R.S., Sec. 5, eff. Sept 1, 2023; H.B. 357, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

## **CHAPTER 87. PROCESSING EARLY VOTING RESULTS**

### **SUBCHAPTER A. EARLY VOTING BALLOT BOARD**

**Sec. 87.001. BOARD CREATED; JURISDICTION.** An early voting ballot board shall be created in each election to process early voting results from the territory served by the early voting clerk.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.14; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 87.002. COMPOSITION OF BOARD.** (a) The early voting ballot board consists of a presiding judge, an alternate presiding judge, and at least one other member.

(b) Except as provided by Subsection (d), the presiding judge and the alternate presiding judge are appointed in the same manner as a presiding election judge and alternate presiding judge, respectively. Except as provided by Subsection (c), each other member is appointed by the presiding judge in the same manner as the precinct election clerks.

(c) In the general election for state and county officers, each county chair of a political party with nominees on the general election ballot shall submit to the county election board a list of names of persons eligible to serve on the early voting ballot board in order of the county chair's preference. The county election board shall appoint at least one person from each list to serve as a member of the early voting ballot board. The same number of members must be appointed from each list. The county election board shall appoint persons as members of the early voting ballot board in the order of preference indicated on each list.

(d) In addition to the members appointed under Subsection (c), the county election board shall appoint as the presiding judge the highest-ranked person on the list provided under that subsection by the political party whose nominee for governor received the most votes in the county in the most recent gubernatorial general election and as the alternate presiding judge the highest-ranked person on the list provided under that subsection by the political party whose nominee for governor received the second most votes in the county in the most recent gubernatorial general election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.14; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1381, Sec. 19, eff. Sept. 1, 1997; S.B. 1, 87th Leg., 2nd C.S., Sec. 3.14, eff. Dec. 2, 2021.

**Sec. 87.003. ELIGIBILITY FOR BOARD MEMBERSHIP.** To be eligible for appointment to the early voting ballot board, a person must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the territory served by the early voting clerk and is not required to be a qualified voter of any other particular territory.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.14; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 87.0031. TRAINING.** The secretary of state shall provide a standardized training program and materials for members of an early voting ballot board in the same manner it provides such a program under Subchapter F, Chapter 32.

H.B. 1632, 88th R.S., Sec. 3, eff. Sept. 1, 2023.

**Sec. 87.004. BOARD COMPOSED OF PRECINCT ELECTION OFFICERS.** In an election other than the general election for state and county officers or a primary election, the authority ordering the election may direct by resolution, order, or other official action that the precinct election officers serving one of the election precincts also serve as the early voting ballot board for the election. In that case, the presiding election judge of the precinct serves as the board's presiding officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.14; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 87.005. COMPENSATION OF MEMBERS.** (a) Members of the early voting ballot board are entitled to the same compensation as presiding election judges, except that:

(1) the presiding judge may be compensated at a higher rate at the discretion of the appropriate authority;

and

(2) if the board concludes its work in less than 10 hours, the members may be paid greater compensation than that regularly payable for the amount of time worked, but not to exceed the amount payable for 10 hours' work.

(b) Precinct officers serving as board members under Section 87.004 may not be compensated for both positions.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.14; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; S.B. 1418, 87th Leg., R.S., Sec. 1, eff. Sept 1, 2021.

**Sec. 87.006. EARLY VOTING BALLOT BOARD MEMBERS: OATH AND IDENTIFICATION.** (a) A member of the early voting ballot board shall repeat the following oath aloud:

"I swear (or affirm) that I will objectively work to be sure every eligible voter's vote is accepted and counted, and that only the ballots of those voters who violated the Texas Election Code will be rejected. I will make every effort to correctly reflect the voter's intent when it can be clearly determined. I will not work alone when ballots are present and will work only in the presence of a member of a political party different from my own. I will faithfully perform my duty as an officer of the election and guard the purity of the election."

(b) A member of the early voting ballot board who arrives after the oath is made shall repeat the oath aloud before performing any duties as a member.

(c) Following administration of the oath, each member of the early voting ballot board shall be issued a form of identification, prescribed by the secretary of state, to be displayed by the member during the member's hours of service on the board.

Added by, H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 15, eff. Sept. 1, 2017.

## **SUBCHAPTER B. DELIVERING MATERIALS TO BOARD**

**Sec. 87.021. BALLOTS AND OTHER MATERIALS DELIVERED TO BOARD.** The early voting clerk shall deliver to the early voting ballot board:

(1) in an election in which regular paper ballots are used for early voting by personal appearance, each ballot box, in accordance with Section 85.032(b), containing the early voting ballots voted by personal appearance and the clerk's key to each box;

(2) the jacket envelopes containing the early voting ballots voted by mail, regardless of the ballot type or voting system used;

(3) the poll lists prepared in connection with early voting by personal appearance;

(4) the list of registered voters used in conducting early voting; and

(5) a ballot transmittal form that includes a statement of the number of early voting ballots voted by mail, regardless of the ballot type or voting system used, that are delivered to the early voting ballot board, and in an election in which regular paper ballots are used for early voting by personal appearance, the number of names appearing on the poll lists prepared in connection with early voting by personal appearance.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 562, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 1.21; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 17, eff. Sept. 1, 2011.

**Sec. 87.0211. ELECTRONIC DELIVERY OF MATERIALS RECORDED ELECTRONICALLY.** If ballot materials and ballot applications are recorded electronically as provided by Section 87.126, the early voting clerk may deliver those materials to the early voting ballot board through electronic means.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 18, eff. Sept. 1, 2011.

**Sec. 87.022. TIME OF DELIVERY: GENERAL RULE.** Except as provided by Section 87.0221, 87.0222, 87.023, or 87.024, the materials shall be delivered to the early voting ballot board under this subchapter during the time the polls are open on election day, or as soon after the polls close as practicable, at the time or times specified by the presiding judge of the board.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.22; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2005, 79th Leg., Ch. 88 (S.B. 895), Sec. 1, eff. Sept. 1, 2005.

**Sec. 87.0221. TIME OF DELIVERY: PAPER BALLOTS.** (a) In an election in which regular paper ballots are used for early voting by personal appearance or by mail, the materials may be delivered to the board between the end of the period for early voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable, at the time or times specified by the presiding judge of the board.

(b) The early voting clerk shall post notice of each delivery of materials under this section that is to be made before the time for opening the polls on election day. The notice shall be posted at the main early voting polling place continuously for at least 24 hours immediately preceding the delivery.

(c) At least 24 hours before each delivery, the early voting clerk shall notify the county chair of each political party having a nominee on the ballot of the time the delivery is to be made.

Added by Acts 1991, 72nd Leg., ch. 203, Sec. 1.23. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 78, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 19, eff. Sept. 1, 2011.

**Sec. 87.0222. TIME OF DELIVERY: BALLOTS VOTED BY MAIL.** (a) Except as provided by Subsection (a-1), not later than the ninth day before election day, the jacket envelopes containing early voting ballots voted by mail shall be delivered to the board.

(a-1) Any jacket envelopes of early voting ballots voted by mail returned after delivery of the ballots under Subsection (a) may be delivered to the presiding judge of the early voting ballot board between the end of the ninth day before election day and the closing of the polls on election day, or as soon after closing as practicable, at the time or times specified by the presiding judge.

(b) The early voting clerk shall post notice of each delivery of balloting materials under this section that is to be made before the time for opening the polls on election day. The notice shall be posted at the main early voting polling place continuously for at least 24 hours immediately preceding the delivery.

(c) At least 24 hours before each delivery made before the time for opening the polls on election day, the early voting clerk shall notify the county chair of each political party having a nominee on the ballot of the time the delivery is to be made. Added by Acts 2005, 79th Leg., Ch. 88 (S.B. 895), Sec. 2, eff. Sept. 1, 2005. Amended by: Acts 2015, 84th Leg., R.S., Ch. 238 (S.B. 383), Sec. 1, eff. Sept. 1, 2015; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 62, eff. Sept. 1, 2021; S.B. 1599, 88<sup>th</sup> Leg., R.S., Sec. 6, eff. Sept 1, 2023.

**Sec. 87.0223. TIME OF DELIVERY: BALLOTS SENT OUT BY REGULAR MAIL AND E-MAIL.** (a) If the early voting clerk has provided a voter a ballot to be voted by mail by both regular mail and e-mail under Subchapter C, Chapter 101, the clerk may not deliver a jacket envelope containing the early voting ballot voted by mail by the voter to the board until:

(1) both ballots are returned; or

(2) the deadline for returning marked ballots under Section 86.007 has passed.

(b) If both the ballot provided by regular mail and the ballot provided by e-mail are returned before the deadline, the early voting clerk shall deliver only the jacket envelope containing the ballot provided by e-mail to the board. The ballot provided by regular mail is considered to be a ballot not timely returned.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 10, eff. Sept. 1, 2011.

**Sec. 87.023. TIME OF DELIVERY: AUTOMATICALLY COUNTED BALLOTS.** (a) In an election in which early voting ballots are to be counted by automatic tabulating equipment at a central counting station, the ballots voted by mail to be automatically counted may be delivered to the board between the end of the period for early voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable, at intervals specified by the presiding judge of the board.

(b) The early voting clerk shall post notice of each delivery of ballots under this section that is to be made before the time for opening the polls on election day. The notice shall be posted at the main early voting polling place continuously for at least 24 hours immediately preceding the delivery.

(c) At least 24 hours before the first delivery of ballots covered by Subsection (b), the early voting clerk shall notify the county chair of each political party having a nominee on the ballot of the time the first delivery is to be made.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.15; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 79, eff. Sept. 1, 1997. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 20, eff. Sept. 1, 2011.

**Sec. 87.024. TIME OF DELIVERY: VOTING MACHINE ELECTION.** (a) In an election in which early voting votes by personal appearance are cast on voting machines, the jacket envelopes containing the early voting ballots voted by mail may be delivered to the board between the end of the period for early voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable, at a time specified by the presiding judge of the board.

(b) The early voting clerk shall post notice of the delivery of materials under this section that is to be made before the time for opening the polls on election day. The notice shall be posted at the main early voting polling place continuously for at least 24 hours immediately preceding the delivery.

(c) At least 24 hours before the delivery, the early voting clerk shall notify the county chair of each political party having a nominee on the ballot of the time the delivery is to be made.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.15; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 80, eff. Sept. 1, 1997.

**Sec. 87.0241. PROCESSING BALLOTS BEFORE POLLS OPEN.** (a) The early voting ballot board shall make its determination whether to accept early voting ballots voted by mail in accordance with Section 87.041 after the ballots are delivered to the board.

(b) The board may not count early voting ballots until:

- (1) the polls open on election day; or
- (2) in an election conducted by an authority of a county with a population of 100,000 or more or conducted jointly with such a county or conducted with such a county through a contract for election services, the end of the period for early voting by personal appearance.

(c) The secretary of state shall prescribe any procedures necessary for implementing this section.

Added by Acts 1991, 72nd Leg., ch. 203, Sec. 1.23. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 39, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 25, eff. Sept. 1, 2003; H.B. 3107, 87th Leg., R.S., Sec. 63, eff. Sept. 1, 2021; S.B. 1599, 88th Leg., R.S., Sec. 7, eff. Sept 1, 2023.

**Sec. 87.025. DELIVERING SECOND BALLOT BOX KEY TO BOARD.** On request of the presiding officer of the early voting ballot board, the custodian of the key to the second lock on the early voting ballot boxes shall deliver the custodian's key for each box to the presiding officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.15; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 81, eff. Sept. 1, 1997.

**Sec. 87.026. BYSTANDERS EXCLUDED.** (a) Except as permitted by this code and as described by Subsection (b), a person may not be in the meeting place of an early voting ballot board during the time of the board's operations.

(b) Under this code, a person may be lawfully present in the meeting place of an early voting ballot board during the time of the board's operations if the person is:

- (1) a presiding judge or member of the board;
- (2) a watcher;
- (3) a state inspector;
- (4) a voting system technician, as authorized by Section 125.010;
- (5) the county election officer, as defined by Section 31.091, as necessary to perform tasks related to the administration of the election; or

(6) a person whose presence has been authorized by the presiding judge in accordance with this code.

Added by Acts 1987, 70th Leg., ch. 472, Sec. 33, eff. Sept. 1, 1987; Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.15; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; H.B. 1128, 87th Leg., R.S., Sec. 2, eff. Sept. 1, 2021.

**Sec. 87.027. SIGNATURE VERIFICATION COMMITTEE.** (a) Except as provided by Subsection (a-1), a signature verification committee may be appointed in any election. The early voting clerk is the authority responsible for determining whether a signature verification committee is to be appointed. If the clerk determines that a committee is to be appointed, the clerk shall issue a written order calling for the appointment.

(a-1) A signature verification committee shall be appointed in the general election for state and county officers on submission to the early voting clerk of a written request for the committee by at least 15 registered voters of the county. The request must be submitted not later than the preceding October 1, and a request submitted by mail is considered to be submitted at the time of its receipt by the clerk.

(b) The following authority is responsible for appointing the members of a signature verification committee:

- (1) the county election board, in an election for which the board is established;
- (2) the county chair, in a primary election; and
- (3) the governing body of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(c) Not later than the fifth day after the date the early voting clerk issues the order calling for the appointment of a signature verification committee, or not later than October 15 for a committee required under Subsection (a-1), the appropriate authority shall appoint the members of the committee and designate one of the appointees as chair, subject to Subsection (d). The authority shall fill a vacancy on the committee by appointment as soon as possible after the vacancy occurs, subject to Subsection (d). The early voting clerk shall post notice of the name and residence address of each appointee. The notice must remain posted continuously for the period beginning the day after the date of the appointment and ending on the last day of the committee's operation in the election.

(d) The early voting clerk shall determine the number of members who are to compose the signature verification committee and shall state that number in the order calling for the committee's appointment. A committee must consist of not fewer than five members. In an election in which party alignment is indicated on the ballot, each county chair of a political party with a nominee or aligned candidate on the ballot shall submit to the appointing authority a list of names of persons eligible to serve on the signature verification committee in order of the county chair's preference. The authority shall appoint at least two persons from each list in the order of preference indicated on each list to serve as members of the committee. The same number of members must be appointed from each list. The authority shall appoint as chair of the committee the highest-ranked person on the list provided by the political party whose nominee for governor received the most votes in the county in

the most recent gubernatorial general election. The authority shall appoint as vice chair of the committee the highest-ranked person on the list provided by the political party whose nominee for governor received the second most votes in the county in the most recent gubernatorial general election. A vacancy on the committee shall be filled by appointment from the original list or from a new list submitted by the appropriate county chair.

(e) To be eligible to serve on a signature verification committee, a person must be eligible under Subchapter C, Chapter 32, for service as a presiding election judge, except that the person must be a qualified voter:

(1) of the county, in a countywide election ordered by the governor or a county authority or in a primary election;

(2) of the part of the county in which the election is held, for an election ordered by the governor or a county authority that does not cover the entire county of the person's residence; or

(3) of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(f) The early voting clerk shall determine the place, day or days, and hours of operation of the signature verification committee and shall state that information in the order calling for the committee's appointment. A committee may not begin operating before the 20th day before election day.

(g) The early voting clerk shall post a copy of the order calling for the appointment of the signature verification committee. The copy must remain posted continuously for at least 10 days before the first day the committee meets.

(h) If a signature verification committee is appointed for the election, the early voting clerk shall deliver the jacket envelopes containing the early voting ballots voted by mail to the committee instead of to the early voting ballot board. Deliveries may be made only during the period of the committee's operation at times scheduled in advance of delivery by the early voting clerk. The clerk shall post notice of the time of each delivery. The notice must remain posted continuously for at least two days before the date of the delivery.

(i) The signature verification committee shall compare the signature on each carrier envelope certificate, except those signed for a voter by a witness, with the signature on the voter's ballot application to determine whether the signatures are those of the voter. The committee may also compare the signatures with any known signature of the voter on file with the county clerk or voter registrar to determine whether the signatures are those of the voter. Except as provided by Subsection (l), a determination under this subsection that the signatures are not those of the voter must be made by a majority vote of the committee's membership. The committee shall place the jacket envelopes, carrier envelopes, and applications of voters whose signatures are not those of the voter in separate containers from those of voters whose signatures are those of the voter. The committee chair shall deliver the sorted materials to the early voting ballot board at the time specified by the board's presiding judge.

(j) If a signature verification committee is appointed, the early voting ballot board shall follow the same procedure for accepting the early voting ballots voted by mail as in an election without a signature verification committee, except that the board may not determine whether a voter's signatures on the carrier envelope certificate and ballot application are those of the same person if the committee has determined that the signatures are those of the same person. If the committee has determined that the signatures are not those of the same person, the board may make a determination that the signatures are those of the same person by a majority vote of the board's membership.

(k) Postings required by this section shall be made on the bulletin board used for posting notice of meetings of the commissioners court of a county that does not maintain an Internet website, in an election for which the county election board is established or a primary election, or of the governing body of the political subdivision in other elections.

(k-1) If the county maintains an Internet website, postings required by this section shall be made on the county's Internet website in an election for which the county election board is established or a primary election.

(l) If more than 12 members are appointed to serve on the signature verification committee, the early voting clerk may designate two or more subcommittees of not less than six members. If subcommittees have been designated, a determination under Subsection (i) is made by a majority of the subcommittee.

(m) If ballot materials or ballot applications are recorded electronically as provided by Section 87.126, the signature verification committee may use an electronic copy of a carrier envelope certificate or the voter's ballot application in making the comparison under Subsection (i).

Added by Acts 1987, 70th Leg., ch. 472, Sec. 33, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 82, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 20, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 26, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 88 (S.B. 895), Sec. 3, eff. Sept. 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 21, eff. Sept. 1, 2011; S.B. 5, 85th Leg., 1<sup>st</sup> C.S., Sec. 14, eff. Dec. 1, 2017; H.B. 933, 86th Leg., Sec. 11, eff. Sept. 1, 2019; S.B. 1, 87th Leg., 2nd C.S., Sec. 5.11, eff. Dec. 2, 2021.

**Sec. 87.0271. OPPORTUNITY TO CORRECT DEFECT: SIGNATURE VERIFICATION COMMITTEE.** (a) This



section applies to an early voting ballot voted by mail:

- (1) for which the voter did not sign the carrier envelope certificate;
- (2) for which it cannot immediately be determined whether the signature on the carrier envelope certificate is that of the voter;
- (3) missing any required statement of residence;
- (4) missing information or containing incorrect information required under Section 84.002(a)(1-a) or Section 86.002; or
- (5) containing incomplete information with respect to a witness.

(b) Not later than the second business day after a signature verification committee discovers a defect described by Subsection (a) and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, the committee shall send the voter a notice of the defect and a corrective action form developed by the secretary of state under Subsection (c-1) by mail or by common or contract carrier.

(b-1) The signature verification committee shall include with the notice delivered to the voter under Subsection (b):

- (1) a brief explanation of each defect in the noncomplying ballot; and
- (2) a notice that the voter may:
  - (A) cancel the voter's application to vote by mail in the manner described by Section 84.032; or
  - (B) correct the defect in the voter's ballot by:
    - (i) submitting a corrective action form developed and made available by the secretary of state under Subsection (c-1) by mail or by common or contract carrier; or
    - (ii) coming to the early voting clerk's office not later than the sixth day after election day.

(c) If the signature verification committee determines that it would not be possible for the voter to receive the notice of defect within a reasonable time to correct the defect, the committee may notify the voter of the defect by telephone or e-mail and inform the voter that the voter may request to have the voter's application to vote by mail canceled in the manner described by Section 84.032, submit a corrective action form developed by the secretary of state under Subsection (c-1) by mail or by common or contract carrier, or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect.

(c-1) The secretary of state shall develop a corrective action form that may be completed and submitted to a signature verification committee under this section to correct a defect.

(e-1) The committee shall:

(1) in addition to sending the voter a notice of the defect under Subsection (b) or notifying the voter of the defect by telephone or e-mail under Subsection (c), notify the voter of a defect discovered under this section using the online tool described by Section 86.015; and

(2) if possible, permit the voter to correct a defect using the online tool described by Section 86.015.

(d) If the signature verification committee takes an action described by Subsection (b) or (c), the committee must take either action described by that subsection with respect to each ballot in the election to which this section applies.

(e) A poll watcher is entitled to observe an action taken under Subsection (b) or (c).

(f) The secretary of state may prescribe any procedures necessary to implement this section.

(g) Notwithstanding any other law, a ballot may not be finally rejected for a reason listed in Section 87.041(b)(1), (2), or (6) before the seventh day after election day.

Added by S.B. 1, 87th Leg., 2nd C.S., Sec. 5.12, eff. Dec. 2, 2021; S.B. 1599, 88th Leg., R.S., Sec. 8, eff. Sept 1, 2023.

**Sec. 87.0272. TRAINING.** The secretary of state shall provide a standardized training program and materials for members of a signature verification committee in the same manner it provides such a program under Subchapter F, Chapter 32.

H.B. 1632, 88th R.S., Sec. 4, eff. Sept. 1, 2023.

**Sec. 87.028. ACCESS TO INFORMATION.** (a) On request, a county election official shall provide to a member of an early voting ballot board all available information necessary to fulfilling the functions of the board, including any information from the statewide computerized voter registration list under Section 18.061.

(b) On request, a county election official shall provide to a member of a signature verification committee all available information necessary to fulfilling the functions of the committee, including any information from the statewide computerized voter registration list under Section 18.061.

(c) The secretary of state shall adopt rules as necessary to prevent a member of an early voting ballot board or signature verification committee from retaining or sharing personally identifiable information from the statewide computerized voter registration list under Section 18.061 obtained under this section for any reason unrelated to the official's official duties.

Added by S.B. 1, 87th Leg., 2nd C.S., Sec. 2.09, eff. Dec. 2, 2021.

## SUBCHAPTER C. ACCEPTING EARLY VOTING BALLOT VOTED BY MAIL

**Sec. 87.041. ACCEPTING VOTER.** (a) The early voting ballot board shall open each jacket envelope for an early voting ballot voted by mail and determine whether to accept the voter's ballot.

(b) A ballot may be accepted only if:

- (1) the carrier envelope certificate is properly executed;
- (2) neither the voter's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness;
- (3) the voter's ballot application states a legal ground for early voting by mail;
- (4) the voter is registered to vote, if registration is required by law;
- (5) the address to which the ballot was mailed to the voter, as indicated by the application, was outside the voter's county of residence, if the ground for early voting is absence from the county of residence;
- (6) for a voter to whom a statement of residence form was required to be sent under Section 86.002(a), the statement of residence is returned in the carrier envelope and indicates that the voter satisfies the residence requirements prescribed by Section 63.0011; and

(7) the address to which the ballot was mailed to the voter is an address that is otherwise required by Sections 84.002 and 86.003 ; and

(8) the information required under Section 86.002(g) provided by the voter identifies the same voter identified on the voter's application for voter registration under Section 13.002(c)(8).

(c) If a ballot is accepted, the board shall enter the voter's name on the poll list unless the form of the list makes it impracticable to do so. The names of the voters casting ballots by mail shall be listed separately on the poll list from those casting ballots by personal appearance.

(d) A ballot shall be rejected if any requirement prescribed by Subsection (b) is not satisfied. In that case, the board shall indicate the rejection by entering "rejected" on the carrier envelope and on the corresponding jacket envelope.

(d-1) If a voter provides the information required under Section 86.002(g) and it identifies the same voter identified on the voter's application for voter registration under Section 13.002(c)(8), the signature on the ballot application and on the carrier envelope certificate shall be rebuttably presumed to be the signatures of the voter. The board shall compare signatures in making a determination under Subsection (b)(2) regardless of whether the presumption provided by this subsection exists.

(e) In making the determination under Subsection (b)(2), to determine whether the signatures are those of the voter, the board may also compare the signatures with any known signature of the voter on file with the county clerk or voter registrar.

(f) In making the determination under Subsection (b)(2) for a ballot cast under Chapter 101 or 105, the board shall compare the signature on the carrier envelope or signature cover sheet with the signature of the voter on the federal postcard application.

(g) A person commits an offense if the person intentionally accepts a ballot for voting or causes a ballot to be accepted for voting that the person knows does not meet the requirements of Subsection (b). An offense under this subsection is a Class A misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 34, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 1.25; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 797, Sec. 42, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1381, Sec. 22, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 27, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.19, eff. Sept. 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 11, eff. Sept. 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 681 (H.B. 2233), Sec. 1, eff. June 14, 2013; S.B. 5, 85<sup>th</sup> Leg., 1<sup>st</sup> C.S., Sec. 15, eff. Dec. 1, 2017; S.B. 1, 87th Leg., 2nd C.S., Sec. 5.13, eff. Dec. 2, 2021; S.B. 1599, 88<sup>th</sup> Leg., R.S., Sec. 9, eff. Sept 1, 2023.

**Sec. 87.0411. OPPORTUNITY TO CORRECT DEFECT: EARLY VOTING BALLOT BOARD.** (a) This section applies to an early voting ballot voted by mail:

- (1) for which the voter did not sign the carrier envelope certificate;
- (2) for which it cannot immediately be determined whether the signature on the carrier envelope certificate is that of the voter;
- (3) missing any required statement of residence;
- (4) missing information or containing incorrect information required under Section 84.002(a)(1-a) or Section 86.002; or
- (5) containing incomplete information with respect to a witness.

(b) Not later than the second day after an early voting ballot board discovers a defect described by Subsection (a) and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall send the voter a notice of the defect and a corrective action form developed by the secretary of state under Subsection (c-1) by mail or

by common or contract carrier.:

(b-1) The early voting ballot board shall include with the notice delivered to the voter under Subsection (b):

(1) a brief explanation of each defect in the noncomplying ballot; and

(2) a notice that the voter may:

(A) cancel the voter's application to vote by mail in the manner described by Section 84.032; or

(B) correct the defect in the voter's ballot by:

(i) submitting a corrective action form developed and made available by the secretary of state under Subsection (c-1) by mail or by common or contract carrier; or

(ii) coming to the early voting clerk's office not later than the sixth day after election day.

(c) If the early voting ballot board determines that it would not be possible for the voter to receive the notice of defect within a reasonable time to correct the defect, the board may notify the voter of the defect by telephone or e-mail and inform the voter that the voter may request to have the voter's application to vote by mail canceled in the manner described by Section 84.032, submit a corrective action form developed by the secretary of state under Subsection (c-1) by mail or common or contract carrier, or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect.

(c-1) The secretary of state shall develop a corrective action form that may be completed and submitted to an early voting ballot board under this section to correct a defect.

(d) If the early voting ballot board takes an action described by Subsection (b) or (c), the board must take either action described by that subsection with respect to each ballot in the election to which this section applies.

(e) A poll watcher is entitled to observe an action taken under Subsection (b) or (c).

(c-1) The early voting ballot board shall:

(1) in addition to sending the voter notice of the defect under Subsection (b) or notifying the voter of the defect by telephone or e-mail under Subsection (c), notify the voter of a defect discovered under this section using the online tool described by Section 86.015; and

(2) if possible, permit the voter to correct a defect using the online tool described by Section 86.015.

(f) The secretary of state may prescribe any procedures necessary to implement this section.

(g) Notwithstanding any other law, a ballot may not be finally rejected for a reason listed in Section 87.041(b)(1), (2), or (6) before the seventh day after election day.

Added by: S.B. 1, 87th Leg., 2nd C.S., Sec. 5.14, eff. Dec. 2, 2021; S.B. 1599, 88<sup>th</sup> Leg., R.S., Sec. 10, eff. Sept 1, 2023.

**Sec. 87.042. DISPOSITION OF ACCEPTED BALLOT.** (a) The early voting ballot board shall open each carrier envelope containing an accepted ballot without defacing the certificate on the carrier envelope and remove the ballot envelope from the carrier envelope.

(b) Except as provided by Subsection (c), the board shall place the ballot envelope containing an accepted ballot in the ballot box containing the early voting ballots voted by personal appearance.

(c) The ballot envelope must be placed in a separate container if:

(1) the ballots are to be counted at a central counting station; or

(2) the procedure for counting the early voting votes cast by personal appearance is different from that for counting the votes cast by mail.

(d) An accepted ballot that was not returned in the official ballot envelope shall be treated as an accepted ballot that was returned in the ballot envelope.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.17; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.20, eff. Sept. 1, 2005.

**Sec. 87.043. DISPOSITION OF REJECTED BALLOT.** (a) The early voting ballot board shall place the carrier envelopes containing rejected ballots in an envelope and shall seal the envelope. More than one envelope may be used if necessary. The board shall keep a record of the number of rejected ballots in each envelope.

(b) The envelope for the rejected ballots must indicate the date and identity of the election and must be labeled "rejected early voting ballots" and signed by the board's presiding judge.

(c) A board member shall deliver the envelope containing the rejected ballots to the general custodian of election records to be preserved for the period for preserving the precinct election records. The envelope may not be placed in the box containing the voted ballots.

(d) A notation must be made on the carrier envelope of any ballot that was rejected after the carrier envelope was opened and include the reason the envelope was opened and the ballot was rejected.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 8(c), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch.

**Sec. 87.0431. NOTICE OF REJECTED BALLOT.** (a) Not later than the 10th day after election day, the presiding judge of the early voting ballot board shall deliver written notice of the reason for the rejection of a ballot to the voter at the residence address on the ballot application. If the ballot was transmitted to the voter by e-mail under Subchapter C, Chapter 101, the presiding judge shall also provide the notice to the e-mail address to which the ballot was sent.

(b) The early voting clerk shall, not later than the 30<sup>th</sup> day after election day, deliver notice to the attorney general, including certified copies of the carrier envelope and corresponding ballot application, of any ballot rejected because:

- (1) the voter was deceased;
- (2) the voter already voted in person in the same election;
- (3) the signatures on the carrier envelope and ballot application were not executed by the same person;
- (4) the carrier envelope certificate lacked a witness signature;
- (5) the carrier envelope certificate was improperly executed by an assistant; or
- (6) the early voting ballot board or the signature verification committee determined that another violation of the Election Code occurred.

(c) The attorney general shall prescribe the form and manner of submission under Subsection (b). The secretary of state shall adopt rules as necessary to implement the requirements prescribed under this subsection.

Added by Acts 1991, 72nd Leg., ch. 203, Sec. 1.26, eff. Sept. 1, 1991. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 13, eff. Sept. 1, 2011; S.B. 5, 85<sup>th</sup> Leg., 1<sup>st</sup> C.S., Sec. 16, eff. Dec. 1, 2017; S.B. 1, 87th Leg., 2nd C.S., Sec. 5.15, eff. Dec. 2, 2021.

**Sec. 87.044. DISPOSITION OF APPLICATION.** (a) The early voting ballot board shall place each application for a ballot voted by mail in its corresponding jacket envelope. For a ballot voted under Chapter 101 or 105, the board shall also place the copy of the voter's federal postcard application or signature cover sheet in the same location as the carrier envelope. If the voter's ballot was accepted, the board shall also place the carrier envelope in the jacket envelope. However, if the jacket envelope is to be used in a subsequent election, the carrier envelope shall be retained elsewhere.

(b) A board member shall deliver the jacket envelope, carrier envelope, and application in a container other than that used for the voted ballots to the general custodian of election records, to be retained for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 8(d), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.17; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 14, eff. Sept. 1, 2011.

## **SUBCHAPTER D. PROCESSING MANUALLY COUNTED BALLOTS**

**Sec. 87.061. AUTHORITY RESPONSIBLE FOR COUNTING BALLOTS.** The early voting ballot board shall count the early voting ballots that are to be counted manually.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.18; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 87.062. COUNTING BALLOTS AND PREPARING RETURNS.** (a) On the direction of the presiding judge, the early voting ballot board, in accordance with Section 85.032(b), shall open the containers for the early voting ballots that are to be counted by the board, remove the contents from each container, and remove any ballots enclosed in ballot envelopes from their envelopes.

(b) The board shall count the ballots and prepare the returns in accordance with the procedure applicable to paper ballots cast at a precinct polling place.

(c) Ballots voted by mail shall be tabulated and stored separately from the ballots voted by personal appearance and shall be separately reported on the returns.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 562, Sec. 3, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.18; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; S.B. 1, 87th Leg., 2nd C.S., Sec. 5.16, eff. Dec. 2, 2021.

**Sec. 87.063. DISPOSITION OF BALLOTS AND OTHER ITEMS.** (a) Except as provided by Subsection (b), the presiding judge of the early voting ballot board shall deliver the early voting ballots counted by the board, early voting election returns, other early voting election records, and ballot box keys, to the appropriate authorities in accordance with the procedures applicable to distribution of corresponding items from a precinct polling place using paper ballots.

(b) If part of the early voting ballots are counted by automatic tabulating equipment at a central counting station, instead of delivering a copy of the early voting election returns and other early voting election records to the canvassing authority and to the general custodian of election records, those records shall be delivered to the presiding judge of the central

counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.18; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

## **SUBCHAPTER F. PROCESSING BALLOTS COUNTED AT CENTRAL COUNTING STATION**

**Sec. 87.101. DELIVERY OF BALLOTS TO COUNTING STATION.** On the direction of the presiding judge, the early voting ballot board shall deliver to the central counting station the container for the early voting electronic system ballots that are to be counted by automatic tabulating equipment at a central counting station. The board shall make the delivery without opening the container and in accordance with the procedure applicable to electronic system ballots cast at a precinct polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 562, Sec. 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.20; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1316, Sec. 28, eff. Sept. 1, 2003.

**Sec. 87.102. DUPLICATING PAPER BALLOTS FOR AUTOMATIC COUNTING.** (a) The authority adopting an electronic voting system in which ballots are counted at a central counting station may direct by resolution, order, or other official action that the early voting regular paper ballots cast in an election be duplicated as electronic system ballots for automatic counting at the central counting station.

(b) Early voting ballots that are to be duplicated under this section shall be delivered to the central counting station as prescribed by Section 87.101 and shall be treated in the same manner as damaged electronic system ballots that are duplicated for automatic counting.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.20; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 87.103. COUNTING BALLOTS AND PREPARING RETURNS.** (a) The early voting electronic system ballots counted at a central counting station, the ballots cast at precinct polling places, and the ballots voted by mail shall be tabulated separately and shall be separately reported on the returns.

(b) The early voting returns prepared at the central counting station must include any early voting results obtained by the early voting ballot board under Subchapter D.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.20; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; S.B. 1, 87th Leg., 2nd C.S., Sec. 5.17, eff. Dec. 2, 2021.

**Sec. 87.104. DISPOSITION OF EARLY VOTING BALLOT BOARD RETURNS AND OTHER RECORDS.** Early voting returns or other early voting election records to be delivered to the central counting station under Section 87.063(b) or 87.084(b) shall be delivered to the appropriate authorities with the counting station records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.20; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

## **SUBCHAPTER G. MISCELLANEOUS PROVISIONS**

**Sec. 87.121. EARLY VOTING ROSTERS.** (a) The early voting clerk shall maintain for each election a roster listing each person who votes an early voting ballot by personal appearance and a roster listing each person to whom an early voting ballot to be voted by mail is sent.

(b) For each person listed, the applicable roster must include:

- (1) the person's name, address, and voter registration number;
- (2) an identification of the person's county election precinct of registration; and
- (3) the date of voting or the date the ballot was mailed to the person, as applicable.

(c) Each roster shall be updated daily.

(d) Each roster may be maintained in any form approved by the secretary of state.

(e) The clerk shall preserve each roster after the election for the period for preserving the precinct election records.

(f) Information on the roster for a person to whom an early voting mail ballot has been sent is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after election day.

(g) Information on the roster for a person who votes an early voting ballot by personal appearance shall be made available for public inspection as provided by Subsection (i) not later than 11 a.m. on the day after the date the information is

entered on the roster under Subsection (c).

(h) Information on the roster for a person who votes an early voting ballot by mail shall be made available for public inspection as provided by Subsection (i) not later than 11 a.m. on the day following the day the early voting clerk receives a ballot voted by mail.

(i) The information under Subsections (g) and (h) must be made available:

(1) for an election in which the county clerk is the early voting clerk:

(A) on the publicly accessible Internet website of the county; or

(B) if the county does not maintain a website, on the bulletin board used for posting notice of meetings of the commissioners court; or

(2) for an election not described by Subdivision (1):

(A) on the publicly accessible Internet website of the authority ordering the election; or

(B) if the authority ordering the election does not maintain a website, on the bulletin board used for posting notice of meetings of the governing body of the authority.

(j) The early voting clerk for a primary election or the general election for state and county officers shall submit to the secretary of state for posting on the secretary of state's Internet website the information described by:

(1) Subsection (g) not later than 11 a.m. on the day after the date the information is entered on the roster under Subsection (c); and

(2) Subsection (h) not later than 11 a.m. on the day following the day the early voting clerk receives any ballot voted by mail.

(k) The early voting clerk for a primary election or the general election for state and county officers shall submit to the secretary of state for posting on the secretary of state's Internet website the election day information described by Subsections (g) and (h) not later than 11 a.m. on the day after the election.

(l) The early voting clerk for a primary election or the general election for state and county officers shall submit to the secretary of state for posting on the secretary of state's Internet website the final rosters containing information described by Subsections (g) and (h) not later than the 20th day after the date of the local canvass.

(m) The secretary of state shall post the information described by Subsection (j) on the secretary of state's Internet website in a downloadable format not later than 11 a.m. on the day following the day of receipt of the information.

(n) The secretary of state shall create a system for an early voting clerk for a primary election or the general election for state and county officers to provide the information to the secretary of state for posting on the secretary of state's Internet website under Subsection (j).

(o) A person registered to vote in the county where the early voting clerk is conducting early voting may submit a complaint to the secretary of state stating that an early voting clerk has not complied with this section.

(p) The secretary of state by rule shall create and maintain a system for receiving and recording complaints made under this section.

(q) The secretary of state shall maintain a record indicating early voting clerks who have failed to comply with the requirements of this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.28; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 565, Sec. 6, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 864, Sec. 83, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 23, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 958, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 393, Sec. 17, 18, eff. Sept. 1, 2003; H.B. 1850, 86th Leg., Sec. 2, eff. Sept. 1, 2019; S.B. 902, 86th Leg., Sec. 3, eff. Sept. 1, 2019; .H.B. 1382, 87th Leg., Sec. 2, eff. Sept. 1, 2021; H.B. 1622, 87th Leg., Sec. 1, eff. Sept. 1, 2021; H.B. 4595, 88th Leg., Sec. 7.002, eff. Sept. 1, 2023.

**Sec. 87.122. PRECINCT EARLY VOTING LIST.** (a) For each election precinct in the territory served by the early voting clerk, the clerk shall prepare a list containing the name, address, and voter registration number of each person registered in the precinct who votes an early voting ballot by personal appearance and to whom an early voting ballot to be voted by mail is sent.

(b) If an election precinct is situated in more than one county election precinct, the list must indicate each voter's county election precinct of residence.

(c) The clerk shall enter "early voting voter" beside the name of each person on the precinct list of registered voters whose name appears on the list of early voting voters and shall deliver the precinct list to the presiding judge of the election precinct not later than the day before election day.

(d) The clerk shall preserve a copy of each precinct early voting list prepared for the general election for state and county officers for two years after election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.21; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991. Amended by: Acts 2015, 84th Leg., R.S., Ch. 560 (H.B. 2366), Sec. 1, eff. Sept. 1, 2015.

**Sec. 87.1221. DISPOSITION OF BALLOT TRANSMITTAL FORM.** (a) The presiding judge of the early voting ballot board shall enter on the ballot transmittal form the following information:

- (1) the number of personal appearance ballots received;
- (2) the number of mail ballots received;
- (3) the number of mail ballots accepted;
- (4) the number of mail ballots rejected; and
- (5) the number of ballots counted or delivered to the central counting station, as applicable.

(b) A board member shall deliver the transmittal form to the general custodian of election records to be preserved for the period for preserving the precinct election records.

Added by Acts 1991, 72nd Leg., ch. 203, Sec. 1.29.

**Sec. 87.123. DELIVERING OTHER RECORDS AND SUPPLIES.** Not later than the second day after election day, the early voting clerk shall deliver:

(1) the early voting records and supplies, other than those required to be delivered to the early voting ballot board, to the authority to whom the corresponding precinct election records are delivered after the election; and

(2) the applications for early voting ballots voted by personal appearance to the general custodian of election records, to be retained for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.21; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 87.1231. EARLY VOTING VOTES REPORTED BY PRECINCT.** Not later than the time of the local canvass, the early voting clerk shall deliver to the local canvassing authority a report of the total number of early voting votes for each candidate or measure by election precinct. The report may reflect the total for votes by mail and the total for votes by personal appearance.

Added by Acts 1989, 71st Leg., ch. 114, Sec. 12, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.30; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 40, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 29, 44, eff. Sept. 1, 2003.

**Sec. 87.124. PRESERVATION OF EARLY VOTING ELECTION RECORDS GENERALLY.** The early voting election returns, voted early voting ballots, and other early voting election records shall be preserved after the election in the same manner as the corresponding precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.21; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 87.125. COUNTING OF CERTAIN LATE BALLOTS VOTED BY MAIL.** (a) The early voting ballot board shall convene to count ballots voted by mail described by Section 86.007(d) at the time set by the presiding judge of the board on the ninth day after the date of an election or on an earlier day if the early voting clerk certifies that all ballots mailed from outside the United States have been received.

(a-1) Notwithstanding Subsection (a), for an election held on the date of the general election for state and county officers, the early voting ballot board shall convene to count ballots voted by mail described by Sections 86.007(d) and (d-1) not later than the 13th day after the date of the election.

(b) On counting the ballots under Subsection (a), the early voting ballot board shall report the results to the local canvassing authority for the election.

(c) If the date prescribed by Subsection (a) for convening the early voting ballot board is a Saturday, Sunday, or legal state or national holiday, the early voting ballot board shall convene on the next regular business day.

Added by Acts 1997, 75th Leg., ch. 1349, Sec. 41, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 30, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 1, Sec. 5, eff. Jan. 11, 2004; Acts 2005, 79th Leg., Ch. 1062 (H.B. 1414), Sec. 2, eff. Sept. 1, 2005; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 7, eff. Sept. 1, 2015; H.B. 1151, 85th Leg., R.S., Sec. 2, eff. Sept. 1, 2017.

**Sec. 87.126. ELECTRONIC RECORDING OF BALLOT MATERIALS AND APPLICATIONS.** (a) The early voting clerk may electronically record applications for a ballot to be voted by mail, jacket envelopes, carrier envelopes, and ballots.

(a-1) Electronic records made under this section shall record both sides of any application, envelope, or ballot recorded, and all such records shall be provided to the early voting ballot board, the signature verification committee, or both.

(b) The secretary of state may adopt rules providing requirements for the electronic image quality and storage of the electronic images of the documents described by Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 22, eff. Sept. 1, 2011; Amended by: S.B. 1, 87th Leg., 2nd C.S., Sec. 5.18, eff. Dec. 2, 2021.

**Sec. 87.127. RESOLUTION OF INCORRECT DETERMINATION BY EARLY VOTING BALLOT BOARD.** (a) If a county election officer, as defined by Section 31.091, determines a ballot was incorrectly rejected or accepted by the early voting ballot board before the time set for convening the canvassing authority, the county election officer may petition a district court for injunctive or other relief as the court determines appropriate.

(b) In an election ordered by the governor or by a county judge, the county election officer must confer with and establish the agreement of the county chair of each political party before petitioning the district court.

Added by H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 16, eff. Sept. 1, 2017.

**Sec. 87.128. NOTES.** (a) Each member of an early voting ballot board and each member of a signature verification committee is entitled to take any notes reasonably necessary to perform the member's duties under this chapter.

(b) Notes taken under this section may not contain personally identifiable information.

(c) Each member who takes notes under this section shall sign the notes and deliver them to the presiding judge or committee chair, as applicable, for delivery to the custodian of election records.

(d) Notes collected under this section shall be preserved in the same manner as precinct election records under Section 66.058.

Added by S.B. 1, 87<sup>th</sup> Leg., 2nd C.S., Sec. 5.19, eff. Dec. 2, 2021.



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## SUBTITLE B. SPECIAL FORMS OF EARLY VOTING

### CHAPTER 101. VOTING BY RESIDENT FEDERAL POSTCARD APPLICANT

#### SUBCHAPTER A. GENERAL PROVISIONS

**Sec. 101.001. ELIGIBILITY.** A person is eligible for early voting by mail as provided by this chapter if:

(1) the person is qualified to vote in this state or, if not registered to vote in this state, would be qualified if registered; and

(2) the person is:

(A) a member of the armed forces of the United States, or the spouse or a dependent of a member;

(B) a member of the merchant marine of the United States, or the spouse or a dependent of a member;

(B-1) a member of the Texas National Guard or the National Guard of another state or a member of a reserve component of the armed forces of the United States serving on active duty under an order of the president of the United States or activated on state orders, or the spouse or dependent of a member; or

(C) domiciled in this state but temporarily living outside the territorial limits of the United States and the District of Columbia.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 64, eff. Sept. 1, 2021.

**Sec. 101.002. GENERAL CONDUCT OF VOTING.** Voting under this chapter shall be conducted and the results shall be processed as provided by Subtitle A for early voting by mail, except as otherwise provided by this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.003. DEFINITIONS.** In this chapter:

(1) "Federal postcard application" means an application for a ballot to be voted under this chapter submitted on the official federal form prescribed under the federal Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. Sections 20301 through 203111).

(2) "FPCA registrant" means a person registered to vote under Section 101.055.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 42, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 65, eff. Sept. 1, 2021.

**Sec. 101.004. NOTING FPCA REGISTRATION ON POLL LIST.** For each FPCA registrant accepted to vote, a notation shall be made beside the voter's name on the early voting poll list indicating that the voter is an FPCA registrant.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.32; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 43, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 5.10, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 687, Sec. 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.21, eff. September 1, 2005; Acts 2007, 80th Leg., R.S., Ch. 501 (S.B. 361), Sec. 1, eff. September 1, 2007; Acts 2009, 81st Leg., R.S., Ch. 310 (H.B. 551), Sec. 1, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.005. NOTING FPCA REGISTRATION AND E-MAIL ON EARLY VOTING ROSTER.** The entry on the early voting roster pertaining to a voter under this chapter who is an FPCA registrant must include a notation indicating that the voter is an FPCA registrant. The early voting clerk shall note on the early voting by mail roster each e-mail of a ballot under Subchapter C.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.06, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1315, Sec. 46, eff. Jan. 1, 2004; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.006. EXCLUDING FPCA REGISTRANT FROM PRECINCT EARLY VOTING LIST.** A person to whom a

ballot is provided under this chapter is not required to be included on the precinct early voting list if the person is an FPCA registrant.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1315, Sec. 47, eff. Jan. 1, 2004; Acts 2005, 79th Leg., Ch. 993 (H.B. 2059), Sec. 1, eff. September 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 91 (H.B. 536), Sec. 2, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.007. DESIGNATION OF SECRETARY OF STATE.** (a) The secretary of state is designated as the state office to provide information regarding voter registration procedures and absentee ballot procedures, including procedures related to the federal write-in absentee ballot, to be used by persons eligible to vote under the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.).

(b) The secretary of state is designated as the state coordinator between military and overseas voters and county election officials. A county election official shall:

(1) cooperate with the secretary of state to ensure that military and overseas voters timely receive accurate balloting materials that a voter is able to cast in time for the election; and

(2) otherwise comply with the federal Military and Overseas Voter Empowerment Act (Pub. L. No. 111-84, Div. A, Title V, Subt. H).

(c) The secretary of state may adopt rules as necessary to implement this section.

(d) The secretary of state shall make a checklist or similar guidelines available for optional use by early voting clerks in processing an application and providing balloting materials under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.33; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 44, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. 904), Sec. 1, eff. September 1, 2013.

**Sec. 101.008. STATUS OF APPLICATION OR BALLOT VOTED.** The secretary of state, in coordination with county election officials, shall implement an electronic free-access system by which a person eligible for early voting by mail under this chapter or Chapter 114 may determine by telephone, by e-mail, or over the Internet whether:

(1) the person's federal postcard application or other registration or ballot application has been received and accepted; and

(2) the person's ballot has been received and the current status of the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.24; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 66, eff. Sept. 1, 2021.

## **SUBCHAPTER B. SUBMISSION OF FEDERAL POSTCARD APPLICATION**

**Sec. 101.051. FORM AND CONTENTS OF APPLICATION.** An application for a ballot to be voted under this subchapter must:

(1) be submitted on an official federal postcard application form; and

(2) include the information necessary to indicate that the applicant is eligible to vote in the election for which the ballot is requested.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.052. SUBMITTING APPLICATION.** (a) A federal postcard application must be submitted to the early voting clerk for the election who serves the election precinct of the applicant's residence.

(a-1) A federal postcard application must be submitted by:

(1) mail;

(2) electronic transmission of an image of the application under procedures prescribed by the secretary of state;

(3) in-person delivery in accordance with Section 84.008; or

(4) common or contract carrier..

(b) A federal postcard application may be submitted at any time during the calendar year in which the election for which a ballot is requested occurs, but not later than the deadline for submitting a regular application for a ballot to be voted by mail for a voter to be entitled to receive a ballot by mail for that election.

(c) An application is considered submitted in the following calendar year for purposes of this section if:

and (1) the applicant is eligible to vote in an election occurring in January or February of the next calendar year;

(2) the application is submitted in the last 60 days of a calendar year but not earlier than the 60th day before the date of the January or February election.

(d) A timely application that is addressed to the wrong early voting clerk shall be forwarded to the proper early voting clerk not later than the date after the date it is received by the wrong clerk.

(e) An applicant who otherwise complies with applicable requirements is entitled to receive a full ballot to be voted by mail under this chapter if:

(1) the applicant submits a federal postcard application to the early voting clerk on or before the 20th day before election day; and

(2) the application contains the information that is required for registration under Title 2.

(f) The applicant is entitled to receive only a federal ballot to be voted by mail under Chapter 114 if:

(1) the applicant submits the federal postcard application to the early voting clerk after the date provided by Subsection (e)(1) and before the deadline for submitting a regular application for a ballot to be voted by mail; and

(2) the application contains the information that is required for registration under Title 2.

(g) Repealed by Acts 2015, 84th Leg., R.S., Ch. 84, Sec. 31, eff. September 1, 2015.

(h) If the applicant submits the federal postcard application within the time prescribed by Subsection (f)(1) and is a registered voter at the address contained on the application, the applicant is entitled to receive a full ballot to be voted by mail under this chapter.

(i) Except as provided by Subsections (l) and (m), for purposes of determining the date a federal postcard application is submitted to the early voting clerk, an application is considered to be submitted on the date it is placed and properly addressed in the United States mail. An application mailed from an Army/Air Force Post Office (APO) or Fleet Post Office (FPO) is considered placed in the United States mail. The date indicated by the post office cancellation mark, including a United States military post office cancellation mark, is considered to be the date the application was placed in the mail unless proven otherwise. For purposes of an application made under Subsection (e):

(1) an application that does not contain a cancellation mark is considered to be timely if it is received by the early voting clerk on or before the 15th day before election day; and

(2) if the 20th day before the date of an election is a Saturday, Sunday, or legal state or national holiday, an application is considered to be timely if it is submitted to the early voting clerk on or before the next regular business day.

(j) If the early voting clerk determines that an application that is submitted before the time prescribed by Subsection (e)(1) does not contain the information that is required for registration under Title 2, the clerk shall notify the applicant of that fact. If the applicant has provided a telephone number or an address for receiving mail over the Internet, the clerk shall notify the applicant by that medium.

(k) If the applicant submits the missing information before the time prescribed by Subsection (e)(1), the applicant is entitled to receive a full ballot to be voted by mail under this chapter. If the applicant submits the missing information after the time prescribed by Subsection (e)(1), the applicant is entitled to receive a full ballot to be voted by mail for the next election that occurs:

(1) in the same calendar year; and

(2) after the 30th day after the date the information is submitted.

(l) For purposes of determining the end of the period that an application may be submitted under Subsection (f)(1), an application is considered to be submitted at the time it is received by the early voting clerk.

(m) The secretary of state by rule shall establish the date on which a federal postcard application is considered to be electronically submitted to the early voting clerk.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 8, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 31, eff. September 1, 2015; H.B. 3107, 87th Leg., R.S., Sec. 67, eff. Sept. 1, 2021.

**Sec. 101.053. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS.** (a) The early voting clerk shall notify the voter registrar of a federal postcard application submitted by an applicant that states a voting residence address located outside the registrar's county.

(b) If an applicant provides a date of birth, driver's license number, or social security number on the applicant's federal postcard application that is different from or in addition to the information maintained by the voter registrar in accordance with Title 2, the early voting clerk shall notify the voter registrar. The voter registrar shall update the voter's record with the information provided by the applicant.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; H.B. 4034, 85th Leg., R.S., Sec. 7, eff. June 12, 2017.

**Sec. 101.054. APPLYING FOR MORE THAN ONE ELECTION IN SAME APPLICATION.** (a) A person may apply with a single federal postcard application for a ballot for any one or more elections in which the person is eligible to vote as provided by this section.

(b) An application that does not identify the election for which a ballot is requested shall be treated as if it requests a ballot for:

- (1) except as provided by Subdivision (3), each general election in which the clerk conducts early voting;
- (2) the general primary election if the application indicates party preference and is submitted to the early voting clerk for the primary; and
- (3) each general or special election held by a county, a municipality, or an independent school district in the calendar year in which the application is received and in which the person is eligible to vote.

(b-1) If an application under Subsection (b) indicates the person is eligible to vote in an election described by Subsection (b)(3) in which the early voting clerk who received the application does not conduct early voting, the clerk shall forward a copy of the application in a form prescribed by the secretary of state to each early voting clerk who conducts early voting for that election.

(c) An application shall be treated as if it requests a ballot for a runoff election that results from an election for which a ballot is requested, including a runoff election that occurs in the next calendar year.

(d) An application requesting a ballot for more than one election shall be preserved for the period for preserving the precinct election records for the last election for which the application is effective.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 856 (H.B. 396), Sec. 1, eff. September 1, 2013; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 68, eff. Sept. 1, 2021.

**Sec. 101.055. FPCA VOTER REGISTRATION.** (a) The submission of a federal postcard application that complies with the applicable requirements by an unregistered applicant constitutes registration by the applicant:

- (1) for the purpose of voting in the election for which a ballot is requested; and
- (2) under Title 2 unless the person indicates on the application that the person is residing outside the United States indefinitely.

(b) For purposes of registering to vote under this chapter, a person shall provide the address of the last place of residence of the person in this state or the last place of residence in this state of the person's parent or legal guardian.

(c) The registrar shall register the person at the address provided under Subsection (b) unless that address no longer is recognized as a residential address, in which event the registrar shall assign the person to an address under procedures prescribed by the secretary of state.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.056. METHOD OF PROVIDING BALLOT; REQUIRED ADDRESS.** (a) The balloting materials provided under this subchapter shall be airmailed to the voter free of United States postage, as provided by the federal Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. Section 20301 through 20311), in an envelope labeled "Official Election Balloting Material - via Airmail." The secretary of state shall provide early voting clerks with instructions on compliance with this subsection.

(b) The address to which the balloting materials are sent to a voter must be:

- (1) an address outside the county of the voter's residence; or
- (2) an address in the United States for forwarding or delivery to the voter at a location outside the United States.

(c) If the address to which the balloting materials are to be sent is within the county served by the early voting clerk, the federal postcard application must indicate that the balloting materials will be forwarded or delivered to the voter at a location outside the United States.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 69, eff. Sept. 1, 2021.

**Sec. 101.057. RETURN OF VOTED BALLOT.** (a) A ballot voted under this subchapter may be returned to the early voting clerk by mail, common or contract carrier, or courier.

(b) A ballot voted by a voter described by Section 101.001(2)(A), (B) or (B-1) shall be counted if the ballot arrives at the address on the carrier envelope not later than the sixth day after the date of the election, except that if that date falls on a Saturday, Sunday, or legal state or national holiday, then the deadline is extended to the next regular business day.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; H.B. 929, 85<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2017; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 70, eff. Sept. 1, 2021.

**Sec. 101.058. OFFICIAL CARRIER ENVELOPE.** The officially prescribed carrier envelope for voting under this subchapter shall be prepared so that it can be mailed free of United States postage, as provided by the federal Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. Section 20301 through 20311), and must contain the label prescribed by Section 101.056(a) for the envelope in which the balloting materials are sent to a voter. The secretary of state shall provide early voting clerks with instructions on compliance with this section.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 71, eff. Sept. 1, 2021.

## **SUBCHAPTER C. E-MAIL TRANSMISSION OF BALLOTING MATERIALS**

**Sec. 101.101. PURPOSE.** The purpose of this subchapter is to implement the federal Military and Overseas Voter Empowerment Act (Pub. L. No. 111-84, Div. A, Title V, Subt. H).

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.102. REQUEST FOR BALLOTING MATERIALS.** (a) A person eligible to vote under this chapter may request from the appropriate early voting clerk e-mail transmission of balloting materials under this subchapter.

(b) The early voting clerk shall grant a request made under this section for the e-mail transmission of balloting materials if:

(1) the requestor has submitted a valid federal postcard application and:

(A) if the requestor is a person described by Section 101.001(2)(C), has provided a current mailing address that is located outside the United States; or

(B) if the requestor is a person described by Section 101.001(2)(A), (B) or (B-1), has provided a current mailing address that is located outside the requestor's county of residence;

(2) the requestor provides an e-mail address:

(A) that corresponds to the address on file with the requestor's federal postcard application; or

(B) stated on a newly submitted federal postcard application;

(3) the request is submitted on or before deadline prescribed by Section 84.007; and

(4) a marked ballot for the election from the requestor has not been received by the early voting clerk.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 72, eff. Sept. 1, 2021.

**Sec. 101.103. CONFIDENTIALITY OF E-MAIL ADDRESS.** An e-mail address used under this subchapter to request balloting materials is confidential and does not constitute public information for purposes of Chapter 552, Government Code. An early voting clerk shall ensure that a voter's e-mail address provided under this subchapter is excluded from public disclosure.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.104. ELECTIONS COVERED.** Balloting materials may be sent by e-mail under this subchapter for any election in which the voter who registers under this chapter is eligible to vote.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 570 (H.B. 2778), Sec. 1, eff. September 1, 2015.

**Sec. 101.105. BALLOTING MATERIALS TO BE SENT BY E-MAIL.** Balloting materials to be sent by e-mail under this subchapter include:

(1) the appropriate ballot;

(2) ballot instructions, including instructions that inform a voter that the ballot must be returned by mail to be counted;

(3) instructions prescribed by the secretary of state on:

(A) how to print a return envelope from the federal Voting Assistance Program website; and

(B) how to create a carrier envelope or signature sheet for the ballot; and

(4) a list of certified write-in candidates, if applicable.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.106. METHODS OF TRANSMISSION TO VOTER.** (a) The balloting materials may be provided by e-mail to the voter in PDF format, through a scanned format, or by any other method of electronic transmission authorized by the secretary of state in writing.

(b) The secretary of state shall prescribe procedures for the retransmission of balloting materials following an

unsuccessful transmission of the materials to a voter.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.107. RETURN OF BALLOT.** (a) A voter described by Section 101.001(2)(A), (B) or (B-1) must be voting from outside the voter's county of residence. A voter described by Section 101.001(2)(C) must be voting from outside the United States.

(b) A voter who receives a ballot under this subchapter must return the ballot in the same manner as required under Section 101.057 except that a voter who completes a signature sheet is not required to complete a carrier envelope. Except as provided by Chapter 105, the voter may not return the ballot by electronic transmission.

(c) A ballot that is not returned as required by Subsection (b) is considered a ballot not timely returned and is not sent to the early voting ballot board for processing.

(d) The deadline for the return of a ballot under this section is the same deadline as provided in Section 86.007.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. 904), Sec. 2, eff. September 1, 2013; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 73, eff. Sept. 1, 2021.

**Sec. 101.108. TRACKING OF BALLOTING MATERIALS.** The secretary of state by rule shall create a tracking system under which an FPCA registrant may determine whether a voted ballot has been received by the early voting clerk. Each county that sends ballots to FPCA registrants shall provide information required by the secretary of state to implement the system.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

**Sec. 101.109. RULES.** (a) The secretary of state may adopt rules as necessary to implement this subchapter.

(b) The secretary of state may provide for an alternate secure method of electronic ballot transmission under this subchapter instead of transmission by e-mail.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 1, eff. September 1, 2011.

## CHAPTER 102. LATE VOTING BY DISABLED VOTER

**Sec. 102.001. ELIGIBILITY.** (a) A qualified voter is eligible to vote a late ballot as provided by this chapter if the voter has a sickness or physical condition described by Section 82.002 that originates on or after the day before the last day for submitting an application for a ballot to be voted by mail.

(b) In this chapter, "late ballot" means a ballot voted under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.26; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 102.002. CONTENTS OF APPLICATION.** An application for a late ballot must comply with the applicable provisions of Section 84.002 and must include or be accompanied by a certificate of a licensed physician or chiropractor or accredited Christian Science practitioner in substantially the following form:

"This is to certify that I know that \_\_\_\_\_ has a sickness or physical condition that will prevent him or her from appearing at the polling place for an election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, without a likelihood of needing personal assistance or of injuring his or her health and that the sickness or physical condition originated on or after \_\_\_\_\_.

"Witness my hand at \_\_\_\_\_, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(signature of physician,  
chiropractor, or practitioner)"

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.26; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 74, eff. Sept. 1, 2021.

**Sec. 102.003. SUBMITTING APPLICATION.** (a) An application for a late ballot must be submitted in person to the early voting clerk at the main early voting polling place by a representative of the applicant. However, if the early voting ballots voted by mail are processed at a location other than the main early voting polling place, the early voting clerk may require the application to be submitted at that location.

(b) An application may be submitted after the last day of the period for early voting by personal appearance and before 5 p.m. on election day.

(c) To be eligible to serve as an applicant's representative, a person:

(1) must be at least 18 years of age;

(2) must not be employed by or related within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a candidate whose name appears on the ballot; and

(3) must not have served in the election as the representative for another applicant.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.34; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 561, Sec. 17, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1316, Sec. 31, eff. Sept. 1, 2003.

**Sec. 102.004. REVIEWING APPLICATION AND PROVIDING BALLOTING MATERIALS.** (a) An application submitted under this chapter shall be reviewed and the applicant's registration status verified by the early voting clerk in the same manner as for early voting by mail.

(b) The clerk shall provide the balloting materials for voting an early voting ballot by mail to the representative who submits the voter's application. Before providing the materials, the clerk shall enter the representative's name and residence address on the application and secure the representative's signature beside the name.

(c) The voter's representative shall deliver the balloting materials in person to the voter.

(d) A late ballot provided to a voter by any method other than that prescribed by this section may not be counted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.26; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 102.005. MARKING AND SEALING BALLOT.** A late ballot must be marked and sealed by the voter in the same manner as an early voting ballot voted by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.26; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 102.006. METHOD OF RETURNING MARKED BALLOT; DEADLINE.** (a) A marked late ballot must be delivered to the early voting clerk in person by the representative who submitted the voter's application. The ballot must be delivered in the official carrier envelope. A ballot returned by any other method may not be counted.



(b) The clerk shall enter the representative's name and residence address on a returned carrier envelope and secure the representative's signature beside the name.

(c) The deadline for returning a marked late ballot is the same as that for an early voting ballot voted by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.26; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 102.007. PROCESSING RESULTS.** The results of voting under this chapter shall be processed in accordance with the procedures applicable to processing early voting ballots voted by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.26; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 102.008. ENTRY ON EARLY VOTING ROSTER.** The early voting roster must include the name of each person to whom a late ballot is provided with a notation indicating that the ballot was a late ballot under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.26; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 102.009. ENTRY ON PRECINCT EARLY VOTING LIST.** The precinct early voting list must contain the name of each person to whom a late ballot has been provided as of the time of delivery of the list.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.26; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

## **CHAPTER 103. LATE VOTING BECAUSE OF DEATH IN IMMEDIATE FAMILY**

**Sec. 103.001. ELIGIBILITY.** (a) A qualified voter is eligible to vote a late ballot as provided by this chapter if:

(1) the voter will be absent from the county of residence on election day because of the death of a person related to the voter within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and

(2) the death occurs on or after the day before the last day of the period for early voting by personal appearance.

(b) In this chapter, "late ballot" means a ballot voted under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.35; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 561, Sec. 18, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 29, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995.

**Sec. 103.002. FORM AND CONTENTS OF APPLICATION.** An application for a late ballot must:

(1) be in the form of an affidavit; and

(2) include, in addition to the information required by the applicable provisions of Section 84.002, the date of death of the decedent and a statement of the relationship of the voter to the decedent.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.28; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 103.003. SUBMITTING APPLICATION.** (a) An application for a late ballot must be submitted in person by the applicant to the early voting clerk at the main early voting polling place. However, if the early voting ballots voted by mail are processed at a location other than the main early voting polling place, the early voting clerk may require the application to be submitted at that location.

(b) An application may be submitted after the last day of the period for early voting by personal appearance and before the close of business on the day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.28; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 103.004. VOTING PROCEDURE; PROCESSING RESULTS.** (a) On submission of an application to the early voting clerk, the clerk shall review the application and verify the applicant's registration status in accordance with the procedure applicable to early voting by mail.

(b) The voting shall be conducted with the balloting materials for early voting by mail.

(c) The voter must mark and seal the ballot in the same manner as if early voting by mail except that the certificate on the carrier envelope need not be completed.

(d) On sealing the carrier envelope, the voter must give it to the clerk, who shall note on the envelope that the ballot is voted under this chapter.

(e) The results shall be processed in accordance with the procedures applicable to processing early voting ballots voted by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.28; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 103.005. ENTRY ON EARLY VOTING ROSTER.** The early voting roster must include the name of each person voting a late ballot with a notation indicating that the late ballot was voted under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.28; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 103.006. ENTRY ON PRECINCT EARLY VOTING LIST.** The precinct early voting list must contain the name of each person who has voted a late ballot as of the time of delivery of the list.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.28; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

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## **CHAPTER 104. VOTING ON ELECTION DAY BY DISABLED VOTER FROM VOTING SYSTEM PRECINCT**

**Sec. 104.001. ELIGIBILITY.** A qualified voter in whose precinct polling place voting is conducted by voting machine is eligible to vote by the early voting procedure provided by this chapter if the voter has a sickness or physical condition that prevents the voter from voting in the regular manner without personal assistance or a likelihood of injuring the voter's health. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.02, eff. January 1, 2006.

**Sec. 104.002. FORM AND CONTENTS OF APPLICATION.** An application for a ballot voted under this chapter must:

(1) be in the form of an affidavit; and

(2) include, in addition to the information required by the applicable provisions of Section 84.002, a statement that the applicant has not previously voted in the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 104.003. TIME AND PLACE FOR VOTING.** Voting under this chapter shall be conducted on election day, beginning at 7 a.m. and concluding at 7 p.m., at the main early voting polling place. However, if the early voting ballots voted by mail are processed at a location other than the main early voting polling place, the early voting clerk may require the voting to be conducted at that location.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 1157, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1316, Sec. 32, eff. Sept. 1, 2003.

**Sec. 104.004. VOTING PROCEDURE.** (a) On submission of an application to the early voting clerk, the clerk shall review the application and verify the applicant's registration status in accordance with the procedure applicable to early voting by mail.

(b) The voting shall be conducted with the balloting materials for early voting by mail.

(c) The voter must mark and seal the ballot in the same manner as if voting by mail except that the certificate on the carrier envelope need not be completed.

(d) On sealing the carrier envelope, the voter must give it to the clerk, who shall note on the envelope that the ballot is voted under this chapter.

(e) If the voter is physically unable to enter the early voting polling place without personal assistance or a likelihood of injuring the voter's health, the clerk shall deliver the balloting materials to the voter at the polling place entrance or curb following the procedures prescribed by Section 64.009.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 84, eff. Sept. 1, 1997; S.B. 477, 88th Leg., R.S., Sec. 5, eff. June 18, 2023.

**Sec. 104.005. PROCESSING RESULTS.** The results of voting under this chapter shall be processed in accordance with the procedures applicable to processing early voting ballots voted by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 104.006. ENTRY ON EARLY VOTING ROSTER.** The early voting roster must include the name of each person voting under this chapter with a notation indicating that the person voted under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

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## **CHAPTER 105. VOTING BY MILITARY PERSONNEL OR OTHER PERSONS OVERSEAS**

**Sec. 105.001. ELECTRONIC TRANSMISSION OF COMPLETED BALLOT.** (a) The secretary of state shall prescribe procedures to allow a person who is casting an early voting ballot by mail to return the ballot by telephonic facsimile machine or similar electronic means if the person:

- (1) is a member of the armed forces of the United States who is on active duty overseas, or the spouse or a dependent of the member; and
- (2) is casting the ballot from an area:
  - (A) in which members of the armed forces are eligible to receive hostile fire pay or imminent danger pay; or
  - (B) that has been designated by the president of the United States as a combat zone.

(b) The procedures must:

- (1) provide for verification of the voter;
- (2) provide for the security of the transmission; and
- (3) require the early voting clerk to maintain a record of each ballot received under this section.

(c) A ballot transmitted under this section or by mail may not be counted if the ballot has previously been transmitted to the early voting clerk by electronic means under this section.

Added by Acts 1997, 75th Leg., ch. 1349, Sec. 45, eff. Sept. 1, 1997.

**Sec. 105.003. USE OF FEDERAL WRITE-IN ABSENTEE BALLOT FOR ELECTIONS FOR FEDERAL OFFICE.**

The secretary of state shall prescribe procedures to allow a voter who qualifies to vote by a federal write-in absentee ballot to vote through use of a federal write-in absentee ballot in:

- (1) any general, special, primary, or runoff election for federal office; or
- (2) an election for any office for which balloting materials may be sent under Section 101.104.

Added by Acts 2003, 78th Leg., ch. 566, Sec. 1, eff. Sept. 1, 2003.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 15, eff. September 1, 2011.

**Sec. 105.004. E-MAIL BALLOT PROGRAM.** (a) The secretary of state shall implement a program to allow a person who is casting an early voting ballot by mail to return the ballot by e-mail if the person is a member of the armed forces of the United States who is on active duty overseas and eligible for hostile fire pay. The secretary of state shall prescribe procedures to provide for a process implemented under this section to require:

- (1) the voter to print the ballot, print and sign a voter signature form, and then scan the documents before submitting them by e-mail; and
- (2) secure processing of ballots, including requiring the use of a voter's military e-mail address and common access card, or other measures the secretary of state considers appropriate.

(b) The secretary of state shall select to participate in the program any county that:

- (1) desires to participate in the program; and
- (2) is determined by the secretary of state to have the appropriate technological capabilities.

Added by Acts 2013, 83rd Leg., R.S., Ch. 902 (H.B. 1129), Sec. 1, eff. June 14, 2013.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 477 (S.B. 1115), Sec. 1, eff. June 15, 2015; S.B. 752, 85<sup>th</sup> Leg., R.S., Secs. 1&2, eff. May 27, 2017.

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## **CHAPTER 106. VOTING ON ELECTION DAY BY PERSON ON SPACE FLIGHT**

**Sec. 106.001. APPLICABILITY.** This chapter applies only to a person who:

- (1) is eligible to vote in this state; and
- (2) is unable to vote in an election because the person is on a space flight, as defined by the secretary of state, on election day and during the early voting period for the election.

Added by Acts 1997, 75th Leg., ch. 842, Sec. 1, eff. Sept. 1, 1997. Renumbered from Election Code Sec. 105.001 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(16), eff. Sept. 1, 1999.

**Sec. 106.002. VOTING PERMITTED.** The secretary of state shall prescribe procedures for voting from space on election day by secure electronic means by persons to whom this chapter applies. The procedures may provide for:

- (1) a deadline by which a person must apply to vote under this chapter; and
- (2) the use of the National Aeronautics and Space Administration's electronic transmission program to send ballots to persons on a space flight.

Added by Acts 1997, 75th Leg., ch. 842, Sec. 1, eff. Sept. 1, 1997. Renumbered from Election Code Sec. 105.002 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(16), eff. Sept. 1, 1999.



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## SUBTITLE C. RESTRICTED BALLOT

### CHAPTER 111. GENERAL PROVISIONS

**Sec. 111.001. RESTRICTED BALLOT.** In this subtitle, "restricted ballot" means a ballot that is restricted to the offices and propositions stating measures on which a person is entitled to vote under Chapter 112, 113, or 114.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 111.002. GENERAL CONDUCT OF VOTING.** The voting of restricted ballots under this subtitle shall be conducted and the results of voting shall be processed as provided by Subtitle A for early voting, except as otherwise provided by this subtitle.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 111.003. APPLICATION REQUIRED.** (a) To be entitled to vote a restricted ballot, a person must make an application for the ballot.

(b) A restricted ballot application is subject to the applicable provisions of Chapter 84.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 111.004. CONTENTS OF APPLICATION.** An application for a restricted ballot must include, in addition to the information required by the applicable provisions of Section 84.002, the information necessary to indicate that the applicant is eligible to vote the restricted ballot requested.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 111.005. PREPARING RESTRICTED BALLOT.** (a) The early voting clerk shall prepare a voter's restricted ballot.

(b) If a regular paper ballot is used, the restricted ballot shall be prepared by striking from an official early voting ballot the offices and propositions stating measures on which the voter is not entitled to vote.

(c) If an electronic system ballot is used, the restricted ballot shall be prepared by marking or otherwise identifying an official early voting ballot so that votes on offices and propositions stating measures on which the voter is not entitled to vote may not be counted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.03, eff. January 1, 2006.

**Sec. 111.006. MANUALLY COUNTING ELECTRONIC SYSTEM BALLOT.** If a restricted electronic system ballot cannot be automatically counted with other electronic system ballots voted in the election that are to be counted automatically, the restricted ballot shall be counted manually.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 111.007. RESTRICTED BALLOT ROSTER.** (a) The early voting clerk shall maintain a roster for each election listing each person who votes a restricted ballot by personal appearance and each person to whom a restricted ballot to be voted by mail is provided.

(b) For each person listed, the roster must include:

(1) the person's name and residence address;

(2) an indication of the type of restricted ballot voted or provided, as applicable; and

(3) the date of voting or the date the ballot was mailed to the person, as applicable.

(c) Except as provided by this section, the restricted ballot roster is subject to the provisions applicable to the early voting roster. A person included on the restricted ballot roster may not be included on the early voting roster.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 111.008. NOTING RESTRICTED BALLOT VOTER ON POLL LIST AND REGISTERED VOTER LIST.** For each voter accepted to vote a restricted ballot, a notation shall be made beside the voter's name on the early voting poll list indicating that a restricted ballot was voted and the type of restricted ballot. If the voter's name appears on the list of registered voters used for conducting early voting, a similar notation shall be made on that list unless the form of the list makes it impracticable to do so.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 111.009. EXCLUDING VOTER FROM PRECINCT EARLY VOTING LIST.** The name of a person voting a limited ballot by personal appearance under Chapter 112 or to whom a limited or federal ballot to be voted by mail is provided under Chapter 112 or 114 is not required to be included on the precinct early voting list.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

## **CHAPTER 112. VOTING LIMITED BALLOT AFTER CHANGING COUNTY OF RESIDENCE**

**Sec. 112.001. LIMITED BALLOT.** In this code, "limited ballot" means a ballot voted under this chapter that is restricted to the offices and propositions stating measures on which a person is entitled to vote under Section 112.004.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 112.002. ELIGIBILITY.** (a) After changing residence to another county, a person is eligible to vote a limited ballot by personal appearance during the early voting period or by mail if:

(1) the person would have been eligible to vote in the county of former residence on election day if still residing in that county;

(2) the person is registered to vote in the county of former residence at the time the person:

(A) offers to vote in the county of new residence; or

(B) submitted a voter registration application in the county of new residence; and

(3) a voter registration for the person in the county of new residence is not effective on or before election day.

(b) A person is not eligible to vote a limited ballot by mail unless, in addition to satisfying the eligibility requirements prescribed by Subsection (a), the person is eligible for early voting by mail under Chapter 82.

(c) Before being accepted for voting under this chapter, the voter must execute a statement including:

(1) a statement that the voter satisfies the applicable requirements prescribed by Subsection (a);

(2) the voter's residence address or, if the residence has no address, the address at which the voter receives mail and a concise description of the voter's residence;

(3) the month, day, and year of the voter's birth; and

(4) the date the statement is executed.

(d) A statement executed under Subsection (c) shall be submitted:

(1) to an election officer at the main early voting polling place, if the person is voting by personal appearance;

or

(2) with the person's application for a ballot to be voted by mail, if the person is voting by mail.

(e) A statement executed under Subsection (c) may include space for disclosure of any necessary information to enable the person to register to vote under Chapter 13.

(f) The secretary of state shall prescribe the form of a statement executed under Subsection (c).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1316, Sec. 33, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 1120 (H.B. 2454), Sec. 1, eff. September 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 11, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 24, eff. September 1, 2011.

**Sec. 112.003. RESIDENCE IN PRECINCT SITUATED IN MORE THAN ONE COUNTY.** A person who changes county of residence may vote in the regular manner in an election ordered by an authority of a political subdivision situated in more than one county if the person resides in the same election precinct both before and after changing county of residence and the person's voter registration in the county of former residence is effective at the time the person offers to vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 112.004. OFFICES AND MEASURES ON WHICH VOTER ENTITLED TO VOTE.** A person voting a limited ballot is entitled to vote only on:

(1) each office and proposition stating a measure to be voted on statewide; and

(2) each office and proposition stating a measure to be voted on in a territorial unit of which the person was a resident both before changing county of residence and after the change.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 112.005. SUBMITTING APPLICATION FOR MAIL BALLOT.** An application for a limited ballot to be voted by mail must be submitted to the early voting clerk serving the election precinct in which the applicant resides.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 112.006. PLACE FOR VOTING BY PERSONAL APPEARANCE.** A person may vote a limited ballot by personal appearance only at the main early voting polling place.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1350, Sec. 6, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1381, Sec. 24, eff. Sept. 1, 1997.

**Sec. 112.007. VERIFYING REGISTRATION STATUS OF APPLICANT FOR BALLOT.** Before accepting an applicant to vote a limited ballot or, in the case of an application for a limited ballot to be voted by mail, before providing a ballot to the applicant, the early voting clerk shall verify, if possible, that the applicant does not have an effective voter registration in the county of new residence. If the person has applied in the county of new residence for a voter registration that will be effective on or before election day, the limited ballot application shall be rejected.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 112.008. DETERMINING OFFICES AND MEASURES TO BE VOTED ON.** For each person who is to vote a limited ballot, the early voting clerk shall determine the offices and propositions stating measures on which the person is entitled to vote and shall indicate them on the person's application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 112.009. PREPARING VOTING MACHINE.** Before permitting a person to vote a limited ballot on a voting machine, the early voting clerk shall adjust the machine so that votes may be cast only on the offices and propositions stating measures on which the voter is entitled to vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 112.010. SUBSTITUTING MAIL BALLOTS FOR VOTING MACHINE.** (a) If early voting by personal appearance is conducted by voting machine, the early voting clerk may conduct the personal appearance voting of limited ballots by using official ballots for early voting by mail.

(b) The secretary of state may provide for the use of envelopes or other containers instead of ballot boxes for voters to deposit ballots voted under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 112.011. INFORMATION ON DISTRICT COMPOSITION.** (a) In each even-numbered year, the secretary of state shall prepare information on the territorial composition of each district for which an officer of the state government is regularly elected at the general election for state and county officers.

(b) The information must include the data necessary to enable an early voting clerk to determine the district offices on which a voter under this chapter is eligible to vote.

(c) The secretary shall deliver the information to each county clerk before the 20th day before general primary election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 112.012. NOTIFICATION TO VOTER REGISTRAR.** Not later than the 30th day after receipt of an application for a limited ballot, the early voting clerk shall notify the voter registrar for the voter's former county of residence that the voter has applied for a limited ballot.

Added by Acts 1987, 70th Leg., ch. 436, Sec. 8, eff. Sept. 1, 1987.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

## **CHAPTER 113. VOTING PRESIDENTIAL BALLOT BY FORMER RESIDENT**

**Sec. 113.001. PRESIDENTIAL BALLOT.** In this chapter, "presidential ballot" means a ballot voted under this chapter that is restricted to the offices of president and vice-president of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 113.002. ELIGIBILITY.** A former resident of this state is eligible to vote a presidential ballot in the presidential general election by personal appearance or by mail if the former resident:

- (1) is domiciled in another state;
- (2) was registered to vote in this state at the time the former resident ceased to be a resident;
- (3) would be eligible for registration to vote in this state if a resident; and
- (4) on presidential election day will not have resided in the state of present domicile for more than 30 days and is not

eligible to vote in the presidential election in that state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 113.003. SUBMITTING APPLICATION FOR MAIL BALLOT.** An application for a presidential ballot to be voted by mail must be submitted to the early voting clerk serving the county of the applicant's most recent registration to vote by the deadline prescribed by Section 84.007.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 76, eff. Sept. 1, 2021.

**Sec. 113.004. TIME AND PLACE FOR VOTING BY PERSONAL APPEARANCE.** (a) A person may vote a presidential ballot by personal appearance only at the main early voting polling place for the county of the person's most recent registration to vote.

(b) The period for voting presidential ballots by personal appearance ends on presidential election day.

(c) Beginning on the day after the last day of the period for early voting by personal appearance and through presidential election day, the dates and hours for voting presidential ballots by personal appearance are the dates and hours that the county clerk's main business office is regularly open for business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 113.005. PERSONAL APPEARANCE VOTING; PROCESSING RESULTS.** (a) On submission of an application for a presidential ballot to be voted by personal appearance, the early voting clerk shall review the application and verify the applicant's registration status in accordance with the procedure applicable to early voting by mail.

(b) The personal appearance voting shall be conducted with the balloting materials for early voting by mail.

(c) The voter must mark and seal the ballot in the same manner as if voting by mail except that the certificate on the carrier envelope need not be completed.

(d) On sealing the carrier envelope, the voter must give it to the clerk, who shall note on the envelope that the ballot is a presidential ballot.

(e) The results of voting a presidential ballot by personal appearance shall be processed in accordance with the procedures applicable to processing early voting ballots voted by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 113.006. CANCELING REGISTRATION.** As soon as practicable after the close of voting, the early voting clerk shall notify the voter registrar of the name of each person who applied for a presidential ballot whose name appears on the list of registered voters. On receipt of the notice, the voter registrar shall cancel the voter's registration.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.29; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

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## **CHAPTER 114. VOTING FEDERAL BALLOT BY OVERSEAS CITIZEN**

**Sec. 114.001. DEFINITIONS.** In this chapter:

(1) "Federal ballot" means a ballot voted under this chapter that is restricted to federal offices only.

(2) "Federal office" means the offices of president and vice-president of the United States, United States senator, or United States representative.

(3) "United States" includes the several states and the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include any other territory or possession of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.30; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 114.002. ELIGIBILITY.** A United States citizen dwelling outside the United States is eligible to vote a federal ballot by mail if:

(1) the citizen's most recent domicile in the United States was in this state and the citizen's intent to return to this state is uncertain;

(2) the citizen would be eligible for registration as a voter in this state if a resident; and

(3) the citizen is not eligible to vote on federal offices in any other state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.30; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 114.003. OFFICES ON WHICH VOTER ENTITLED TO VOTE.** A person voting a federal ballot is entitled to vote only on each federal office to be voted on in the election precinct of the person's most recent domicile in this state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.30; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 114.004. APPLICATION.** (a) An application for a federal ballot must be submitted on an official federal postcard application form.

(b) The application must be submitted to the early voting clerk serving the election precinct of the applicant's most recent domicile in this state.

(c) The period during which a federal ballot application may be submitted is the same as that for submitting a federal postcard application under Chapter 101.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.30; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 114.005. APPLYING FOR MORE THAN ONE ELECTION IN SAME APPLICATION.** The provisions governing the application for ballots for more than one election by a single federal postcard application under Chapter 101 apply to a federal ballot application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.30; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 114.006. DETERMINING OFFICES TO BE VOTED ON.** For each voter who is to vote a federal ballot, the early voting clerk shall determine the federal offices on which the voter is entitled to vote and indicate them on the application or the jacket envelope.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.30; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

**Sec. 114.007. METHOD OF PROVIDING BALLOT; REQUIRED ADDRESS; RETURN OF BALLOT.** (a) The balloting materials provided under this chapter shall be airmailed to the voter free of United States postage, as provided by the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.), in an envelope labeled "Official Election Balloting Material--via Airmail." The secretary of state shall provide early voting clerks with instructions on compliance with this subsection.

(b) The address to which the balloting materials are sent to a voter must be an address outside the United States or an address in the United States for forwarding or delivery to the voter at a location outside the United States. If the address to which the balloting materials are to be sent is within the county served by the early voting clerk, the federal ballot application must indicate that the balloting materials will be forwarded or delivered to the voter at a location outside the United States.

(c) A ballot voted under this chapter may be returned to the early voting clerk by mail, common or contract carrier,



or courier.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 1.36; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 46, eff. Sept. 1, 1997.

**Sec. 114.008. OFFICIAL CARRIER ENVELOPE.** The officially prescribed carrier envelope for voting under this chapter shall be labeled "Official Election Balloting Material--via Airmail."

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.30; Acts 1991, 72nd Leg., ch. 554, Sec. 1, eff. Sept. 1, 1991.

# TITLE 8. VOTING SYSTEMS

## CHAPTER 121. GENERAL PROVISIONS

**Sec. 121.001. APPLICABILITY OF OTHER PARTS OF CODE.** The other titles of this code apply to an election in which a voting system is used except to the extent that a provision is inconsistent with this title or cannot feasibly be applied in an election using a voting system.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 121.002. PECUNIARY INTEREST OF SECRETARY OF STATE.** The secretary of state may not have a pecuniary interest in the manufacturing or marketing of voting system equipment or software necessary for the operation of a voting system.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 121.003. DEFINITIONS.** In this title:

(1) "Voting system" means a method of casting and processing votes that is designed to function wholly or partly by use of mechanical, electromechanical, or electronic apparatus and includes the procedures for casting and processing votes and the programs, operating manuals, tabulating cards, printouts, and other software necessary for the system's operation.

(2) "Electronic voting system" means a voting system in which the ballots are automatically counted and the results automatically tabulated by use of electronically operated apparatus.

(3) "Voting machine" means an apparatus on which voters cast their votes, that records each vote, and that furnishes a total of the number of votes cast for the candidates and for and against the measures.

(4) "Voting system equipment" means any kind of mechanical, electromechanical, or electronic apparatus for use in a voting system.

(5) "Automatic tabulating equipment" means equipment, other than a voting machine, that compiles vote totals by ballot sorting, ballot reading, ballot scanning, or electronic data processing.

(6) "Public counter" means a registering device that cumulatively records the number of voters casting votes on a voting machine and that is constructed and installed on the machine in a way that provides an unobstructed view of the recorded number.

(7) "Protective counter" means a registering device that permanently records the cumulative number of times that a voting machine has been operated and that is installed in the machine in a way that prevents resetting the device.

(8) "Registering counter" means a registering device on a voting machine that records the votes cast for a particular candidate or for or against a particular measure.

(9) "Electronic system ballot" means a ballot designed for use with an electronic voting system.

(10) "Punch-card ballot" means an electronic system ballot in the form of a tabulating card.

(11) "Voting system ballot" means a ballot designed for use with a voting system.

(12) "Direct recording electronic voting machine" or "DRE" means a voting machine that is designed to allow a direct vote on the machine by the manual touch of a screen, monitor, or other device and that records the individual votes and vote totals electronically.

(13) "Ballot marking device" means a voting system with an electronic interface that allows a voter to mark a paper ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; Acts 1987, 70th Leg., ch. 484, Sec. 1, eff. Sept. 1, 1987; Acts 2001, 77th Leg., ch. 1054, Sec. 1, eff. Sept. 1, 2001; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.04, eff. January 1, 2006; Acts 2019, 86<sup>th</sup> Leg. (H.B. 88), eff. Sept. 1, 2019.

**Sec. 121.004. COMMUNICATIONS WITH VOTING SYSTEMS VENDOR PUBLIC INFORMATION.** (a) Except as provided by Subsection (b), a written letter, e-mail, or other communication, including a communication made confidential by other law, between a public official and a voting systems vendor:

(1) is not confidential;

(2) is public information for purposes of Chapter 552, Government Code; and

(3) is not subject to an exception to disclosure provided by Chapter 552, Government Code, other than Sections 552.110 and 552.1101, Government Code.

(b) A written letter, e-mail, or other communication between a public official and a voting systems vendor is excepted

from disclosure under Chapter 552, Government Code, if the communication discloses information, data, or records relating to the security of elections critical infrastructure..  
Added by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 4.13, eff. Dec. 2, 2021.

## CHAPTER 122. STATE SUPERVISION OVER VOTING SYSTEMS

### SUBCHAPTER A. VOTING SYSTEM STANDARDS

**Sec. 122.001. VOTING SYSTEM STANDARDS.** (a) A voting system may not be used in an election unless the system:

- (1) preserves the secrecy of the ballot;
- (2) is suitable for the purpose for which it is intended;
- (3) operates safely, efficiently, and accurately and complies with the voting system standards adopted by the Election Assistance Commission;
- (4) is safe from fraudulent or unauthorized manipulation;
- (5) permits voting on all offices and measures to be voted on at the election;
- (6) prevents counting votes on offices and measures on which the voter is not entitled to vote;
- (7) prevents counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevents counting votes for more than the number of candidates for which the voter is entitled to vote;
- (8) prevents counting a vote on the same office or measure more than once;
- (9) permits write-in voting; and
- (10) is capable of providing records from which the operation of the voting system may be audited.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 8, eff. September 1, 2020.

(c) The secretary of state may prescribe additional standards for voting systems consistent with this title. The standards may apply to particular kinds of voting systems, to particular elements comprising a voting system, including operation procedures, or to voting systems generally.

(d) Effective January 1, 2006, a voting system may not be used in an election if the system uses:

- (1) mechanical voting machines; or
- (2) a punch-card ballot or similar form of tabulating card.

(e) For an election for federal office in which a state or federal court order has extended the time for voting beyond the time allowed by Subchapter B, Chapter 41, a voting system must provide a separate count of the votes cast after the time allowed by that subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 2, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 30, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1315, Sec. 49, eff. Jan. 1, 2004; Acts 2015, 84th Leg., R.S., Ch. 298 (H.B. 2900), Sec. 1, eff. June 1, 2015; H.B. 25, 85th Leg., R.S., Secs. 6 & 8, eff. September 1, 2020.

**Sec. 122.002. INSPECTION OF VOTING SYSTEMS AND EQUIPMENT BY SECRETARY OF STATE.** The secretary of state may inspect at any time, including the day of an election, a voting system or the voting system equipment used in an election to determine whether the system or equipment complies with applicable standards or deviates from the system or equipment approved by the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 3, eff. Sept. 1, 1987.

**Sec. 122.003. ACTION BY SECRETARY OF STATE.** (a) If the secretary of state determines after inspecting a voting system or voting system equipment that the system or equipment does not comply with applicable standards or deviates from an approved system or equipment, the secretary by written order may:

- (1) prohibit the use of the system or equipment or any part of the system or equipment by an authority that adopted the system or equipment for use in an election; or
- (2) limit the use of the system or equipment or any part of the system or equipment to circumstances or conditions stated in the order.

(b) The secretary shall amend or rescind an order issued under this section if the secretary determines that the system or equipment has been modified to comply with applicable standards or to not deviate from an approved system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 3, eff. Sept. 1, 1987.

**Sec. 122.004. PREPARATION OF SOFTWARE BY SECRETARY OF STATE.** (a) The secretary of state may prepare any type of software for use with an electronic voting system.

(b) The software is subject to the standards and examination procedures applicable to voting systems.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 3, eff. Sept. 1, 1987.

**Sec. 122.005. VENUE FOR OFFENSES.** Venue for prosecution of an offense under this chapter is in the county in which the offense was committed.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 31, eff. Sept. 1, 1993.

## **SUBCHAPTER B. APPROVAL OF VOTING SYSTEM AND EQUIPMENT**

**Sec. 122.031. APPROVAL OF SYSTEM AND EQUIPMENT REQUIRED.** (a) Before a voting system or voting system equipment may be used in an election, the system and a unit of the equipment must be approved by the secretary of state as provided by this subchapter.

(b) The secretary of state may seek a temporary restraining order or a writ of injunction obtained through the attorney general to prevent the use of any part of a voting system or voting system equipment that has not been approved.

(c) A person commits an offense if the person executes a contract to sell, lease, or otherwise provide a voting system or voting system equipment that the person knows has not been approved. An offense under this subsection is a Class A misdemeanor.

(d) This section does not prohibit a person from exhibiting a voting system or unit of voting system equipment that has not been approved.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 32, eff. Sept. 1, 1993.

**Sec. 122.032. REQUIREMENTS FOR APPROVAL GENERALLY.** (a) For a voting system or voting system equipment to be approved for use in elections, the voting system in which the equipment is designed to be used must:

- (1) comply with the standards prescribed by Subchapter A; and
- (2) beginning September 1, 2021, be manufactured, stored, and held in the United States and sold by a company whose:
  - (A) headquarters are located in the United States; and
  - (B) parent company's headquarters, if applicable, are located in the United States.

(a-1) For purposes of Subsection (a), a voting system or voting system equipment is considered to be manufactured in the United States if:

- (1) final assembly of the voting system or voting system equipment occurs in the United States; and
- (2) all firmware and software are installed and tested in the United States..

(b) The secretary of state may prescribe more specific requirements and standards, consistent with this code, for approval of particular kinds of voting system equipment or voting system equipment generally.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; S.B. 1387, 87th Leg., R.S., Sec. 1, eff. June 16, 2021.

**Sec. 122.033. ADDITIONAL REQUIREMENTS FOR APPROVAL OF VOTING MACHINE.** In addition to other requirements for approval, a voting machine must be equipped with:

- (1) a security system capable of preventing operation of the machine;
- (2) registering counters that can be secured against access;
- (3) a public counter; and
- (4) a protective counter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.05, eff. January 1, 2006.

**Sec. 122.0331. ADDITIONAL REQUIREMENTS FOR ELECTRONIC VOTING SYSTEM.** (a) Copies of the program codes and the user and operator manuals and copies or units of all other software and any other information, specifications, or documentation required by the secretary of state relating to an approved electronic voting system and its equipment must be filed with the secretary.

(b) Materials described by Subsection (a) that are not on file with and approved by the secretary of state, including any updated or modified materials, may not be used in an election.

(c) The secretary of state shall periodically compare the materials on file with the materials actually used in elections to ensure compliance with this section.

(d) The program codes and all other software on file with the secretary of state under this section are not public information. The materials shall be made available to the attorney general or the general's designee in any investigation of election irregularities. The materials may be made available in a judicial proceeding on the request of the court or other tribunal

but may be viewed in camera only.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.034. APPLICATION FOR APPROVAL AND FEE.** (a) A person desiring approval of a voting system or voting system equipment must submit a written application for approval to the secretary of state.

(b) An applicant must include with the application an application fee.

(c) The secretary of state shall prescribe fees for the submission of applications under this section in amounts reasonably necessary to administer this subchapter and compensate examiners appointed by the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 33, eff. Sept. 1, 1993.

**Sec. 122.035. APPOINTMENT OF EXAMINERS.** (a) On submission of an application for approval of a voting system or voting system equipment, the secretary of state shall appoint four persons as examiners, one of whom must be a full-time employee of the secretary. The attorney general shall appoint two persons as examiners, one of whom must be a full-time employee of the general.

(b) Two of the secretary of state's appointees must have demonstrated ability and experience in mechanics or electronics appropriate to the system or equipment to be examined, and two of the secretary's appointees must have demonstrated knowledge of and experience in election law and procedure.

(c) Only one person employed by the secretary of state may be appointed.

(d) A person who has a pecuniary interest in the manufacturing or marketing of any part of a voting system or voting system equipment is ineligible for appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 34, eff. Sept. 1, 1993.

**Sec. 122.036. EXAMINATION AND REPORT BY EXAMINERS.** (a) The examiners shall examine the voting system or voting system equipment for which an application has been submitted at the time and in the manner directed by the secretary of state.

(b) After conducting the examination, each examiner shall prepare a written report on the examination as directed by the secretary and deliver the report to the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.037. COMPENSATION OF EXAMINERS.** (a) Each examiner appointed under this subchapter, other than an employee of the secretary of state or attorney general, is entitled to compensation for services rendered in connection with an application.

(b) The secretary of state shall set the amount of compensation for examiners appointed by the secretary and shall use the application fees collected under Section 122.034 to pay the compensation.

(c) The attorney general shall set the amount of compensation for an examiner appointed by the general and shall pay the compensation from funds available to the general.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 35, eff. Sept. 1, 1993.

**Sec. 122.0371. PUBLIC HEARING REQUIRED.** (a) After the delivery of the examiners' reports and before the determination of whether the voting system or voting system equipment for which an application has been submitted satisfies the applicable requirements for approval, the secretary of state shall conduct a public hearing to provide interested persons an opportunity to express their views for or against the approval of the voting system or voting system equipment being considered.

(b) Notice of the hearing is given in the manner provided by Chapter 551, Government Code.

(c) Persons attending the hearing may express their views for or against the approval of the voting system or voting system equipment either orally, in writing, or both.

(d) The hearing shall be conducted in accordance with rules adopted by the secretary of state.

Added by Acts 2005, 79th Leg., Ch. 273 (H.B. 2465), Sec. 1, eff. September 1, 2005.

**Sec. 122.038. ACTION BY SECRETARY OF STATE.** (a) After reviewing the examiners' reports and considering the views expressed at the public hearing, the secretary of state shall determine whether the voting system or voting system equipment for which an application has been submitted satisfies the applicable requirements for approval.

(b) The secretary may examine the system or equipment to aid in determining whether it satisfies the requirements for approval.

(c) If the system or equipment satisfies the applicable requirements for approval, the secretary by written order shall approve the system or equipment of that design for use in elections. Otherwise, the secretary shall deny the application. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 2005, 79th Leg., Ch. 273 (H.B. 2465), Sec. 2, eff. September 1, 2005.

**Sec. 122.039. REPORT BY SECRETARY OF STATE.** (a) The secretary of state shall prepare a written report on each application submitted under this subchapter. The report must state whether the system or equipment was approved and the reasons for approval or denial.

(b) The secretary shall attach the examiners' reports to the report prepared under this section and permanently retain the reports on file. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

## **SUBCHAPTER C. MODIFICATION IN DESIGN OF APPROVED SYSTEM OR EQUIPMENT**

**Sec. 122.061. APPROVAL OF MODIFIED DESIGN REQUIRED.** Before a voting system or voting system equipment that is modified in design after its approval may be used in an election, the modified design must be approved by the secretary of state as provided by this subchapter. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.062. REQUIREMENTS FOR APPROVAL.** The requirements for approval of a modified design are the same as those prescribed by Subchapter B for the initial approval of the voting system or voting system equipment. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.063. APPLICATION FOR APPROVAL.** A person desiring approval of a modified design must submit a written application for approval to the secretary of state. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.064. REVIEW OF APPLICATION.** (a) The secretary of state shall review an application for approval of a modified design.

(b) The secretary may approve the modified design by written order if the design satisfies the applicable requirements for approval.

(c) If the secretary does not approve the modified design, the secretary by written order shall:

(1) invite the applicant to submit additional information in support of the application, submit the modified system or equipment itself, or both; or

(2) require an examination of the modified system or equipment by independent examiners.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.065. REVIEW AND EXAMINATION OF ADDITIONAL MATERIAL.** (a) The secretary of state shall review additional information in support of an application and examine the modified system or equipment submitted.

(b) The secretary may approve the modified design by written order if the design satisfies the applicable requirements for approval.

(c) If the secretary does not approve the modified design, the secretary by written order shall require an examination of the modified system or equipment by independent examiners.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.066. EXAMINATION FEE.** (a) The secretary of state shall prescribe an examination fee or fee schedule to compensate examiners appointed by the secretary under this subchapter.

(b) The fee for an examination may not exceed the fee for an application for initial approval of a voting system or voting system equipment.

(c) If the secretary orders an independent examination of the modified system or equipment, the secretary may not appoint examiners until the secretary receives the examination fee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 36, eff. Sept. 1, 1993.

**Sec. 122.067. APPOINTMENT OF EXAMINERS.** (a) If the secretary of state requires an independent examination of the modified system or equipment, the secretary shall appoint four persons as examiners, one of whom must be a full-time employee

of the secretary. The attorney general shall appoint two persons as examiners, one of whom must be a full-time employee of the general.

(b) To be eligible for appointment as an examiner under this section, a person must be eligible for appointment as an examiner for an application for initial approval of a system or equipment. Only one employee of the secretary of state may be appointed.

(c) Two of the secretary of state's appointees must have demonstrated ability and experience in mechanics or electronics appropriate to the system or equipment to be examined.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 37, eff. Sept. 1, 1993.

**Sec. 122.068. EXAMINATION AND REPORT BY EXAMINERS.** The examiners shall examine the modified system or equipment and prepare and deliver examination reports in the same manner as for an application for initial approval of a system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.069. COMPENSATION OF EXAMINERS.** (a) Subject to Subsections (b) and (c), an examiner appointed by the secretary of state under this subchapter, other than the secretary's employee, is entitled to compensation in an amount set by the secretary.

(b) The compensation rate for each examiner appointed by the secretary of state for the same examination must be uniform.

(c) The total compensation paid to the examiners appointed by the secretary of state for the same examination may not exceed the examination fee.

(d) The secretary of state shall use the examination fees collected under Section 122.066 to pay the compensation to examiners appointed by the secretary.

(e) An examiner appointed by the attorney general under this subchapter, other than an employee of the general, is entitled to compensation in an amount set by the general. The attorney general shall pay the compensation from funds available to the general.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 38, eff. Sept. 1, 1993.

**Sec. 122.0691. PUBLIC HEARING REQUIRED.** (a) This section applies only if an examination of the modified design by independent examiners was conducted.

(b) After the delivery of the examiners' reports and before the determination of whether the modified design satisfies the applicable requirements for approval, the secretary of state shall conduct a public hearing in the same manner as for the initial approval of a system or equipment.

Added by Acts 2005, 79th Leg., Ch. 273 (H.B. 2465), Sec. 3, eff. September 1, 2005.

**Sec. 122.070. ACTION BY SECRETARY OF STATE.** (a) After reviewing the examiners' reports and considering the views expressed at the public hearing, the secretary of state shall determine whether the modified design satisfies the applicable requirements for approval.

(b) The secretary may examine the modified system or equipment to aid in determining whether it satisfies the requirements for approval.

(c) If the modified design satisfies the applicable requirements for approval, the secretary by written order shall approve the system or equipment of that design for use in elections. Otherwise, the secretary shall deny the application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 2005, 79th Leg., Ch. 273 (H.B. 2465), Sec. 4, eff. September 1, 2005.

**Sec. 122.071. REPORT BY SECRETARY OF STATE.** (a) The secretary of state shall prepare a written report on each application submitted under this subchapter. The report must state whether the modified design was approved and must include a description of and the reason for the action ordered.

(b) If an examination by independent examiners was conducted, the secretary shall attach the examiners' reports to the report prepared under this section.

(c) The secretary shall permanently retain reports prepared under this subchapter on file with the secretary's report on the application for initial approval of the system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.



## SUBCHAPTER D. REEXAMINATION OF VOTING SYSTEM OR EQUIPMENT

**Sec. 122.091. REEXAMINATION OF APPROVED SYSTEM OR EQUIPMENT AUTHORIZED.** (a) The secretary of state may reexamine a voting system or voting system equipment as provided by this subchapter at any time after the system or equipment is approved under Subchapter B or C.

(b) The secretary of state may suspend approval for use of a voting system or voting system equipment if the system or equipment is not submitted for reexamination under this subchapter on the request of the secretary.

(c) The secretary of state may prescribe fees in amounts reasonably necessary to administer this subchapter and compensate examiners appointed by the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 39, eff. Sept. 1, 1993.

**Sec. 122.0911. ASSISTANCE REQUIRED BY SECRETARY OF STATE.** (a) If the secretary of state determines that the assistance of a particular person is necessary for the proper and efficient reexamination of a voting system or voting system equipment under this subchapter, the secretary may require that person to provide the necessary assistance as provided by this section.

(b) The secretary of state shall deliver written notice to a person whose assistance is required not later than 72 hours before the date the reexamination is scheduled to occur. The notice must state:

- (1) that the person is required to provide assistance under Section 122.0911, Election Code;
- (2) the nature of the assistance that is required; and
- (3) the date, hour, and place of the reexamination.

(c) A person who, after proper notice, fails to provide the assistance required by the secretary of state is civilly liable to the state for \$100 for each day that the person fails to comply. The secretary of state shall notify the attorney general to initiate suit to recover the penalty.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 40, eff. Sept. 1, 1993.

**Sec. 122.092. APPOINTMENT OF EXAMINERS.** (a) The secretary of state shall appoint four persons as examiners, one of whom must be a full-time employee of the secretary, to assist in a reexamination of an approved voting system or voting system equipment. The attorney general shall appoint two persons as examiners, one of whom must be a full-time employee of the general.

(b) Two of the secretary of state's appointees must have demonstrated knowledge of and experience in the operation of the system or equipment.

(c) Only one person employed by the secretary of state may be appointed.

(d) A person who has a pecuniary interest in the manufacturing or marketing of any part of a voting system or voting system equipment is ineligible for appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 41, eff. Sept. 1, 1993.

**Sec. 122.093. EXAMINATION AND REPORT BY EXAMINERS.** (a) The examiners shall examine the system or equipment to be reexamined at the time and in the manner directed by the secretary of state.

(b) After conducting the examination, each examiner shall prepare a written report on the examination as directed by the secretary and deliver the report to the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.094. COMPENSATION OF EXAMINERS.** (a) An examiner appointed under this subchapter, other than an employee of the secretary of state or attorney general, is entitled to compensation for services rendered in connection with a reexamination.

(b) The secretary of state shall set the amount of compensation for examiners appointed by the secretary and shall use the fees collected under Section 122.091 to pay the compensation.

(c) The attorney general shall set the amount of compensation for an examiner appointed by the general and shall pay the compensation from funds available to the general.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 42, eff. Sept. 1, 1993.

**Sec. 122.0941. PUBLIC HEARING REQUIRED.** After the delivery of the examiners' reports and before the determination

of whether the reexamined voting system or voting system equipment satisfies the applicable requirements for approval, the secretary of state shall conduct a public hearing in the same manner as for the initial approval of a system or equipment.  
Added by Acts 2005, 79th Leg., Ch. 273 (H.B. 2465), Sec. 5, eff. September 1, 2005.

**Sec. 122.095. ACTION BY SECRETARY OF STATE.** (a) After reviewing the examiners' reports and considering the views expressed at the public hearing, the secretary of state shall determine whether the voting system or voting system equipment subject to reexamination satisfies the applicable requirements for approval of the system or equipment for use in elections.

(b) The secretary may examine the system or equipment to aid in determining whether it satisfies the requirements for approval.

(c) If the reexamined system or equipment does not satisfy the applicable requirements for approval, the secretary by written order shall:

- (1) suspend approval of the system or equipment;
- (2) suspend approval for future use of the system or equipment; or
- (3) give conditional approval of the system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 2005, 79th Leg., Ch. 273 (H.B. 2465), Sec. 6, eff. September 1, 2005.

**Sec. 122.096. EFFECT OF SECRETARY OF STATE'S ACTION.** (a) A voting system or voting system equipment for which approval is suspended may not be used in an election held after the date the suspension order is issued.

(b) A voting system or voting system equipment for which approval for future use is suspended may not be used in an election held after the date the suspension order is issued unless the system or equipment was adopted for use in the election before the date the suspension order is issued. In that case, the system or equipment may be used in that election only.

(c) A voting system or voting system equipment for which conditional approval is given may not be used in an election held after the date the conditional approval order is issued except in accordance with conditions prescribed by the conditional approval order.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.097. NOTICE OF SECRETARY OF STATE'S ACTION.** Not later than the fifth day after the date an order taking action under Section 122.095(c) is issued, the secretary of state shall deliver a copy of the order to the presiding officer of each political subdivision that owns or leases a system or equipment subject to the order.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.098. SUBSEQUENT APPROVAL.** If a voting system or voting system equipment subject to an order under Section 122.095(c) is subsequently approved under Subchapter B, the approval nullifies the order.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

**Sec. 122.099. REPORT BY SECRETARY OF STATE.** (a) The secretary of state shall prepare a written report on each reexamination. The report must state whether the system or equipment satisfied the approval requirements and must include a description of and the reason for the action ordered.

(b) The secretary shall attach the examiners' reports to the report prepared under this section and permanently retain the reports on file with the secretary's report on the application for initial approval of the system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

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## **CHAPTER 123. ADOPTION AND ACQUISITION OF VOTING SYSTEM**

### **SUBCHAPTER A. ADOPTION OF VOTING SYSTEM**

**Sec. 123.001. ADOPTION OF VOTING SYSTEM REQUIRED.** (a) Before a voting system may be used in elections, the authority designated by this section, by resolution, order, or other official action of the authority, must adopt the system for use in the elections.

(b) The decision on whether to adopt a voting system is made by the following authority:

- (1) for general elections for state and county officers, the commissioners court;
- (2) for primary elections, the county executive committee of the political party holding the primary; and
- (3) for any other elections:

(A) the commissioners court, if ordered by the governor or by a county authority; or

(B) the governing body of the political subdivision served by the authority ordering the elections, if ordered by an authority serving a political subdivision other than a county.

(c) If a voting system is adopted for use in elections, the voting system shall be used in the elections in accordance with the terms and conditions stated in the official action adopting the system, subject to this title.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77th Leg., ch. 1054, Sec. 2, eff. Sept. 1, 2001; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.21(1), eff. January 1, 2006.

**Sec. 123.002. MODIFICATION OF ADOPTION ACTION.** The official action adopting a voting system for use in elections may be modified or rescinded at any time by the adopting authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 123.003. RESTRICTING VOTING SYSTEM TO PARTICULAR ELECTIONS.** The authority adopting a voting system may restrict its use to any one or more elections.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 123.004. RESTRICTING VOTING SYSTEM TO PARTICULAR POLLING PLACES.** The authority adopting a voting system may restrict its use to one or more polling places, subject to Section 123.009.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77th Leg., ch. 557, Sec. 1, eff. Sept. 1, 2001.

**Sec. 123.005. MULTIPLE METHODS OF VOTING AT SAME POLLING PLACE.** (a) Except as otherwise provided by this code, only one kind of voting system may be used at a polling place in an election.

(b) Except as otherwise provided by this title, regular paper ballots may not be used at a polling place using a voting system.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 123.006. ADOPTION OF VOTING SYSTEM FOR EARLY VOTING.** (a) A voting system may be adopted for use in early voting only, regular voting on election day only, or both.

(b) A voting system may be adopted for use in early voting by personal appearance only, early voting by mail only, or both.

(c) Only one kind of voting system may be used for early voting by mail. A voting system and regular paper ballots may not both be used in the same election for early voting by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.55; Acts 1991, 72nd Leg., ch. 554, Sec. 26, eff. Sept. 1, 1991.

**Sec. 123.007. ADOPTION OF MORE THAN ONE VOTING SYSTEM FOR SAME ELECTION.** If more than one kind of voting system is adopted for use at the polling places in the same election, the adopting authority shall determine the polling place or places at which each system is to be used, subject to Section 123.009.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 2001, 77th Leg., ch. 557, Sec. 2, eff. Sept. 1, 2001.

**Sec. 123.008. REQUIREMENTS REGARDING MANUALS, INSTRUCTIONS, AND OTHER DOCUMENTS FOR USE WITH ELECTRONIC VOTING SYSTEM OR EQUIPMENT.** (a) Each person who sells, leases, or otherwise

provides an electronic voting system or equipment to a political subdivision shall also provide any user or operator manuals or other instructions or documents relating to the use of the system or equipment. The general custodian of election records for the political subdivision shall make those materials available for public inspection in the custodian's office on the request of any person.

(b) The custodian shall also make available for public inspection in the custodian's office any materials described by Subsection (a) that are produced by the political subdivision for its elections.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 5, eff. Sept. 1, 1987.

**Sec. 123.009. IMPLEMENTATION OF NEW TECHNOLOGY IN CERTAIN ELECTIONS.** (a) This section applies to a voting system adopted for use in an election ordered by the governor or a county authority or in a primary election.

(b) If the design of the voting system or voting system equipment is modified, upgraded, or otherwise enhanced by the incorporation of new technology, the voting system equipment implementing the new technology shall be distributed and used proportionately and equitably among the election precincts in which the particular voting system is used.

(c) The secretary of state by rule shall prescribe any procedures necessary for the implementation of this section in a manner that protects the voting rights of the affected voters.

Added by Acts 2001, 77th Leg., ch. 557, Sec. 3, eff. Sept. 1, 2001.

## **SUBCHAPTER B. ACQUISITION OF EQUIPMENT USED IN VOTING SYSTEM**

**Sec. 123.031. ACQUISITION OF EQUIPMENT BY COUNTY.** (a) A county may contract to acquire the equipment necessary for operating a voting system by purchase, lease, or other means.

(b) To finance the acquisition of equipment, the commissioners court may issue bonds or other evidences of indebtedness as authorized by general law, payable solely from the county general fund.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 43, eff. Sept. 1, 1993.

**Sec. 123.0311. DISCLOSURE OF RELATED ENTITIES.** (a) A contract under Section 123.031 to acquire equipment necessary for operating a voting system from a vendor must identify each person or entity that has a five percent or greater ownership interest in:

- (1) the vendor;
- (2) the vendor's parent company, if applicable; and
- (3) each subsidiary or affiliate of the vendor, if applicable.

(b) This section applies only to equipment acquired on or after September 1, 2021.

Added by: H.B. 1397, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2021.

**Sec. 123.032. ACQUISITION OF EQUIPMENT BY POLITICAL SUBDIVISION OTHER THAN COUNTY.** (a) A political subdivision other than a county may contract to acquire the equipment necessary for operating a voting system as provided by this section.

(b) A political subdivision may lease the equipment from a county in which the political subdivision is wholly or partly situated. If the desired equipment is not available from the county, the political subdivision may acquire it by purchase, lease, or other means from any other source.

(c) If a political subdivision desires to lease equipment owned by a county in which the political subdivision is wholly or partly situated, the county shall lease the equipment to the political subdivision under the terms agreed to by the parties, except that the county's duty to lease the equipment is subject to reasonable restrictions and conditions imposed by the commissioners court to:

- (1) ensure availability of the equipment in elections for which the commissioners court adopted the voting system; and
- (2) protect the equipment from misuse or damage.

(d) The maximum amount that a county in which a political subdivision is wholly or partly situated may charge the political subdivision for leasing county-owned equipment is 10 percent of the purchase price of the equipment for each day the equipment is leased.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 44, eff. Sept. 1, 1993.

**Sec. 123.033. ACQUISITION OF EQUIPMENT BY POLITICAL PARTY FOR PRIMARY.** (a) A political party's county executive committee that desires to use a voting system for a primary election must acquire the equipment necessary for operating the voting system as provided by this section.

(b) The county executive committee may contract to lease the equipment from the county. If the equipment desired is not available from the county, the county executive committee may contract to lease it from any other source.

(c) If the county executive committee desires to lease equipment owned by the county served by the committee, the county shall lease the equipment to the committee under the terms agreed to by the parties, except that the county's duty to lease the equipment is subject to reasonable restrictions and conditions imposed by the commissioners court to:

- (1) ensure availability of the equipment in elections for which the commissioners court adopted the voting system; and
- (2) protect the equipment from misuse or damage.

(d) A county is not required to provide a political party's county executive committee with equipment for use in an election precinct in which fewer than 100 votes were cast in the political party's most recent general or runoff primary.

(e) The maximum amount that may be charged for leasing equipment to a county executive committee for a general or runoff primary is:

- (1) \$5 for each unit of electronic voting system equipment installed at a polling place; and
- (2) \$5 for each unit of other equipment not specified by this subsection.

(f) In addition to the amount a county may charge for leasing its equipment under Subsection (e), a county may charge a county executive committee for the actual expenses incurred by the county in:

- (1) transporting the equipment to and from the polling places;
- (2) preparing the equipment for use in the primary election; and
- (3) operating a central counting station for the primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.06, eff. January 1, 2006.

**Sec. 123.034. MAINTENANCE AND STORAGE OF EQUIPMENT.** The governing body of a political subdivision shall provide for the proper maintenance and storage of the equipment that the subdivision acquires for use in the operation of a voting system.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 123.035. VOTING SYSTEM EQUIPMENT CONTRACT.** (a) A contract for the acquisition of voting system equipment under this subchapter must be in writing and be approved by the secretary of state as to compliance of the voting system and voting system equipment with the applicable requirements. The authority acquiring the equipment shall submit to the secretary of state a request for the letter and order described by this subsection accompanied by a copy of the relevant portions of the contract containing only the identifying information that the secretary needs to determine whether the version of the system and equipment being acquired under the contract complies with the applicable requirements. If the contract is approved, the secretary of state shall provide to the parties to the contract:

- (1) a letter stating that the voting system and voting system equipment being acquired under the contract satisfy the applicable requirements for approval; and
- (2) a certified copy of the written order issued by the secretary under Section 122.038 or 122.070 approving the voting system and voting system equipment for use in elections and, if applicable, of the written order issued under Section 122.095 granting conditional approval of the system or equipment.

(b) A contract for the acquisition of voting system equipment under this subchapter that is not approved by the secretary of state in accordance with Subsection (a) is void. The contract may not be ratified by either party and a payment may not be made relating to the contract.

(c) A person commits an offense if the person executes a voting system equipment contract that is not approved by the secretary of state in accordance with Subsection (a). An offense under this subsection is a Class B misdemeanor.

(d) If the secretary of state does not approve a contract under this section, the secretary shall provide notice to the parties to the contract that states the reasons the contract was not approved.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 45, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 653, Sec. 1, eff. Sept. 1, 2003.

**Sec. 123.036. VENUE FOR OFFENSES.** Venue for prosecution of an offense under this chapter is in the county in which the offense was committed.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 45, eff. Sept. 1, 1993.

## **SUBCHAPTER C. ANNUAL VOTING SYSTEM REPORT**

**Sec. 123.061. ANNUAL REPORT REQUIRED.** (a) Each authority adopting a voting system for use in its elections shall file an annual report as provided by this subchapter.

(b) The report must be filed with the secretary of state in the form prescribed by the secretary.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 46, eff. Sept. 1, 1993.

**Sec. 123.062. FILING PERIOD.** The report must be filed on or after July 1 and before July 15.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 46, eff. Sept. 1, 1993.

**Sec. 123.063. CONTENTS OF REPORT.** The report must contain:

(1) a description of the voting system currently used by the authority;

(2) a copy of the written order issued by the secretary of state under Section 122.038 or 122.070 approving the voting system and voting system equipment for use in elections and, if applicable, of the written order issued under Section 122.095 granting conditional approval of the system or equipment; and

(3) a statement that the voting system currently used by the authority has not been modified since the date of filing of the authority's previous report, or if modified, that approval of the modified design has been sought under Subchapter C, Chapter 122.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 46, eff. Sept. 1, 1993.

**Sec. 123.064. REVIEW OF REPORT.** (a) The secretary of state shall review each report filed under this subchapter not later than the 30th day after the date of the filing deadline for the report.

(b) The secretary of state shall deliver a written delinquency notice to each authority that filed a report covering the previous reporting period but that fails to file a report covering the current reporting period.

(c) The secretary of state may deliver to the attorney general the name of each authority that fails to file a report covering the current reporting period within 30 days after the date of receipt of a delinquency notice.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 46, eff. Sept. 1, 1993.

**Sec. 123.065. MANDAMUS BY ATTORNEY GENERAL.** The attorney general may seek a writ of mandamus to compel the filing of a report by each authority that fails to comply with this subchapter.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 46, eff. Sept. 1, 1993.

**Sec. 123.066. ADDITIONAL PROCEDURES PRESCRIBED BY SECRETARY OF STATE.** The secretary of state may prescribe any procedures necessary to implement this subchapter.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 46, eff. Sept. 1, 1993.

## **CHAPTER 124. VOTING SYSTEM BALLOT**

### **SUBCHAPTER A. VOTING SYSTEM BALLOT GENERALLY**

**Sec. 124.002. MANNER OF INDICATING PARTY ALIGNMENT.** (a) In an election in which a candidate's name is to appear on the ballot as the nominee of a political party, the voting system ballot shall be arranged:

- (1) in party columns in the same manner as for a regular paper ballot on which a party nominee appears; or
- (2) by listing the office titles in a vertical column in the same manner as for a regular paper ballot on which a party nominee does not appear, except that the nominees' party alignments shall be indicated next to their names.

(b) The order in which party nominees listed by office title appear on a voting system ballot is determined in accordance with the same priorities and in the same manner as for party nominees listed in party columns, with the changes appropriate to the circumstances.

(c) Voting system ballots may not be arranged in a manner that allows a political party's candidates to be selected in one motion or gesture.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.08, eff. January 1, 2006; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 3.15, eff. Dec. 2, 2021.

**Sec. 124.003. SEPARATE LISTING OF UNOPPOSED CANDIDATES; BLOC VOTING.** (a) Any unopposed candidates may be listed separately under the heading "Uncontested Races" on a voting system ballot.

(b) In an election in which the ballots indicate political party alignment, the party alignment of the candidates listed under the uncontested races heading shall be indicated next to the candidate's name.

(c) Candidates listed under the uncontested races heading may be arranged in a manner requiring voting on them as one or more blocs, but only if an additional ballot would otherwise be necessary to accommodate all the candidates and propositions to be listed.

(d) The requirement that the ballot be arranged to permit straight-party voting does not apply to candidates listed under the uncontested races heading.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1061, Sec. 3; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.09, eff. January 1, 2006; S.B. 1089, 88<sup>th</sup> Leg., R.S., Sec. 3, eff. Sept. 1, 2023.

**Sec. 124.004. SAMPLE BALLOT.** The secretary of state may prescribe standards regarding the form, content, preparation, and use of sample ballots for voting systems.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 124.005. SPECIMEN BALLOT.** (a) The secretary of state may prescribe standards regarding the form, content, preparation, availability, and use of specimen ballots in elections using voting systems. The standards are not required to be consistent with those prescribed by this code for elections using regular paper ballots.

(b) The secretary of state may provide, with respect to elections in which voting systems are used:

- (1) alternatives to the use of specimen ballots; or
- (2) that specimen ballots are not required.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 124.006. IMPLEMENTATION OF PROVISIONAL BALLOT SYSTEM.** The secretary of state shall prescribe the form of a provisional ballot and the necessary procedures to implement the casting of a provisional ballot as described by Section 63.011 and the verification and processing of provisional ballots under Subchapter B, Chapter 65, for each voting system used in this state.

Added by Acts 1997, 75th Leg., ch. 1078, Sec. 20, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1315, Sec. 50, eff. Jan. 1, 2004.

### **SUBCHAPTER C. ELECTRONIC VOTING SYSTEM BALLOT**

**Sec. 124.062. FORM OF ELECTRONIC SYSTEM BALLOT.** (a) The electronic system ballot may be any size, composition, color, and texture that is suitable for the electronic voting system in which it is used, but the ballot may not be the same color as sample ballots.

(b) The secretary of state may authorize the use of electronic system ballots that comprise two or more separate parts and may prescribe conditions and limitations under which the multipart ballots may be used. A voting system using a multipart



ballot must comply with the same standards as a voting system using a ballot consisting of only a single part.

(c) The electronic system ballot may contain one or more printed code markings or punched holes if necessary for the proper voting and processing of the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 124.0621. NO WRITE-IN SPACE PROVIDED ON CERTAIN BALLOTS.** If no candidate's name is to appear for a particular office on the list of write-in candidates in an election in which write-in votes may be counted only for names appearing on the list, a write-in space is not required for that office on an electronic system ballot on which a voter indicates a vote by making a mark on the ballot.

Added by Acts 1987, 70th Leg., ch. 472, Sec. 35, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 497, Sec. 3, eff. Sept. 1, 1987.

**Sec. 124.063. INSTRUCTIONS REQUIRED ON BALLOT.** (a) An electronic system ballot on which a voter indicates a vote by making a mark on the ballot must contain the following instruction if candidates are to be voted on: "Vote for the candidate of your choice in each race by making a mark in the space provided adjacent to the name of that candidate." If a proposition appears on the ballot, the ballot must contain the following instruction: "Make a mark in the space provided beside the statement indicating the way you desire to vote."

(b) The instructions prescribed by Subsection (a) shall be changed appropriately if the election has only one race, more than one candidate is to be elected in a race, or other circumstances require an alteration of the instructions.

(c) The electronic system ballot must contain instructions for casting a write-in vote. The secretary of state shall prescribe the wording of the instructions.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 36, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 47, eff. Sept. 1, 1993; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.10, eff. January 1, 2006.

**Sec. 124.064. SEPARATE BALLOT PART FOR WRITE-IN VOTING.** (a) The electronic system ballot may include a separate part for write-in voting.

(b) The separate write-in part may be an envelope or any other form authorized by this code for electronic system ballots and must otherwise conform to standards prescribed by the secretary of state regarding its style, form, and content.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 124.065. PAPER BALLOT FOR OFFICE OF PRECINCT CHAIR.** (a) The authority adopting an electronic voting system for use in a primary election may provide by resolution, order, or other official action for voting by paper ballot for the party office of precinct chair.

(b) The paper ballot for precinct chair must conform to the applicable standards governing regular paper ballots, except that the ballot shall be limited to the office of precinct chair.

(c) The secretary of state shall prescribe the form of the ballot for precinct chair consistent with this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 85, eff. Sept. 1, 1997.

**Sec. 124.066. CONSULTATION WITH PROGRAMMER ON BALLOT PREPARATION.** In an election in which a programmer is appointed to program automatic tabulating equipment for processing electronic system ballots, the authority responsible for having the official ballot prepared shall confer with the programmer on the proper preparation of the ballots before having them prepared.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **CHAPTER 125. CONDUCT OF VOTING WITH VOTING SYSTEM**

### **SUBCHAPTER A. VOTING SYSTEMS GENERALLY**

**Sec. 125.001. ALLOCATION OF EQUIPMENT AMONG POLLING PLACES.** The authority responsible for allocating election supplies among the polling places for an election shall determine the number of voting machines or units of other voting system equipment to be installed at each polling place based on:

- (1) the number of votes cast at the polling place in previous, similar elections;
- (2) the number of registered voters eligible to vote at a polling place;
- (3) the number of units of equipment available; and
- (4) any other factors the authority determines are relevant.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.11, eff. January 1, 2006.

**Sec. 125.002. PREPARATION OF EQUIPMENT FOR DELIVERY TO POLLING PLACE.** Before voting system equipment is delivered to a polling place for use in an election, the authority responsible for distributing the election supplies to the polling places shall have the equipment put in proper order for use as prescribed by the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 125.003. DELIVERY OF EQUIPMENT TO POLLING PLACES.** The secretary of state shall prescribe procedures governing delivery of voting system equipment to polling places to protect the equipment from tampering and damage.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 125.004. INSTALLATION OF EQUIPMENT AT POLLING PLACE.** (a) Voting system equipment shall be installed at the polling place so that a voter can operate the equipment without violating the secrecy of the ballot.

(b) The secretary of state may prescribe procedures consistent with this chapter for installing voting system equipment at polling places to protect the equipment from tampering and damage and to facilitate its proper operation.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 125.005. MAINTAINING SECURITY OF EQUIPMENT DURING VOTING.** (a) The presiding judge shall periodically have an election officer inspect the voting system equipment for tampering and damage while voting is in progress.

(b) If any tampering or damage is discovered, the inspecting officer shall immediately stop use of the equipment and report to the presiding judge, who shall promptly take appropriate action.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 125.006. MALFUNCTION OF EQUIPMENT AT POLLING PLACE.** (a) The presiding judge shall stop use of malfunctioning voting system equipment installed at a polling place immediately after discovering that the equipment is not functioning properly.

(b) The presiding judge shall have the malfunctioning equipment promptly repaired or replaced if practicable.

(c) If the presiding judge determines that the equipment cannot be promptly repaired or replaced and that voting cannot be continued by using only the remaining operational equipment without substantially interfering with the orderly conduct of the election, voting at that polling place may be conducted by one of the following methods in addition to, or instead of, using remaining operational equipment:

- (1) using another voting system that has been adopted for use in the election;
- (2) using regular paper ballots, whether early voting ballots or ballots for regular voting on election day; or
- (3) having voters manually mark the electronic system ballots that were furnished for use with the malfunctioning equipment and having the ballots processed as regular paper ballots.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.56; Acts 1991, 72nd Leg., ch. 554, Sec. 27, eff. Sept. 1, 1991.

**Sec. 125.007. ASSISTING VOTER.** If a voter who is voting with a voting machine is physically unable to operate the machine, the voter is entitled to assistance under the applicable provisions for assisting voters using regular paper ballots.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.12, eff. January 1, 2006.

**Sec. 125.008. DEPOSITING THE BALLOT.** A voter shall deposit the marked voting system ballot in the ballot box in accordance with the instructions provided at the polling place.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 125.009. TRAINING POLLING PLACE PERSONNEL.** The authority adopting a voting system shall provide the election officers serving the polling places at which the voting system is used with the instruction and training necessary for the proper operation of the voting system.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN AUTHORIZED.** (a) In this section, "voting system technician" means a person who as a vocation repairs, assembles, maintains, or operates voting system equipment.

(b) On the request of the authority holding the election, a voting system technician may be present at a polling place, a meeting of the early voting ballot board, or a central counting station for the purpose of repairing, assembling, maintaining, or operating voting system equipment.  
Added by Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 12, eff. September 1, 2009.

## **SUBCHAPTER C. ELECTRONIC VOTING SYSTEMS**

**Sec. 125.061. INSPECTING EQUIPMENT AT POLLING PLACE.** (a) Before opening a polling place for voting on election day, the presiding judge shall inspect any electronic voting system equipment installed at the polling place to determine whether it is installed and functioning properly.

(b) The presiding judge shall take appropriate corrective action if the equipment is not installed or functioning properly.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77th Leg., ch. 1054, Sec. 5, eff. Sept. 1, 2001; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.13, eff. January 1, 2006; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.21(1), eff. January 1, 2006.

**Sec. 125.0611. PROVIDING SEPARATE BALLOT PART FOR WRITE-IN VOTING.** (a) If an electronic system ballot includes a separate write-in part under Section 124.064, that part shall be provided with the electronic system ballot.

(b) A voter may not be required to request the separate write-in part as a condition to being provided that part.  
Added by Acts 1999, 76th Leg., ch. 1316, Sec. 2, eff. Sept. 1, 1999.

**Sec. 125.062. ALTERNATIVE PROCEDURE TO ROTATING BALLOT BOXES.** The secretary of state may prescribe an alternative procedure to that of using two ballot boxes on a rotating basis at a polling place using an electronic voting system if the secretary determines that an alternative procedure is necessary for the efficient conduct of voting with the particular voting system.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 125.063. SECURING EQUIPMENT ON CLOSE OF VOTING.** On the close of voting at each polling place at which electronic voting system equipment is used, an election officer shall secure or inactivate the equipment as prescribed by the secretary of state so that its unauthorized operation is prevented.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 125.064. RECORDS AVAILABLE FOR PUBLIC INSPECTION.** Any documents or records used in the preparation of or prepared for use in an electronic voting system for the operation of the system for a particular election and any documents or records generated by the system in that election shall be made available for public inspection in the office of the general custodian of election records for the period for preserving the precinct election records.  
Added by Acts 1987, 70th Leg., ch. 484, Sec. 6, eff. Sept. 1, 1987.

## CHAPTER 127. PROCESSING ELECTRONIC VOTING SYSTEM RESULTS

### SUBCHAPTER A. ESTABLISHMENT AND ORGANIZATION OF CENTRAL COUNTING STATION

**Sec. 127.001. ESTABLISHMENT OF CENTRAL COUNTING STATION.** (a) The authority adopting an electronic voting system for use in an election may establish, in accordance with this subchapter, one or more central counting stations for counting the ballots if the voting system is designed to have ballots counted at a central location.

(b) If the adopting authority does not establish a central counting station for the election, the authority shall designate one or more counting stations established by another authority.

(c) The central counting station must be located in the county in which the political subdivision served by the authority adopting the voting system is wholly or partly situated or in a county contiguous to that county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.0015. CENTRAL COUNTING STATION OFFICERS: OATH AND IDENTIFICATION.** (a) Election officers appointed under this subchapter shall repeat the following oath aloud:

"I swear (or affirm) that I will objectively work to be sure every eligible voter's vote is accepted and counted, and that only the ballots of those voters who violated the Texas Election Code will be rejected. I will make every effort to correctly reflect the voter's intent when it can be clearly determined. I will not work alone when ballots are present and will work only in the presence of a member of a political party different from my own. I will faithfully perform my duty as an officer of the election and guard the purity of the election."

(b) An officer who arrives after the oath is made shall repeat the oath aloud before performing any duties as an election officer.

(c) Following administration of the oath, each election officer shall be issued a form of identification, prescribed by the secretary of state, to be displayed by the officer during the officer's hours of service at the central counting station.

Added by H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 17, eff. Sept. 1, 2017.

**Sec. 127.002. COUNTING STATION MANAGER.** (a) The authority establishing a central counting station shall appoint a manager of the station. Except as otherwise provided by this section, the eligibility requirements prescribed by this code for precinct election judges apply to a person appointed under this section.

(b) To be eligible for appointment, a person must:

(1) have knowledge and experience in the conduct of elections with the electronic voting system for which the counting station is established; and

(2) be a registered voter of the political subdivision served by the authority establishing the counting station, except:

(A) during the first year following the adoption of the voting system; or

(B) if the person is an employee of the political subdivision that adopts or owns the voting system.

(c) Employees of a political subdivision are not disqualified from appointment and, if appointed, may be paid additional compensation for their services.

(d) The general custodian of election records is eligible for appointment notwithstanding the custodian's status as a candidate or officeholder.

(e) The manager is in charge of the overall administration of the central counting station and the general supervision of the personnel working at the station.

(f) The manager is entitled to compensation in an amount fixed by the authority establishing the counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 492, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 48, eff. Sept. 1, 1993. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 334 (H.B. 2006), Sec. 1, eff. June 14, 2013.

**Sec. 127.003. TABULATION SUPERVISOR.** (a) The authority establishing a central counting station shall appoint a tabulation supervisor of the station. Except as otherwise provided by this section, the eligibility requirements prescribed by this code for precinct election judges apply to a person appointed under this section.

(b) To be eligible for appointment, a person must be:

(1) trained in the operation of the automatic tabulating equipment installed at the counting station; and

(2) a registered voter of the political subdivision served by the authority establishing the counting station or an employee of the political subdivision that adopts or owns the voting system.

(c) Employees of a political subdivision are not disqualified from appointment and, if appointed, may be paid

additional compensation for their services.

(d) The tabulation supervisor is in charge of the operation of the automatic tabulating equipment at the counting station.

(e) The tabulation supervisor is entitled to compensation in an amount fixed by the authority establishing the counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 492, Sec. 2, eff. Sept. 1, 1987; Acts 2015, 84th Leg., R.S., Ch. 703 (H.B. 1026), Sec. 1, eff. June 17, 2015.

**Sec. 127.004. ASSISTANTS TO TABULATION SUPERVISOR.** (a) The tabulation supervisor may appoint one or more assistants, each of whom must be approved by the authority establishing the central counting station.

(b) To be eligible for appointment, a person must:

(1) have the competence, training, and experience required for the proper performance of the work assigned;

and

(2) in a county with a population of less than 60,000, be a registered voter of the political subdivision served by the authority establishing the counting station or an employee of the political subdivision that adopts or owns the voting system.

(c) Employees of the political subdivision are not disqualified from appointment and, if appointed, may be paid additional compensation for their services.

(d) An assistant shall assist the tabulation supervisor in the operation of the automatic tabulating equipment as directed by the tabulation supervisor.

(e) An assistant is entitled to compensation in an amount fixed by the authority establishing the counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 492, Sec. 3, eff. Sept. 1, 1987; H.B. 1735, 85th Leg., R.S., Sec. 18, eff. Sept. 1, 2017.

**Sec. 127.005. PRESIDING JUDGE OF COUNTING STATION.** (a) The authority appointing the presiding judges to serve in an election shall appoint a presiding judge of each central counting station operating in the election.

(b) Except as otherwise provided by this section, the eligibility requirements prescribed by this code for precinct presiding judges apply to a presiding judge of a central counting station. To be eligible to serve as a judge under this section, a person must be a qualified voter of the political subdivision served by the authority adopting the voting system. The general custodian of election records and employees of the custodian are eligible to serve as a judge under this section notwithstanding the custodian's status as a candidate or officeholder.

(c) The presiding judge shall maintain order at the counting station and has the same authority as a precinct presiding judge in that respect and in the administration of oaths. The presiding judge may confer with and advise the manager or tabulation supervisor on any activity at the counting station.

(d) The presiding judge is entitled to compensation at the same rate as a precinct presiding judge, except that the counting station judge is entitled to a minimum compensation of five hours' pay regardless of the amount of time worked.

(e) For an election in which election judges appointed under Section 32.002 serve, the presiding judge and an alternate presiding judge shall be appointed for each central counting station operating in the election in the same manner as a presiding judge and alternate presiding judge under Section 32.002.

(f) An alternate presiding judge appointed under Subsection (e) serves:

(1) as presiding judge for the counting station if the regularly appointed presiding judge cannot serve; or

(2) in another position established under this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 492, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 49, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 967, Sec. 1, eff. Sept. 1, 2003.

**Sec. 127.006. COUNTING STATION CLERKS.** (a) The manager, the presiding judge, and the alternate presiding judge may appoint clerks to serve at the central counting station.

(b) Except as otherwise provided by this section, the eligibility requirements prescribed by this code for precinct election clerks apply to clerks serving at a central counting station. To be eligible to serve as a clerk under this section, a person must be a qualified voter of the county in which the central counting station is located. The general custodian of election records, an employee of the custodian, or any other employee of a political subdivision is not ineligible to serve as a clerk under this section because the person is a qualified voter of a county other than the county in which the central counting station is located or because of the custodian's status as a candidate or officeholder.

(c) A clerk appointed by the manager serves under the manager and shall perform the functions directed by the manager. A clerk appointed by the presiding judge or the alternate presiding judge serves under the presiding judge and shall perform the functions directed by the presiding judge.

(d) A clerk is entitled to compensation at the same rate as a precinct election clerk, except that a clerk who serves for the entire time a counting station is in operation is entitled to a minimum compensation of three hours' pay regardless of the amount of time worked.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 492, Sec. 5, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1349, Sec. 47, eff. Sept. 1, 1997; S.B. 1, 87th Leg., 2nd C.S., Sec. 3.16, eff. Dec. 2, 2021.

**Sec. 127.007. PLAN FOR COUNTING STATION OPERATION.** (a) The manager shall establish and implement a written plan for the orderly operation of the central counting station.

(b) The plan required under this section must address the process for comparing the number of voters who signed the combination form with the number of votes cast for the entire election.

(c) The plan required under this section must be available to the public on request not later than 5 p.m. on the fifth day before the date of the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 25, eff. Sept. 1, 2011; H.B. 1735, 85th Leg., R.S., Sec. 19, eff. Sept. 1, 2017.

**Sec. 127.008. BYSTANDERS EXCLUDED.** (a) Except as permitted by this code and as described by Subsection (b), a person may not be in a central counting station while ballots are being counted.

(b) Under this code, a person may be lawfully present in the central counting station while ballots are being counted if the person is:

- (1) a counting station manager, tabulation supervisor, assistant to the tabulation supervisor, presiding judge, or clerk;
- (2) a watcher;
- (3) a state inspector;
- (4) a voting system technician, as authorized by Section 125.010;
- (5) the county election officer, as defined by Section 31.091, as necessary to perform tasks related to the administration of the election; or
- (6) a person whose presence has been authorized by the counting station manager in accordance with this code.

Added by: H.B. 1128, 87th Leg., R.S., Sec. 3, eff. Sept. 1, 2021.

**Sec. 127.009. ELECTRONIC DEVICES IN CENTRAL COUNTING STATION.** (a) A counting station manager and the presiding judge of the counting station shall develop a protocol under which any electronic device inside a central counting station that is necessary to count votes is equipped with software that tracks all input and activity on the electronic device.

(b) The counting station manager and the presiding judge of the counting station shall ensure that the input and activity tracked by the software is delivered to the secretary of state not later than the fifth day after vote counting is complete.

(c) This section applies only to a central counting station located in a county with a population of 250,000 or more.

Added by: S.B. 1, 87th Leg., 2nd C.S., Sec. 3.17, eff. Dec. 2, 2021.

**Sec. 127.010. TRAINING.** The secretary of state shall provide a standardized training program and materials for members of a counting station in the same manner it provides such a program under Subchapter F, Chapter 32.

H.B. 1632, 88th R.S., Sec. 5, eff. Sept. 1, 2023.

**Sec. 127.010. FEASIBILITY STUDY ON CENTRAL COUNTING STATION OPERATING AS SENSITIVE COMPARTMENTED INFORMATION FACILITY.** (a) The secretary of state shall conduct a study to consider the feasibility of conforming each central counting station with the Sensitive Compartmented Information Facilities (SCIF) standards promulgated by the United States federal government.

(b) The study must consider the feasibility of ensuring substantial compliance with the SCIF standards while allowing for poll watching and other citizen involvement in an election permitted under state law.

(c) Not later than December 1, 2024, the secretary of state shall create a detailed report summarizing the findings of the study and deliver the report to the legislature.

(d) This section expires December 15, 2024.

H.B. 1848, 88th Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

## **SUBCHAPTER C. SEALED BALLOT BOXES**

**Sec. 127.061. SEALED BALLOT BOXES REQUIRED.** Sealed ballot boxes shall be used to deliver electronic system

ballots from the polling place to the central counting station in accordance with this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77th Leg., ch. 1054, Sec. 6, eff. Sept. 1, 2001.

**Sec. 127.063. DESIGN OF BALLOT BOX.** A sealed ballot box used under this subchapter must be equipped with a lock to prevent opening the box without a key and designed and constructed so that:

(1) the ballots can be deposited and delivered without damage that will render them unfit for processing in automatic tabulating equipment;

(2) the box can be sealed to detect any unauthorized opening of the box; and

(3) the slot used by voters to deposit ballots can be sealed to prevent any unauthorized deposit in the box.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.064. SEALS FOR BALLOT BOXES.** (a) A seal shall be provided for each ballot box used under this subchapter.

(b) The seals for the boxes must be serially numbered for each election.

(c) The authority responsible for distributing election supplies to the polling places shall prepare a record of the serial numbers of the seals and preserve the record for the period for preserving the precinct election records. The authority shall provide each central counting station with a copy of the record before ballots are delivered to the station for processing.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.065. SEALING BALLOT BOX; DELIVERY TO POLLING PLACE.** (a) An adequate number of sealed ballot boxes shall be provided for each polling place at which sealed boxes are to be used.

(b) Before the ballot boxes are delivered to the polling places, the authority responsible for distributing election supplies to the polling places shall inspect and empty each box. The authority shall then lock the empty box and seal it so that the box cannot be opened without breaking the seal.

(c) Once sealed, the ballot boxes may not be opened except as provided by Section 127.068.

(d) After the ballot boxes are locked and sealed, the authority responsible for distributing election supplies shall have the ballot boxes delivered to the polling places and have the keys delivered to the presiding judge of the central counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.066. SEALING DEPOSIT SLOT; DELIVERY OF SEALED BALLOT BOX TO COUNTING STATION.** (a) Immediately on completion of voting at a polling place using sealed ballot boxes or, if the presiding judge inactivates a sealed ballot box before completion of voting, immediately on inactivation, an election officer shall seal the deposit slot in each box so that nothing can be deposited through the slot without breaking the seal.

(b) The presiding judge, an election clerk, and not more than two watchers, if one or more watchers are present, shall sign the seal. The watchers must be of opposing interests if such watchers are present.

(c) After the box is sealed, it shall be delivered to the central counting station by two election officers. The officers shall deliver the box to the presiding judge of the central counting station or to the judge's designee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 34, eff. Sept. 1, 2003.

**Sec. 127.067. DISPOSITION OF ELECTION RECORDS.** (a) An election officer shall place the precinct election records in the appropriate envelopes or other containers provided for that purpose.

(b) Except as provided by Subsection (c), the precinct election records shall be delivered to the presiding judge of the central counting station with the delivery of the last sealed ballot box.

(c) The appropriate election records shall be retained by the presiding judge or placed in ballot box no. 4, as applicable, in the same manner as for a polling place using regular paper ballots.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.068. RECEIVING SEALED BALLOT BOX AT COUNTING STATION.** (a) On receipt of a sealed ballot box, the presiding judge of the central counting station or the judge's designee shall give a signed receipt for the box to one of the delivering officers. The presiding judge at the polling place shall preserve the receipt for the period for preserving the precinct election records.

(b) Before opening the ballot box, the presiding judge of the counting station or the judge's designee shall inspect the box, the seal of the box, and the seal of the deposit slot to determine if they are intact and shall determine if the serial number on the seal of the box corresponds with the number indicated on the record of serial numbers at the counting station. If the box and both seals are intact and the serial numbers correspond, the judge or designee shall break the seals, unlock the lock, and open the box.

(c) If any irregularities are discovered, the presiding judge shall take appropriate action in accordance with procedures

prescribed by the secretary of state.

(d) The presiding judge of the counting station shall preserve both seals for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 91, eff. Sept. 1, 1997.

**Sec. 127.069. SORTING BALLOTS.** (a) After opening a sealed ballot box, the presiding judge of the central counting station shall sort the damaged ballots, the ballots containing write-in votes, and any other ballots requiring special handling and place them in the appropriate envelopes or other containers provided for that purpose.

(b) After the ballots are sorted, the presiding judge shall deliver them to the manager of the central counting station.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER D. TESTING TABULATING EQUIPMENT**

**Sec. 127.091. TEST OF TABULATING EQUIPMENT REQUIRED.** The automatic tabulating equipment used for counting ballots at a central counting station shall be tested as provided by this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.092. TESTING AUTHORITIES.** The programmer, tabulation supervisor, counting station manager, and presiding judge of the central counting station shall prepare and conduct the test jointly.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.093. TIMES FOR CONDUCTING TEST.** (a) The test shall be conducted three times for each election.

(b) The first test shall be conducted at least 48 hours before the automatic tabulating equipment is used to count ballots voted in the election.

(c) The second test shall be conducted immediately before the counting of ballots with the equipment begins.

(d) The third test shall be conducted immediately after the counting of ballots with the equipment is completed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.094. DESIGN OF TEST.** (a) The test must be designed to determine whether the automatic tabulating equipment accurately counts ballots and otherwise functions properly.

(b) A group of test ballots shall be counted with the equipment using the program prepared for processing the ballots voted in the election. The test ballots must be printed on the same stock as the official ballots for the election.

(c) The group of test ballots must contain a predetermined number of valid votes for each candidate and for and against each proposition on the ballot for the election. The test group must also contain ballots with votes in excess of the allowable number and with other improper votes.

(d) The same test shall be administered each time the equipment is tested for the same election.

(e) The secretary of state may prescribe additional requirements for the test.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.095. DETERMINING SUCCESS OF TEST.** (a) A test is successful if a perfect count of the test ballots is obtained and the automatic tabulating equipment otherwise functions properly during the counting of the test ballots.

(b) The testing authorities shall determine whether a test is successful.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.096. CONDUCT OF FIRST TEST.** (a) The custodian of the automatic tabulating equipment shall publish notice of the date, hour, and place of the test conducted under Section 127.093(b) in a newspaper, as provided by general law for official publications by political subdivisions, at least 48 hours before the date of the test.

(a-1) If the test is being conducted for a primary election, the custodian of the automatic tabulating equipment shall notify the county chair of the test at least 48 hours before the date of the test. The county chair shall confirm receipt of the notice.

(b) The test is open to the public.

(c) The automatic tabulating equipment may not be used to count ballots voted in the election until a test is successful.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 50, eff. Sept. 1, 1993; H.B. 1735, 85th Leg., R.S., Sec. 20, eff. Sept. 1, 2017.

**Sec. 127.097. CONDUCT OF SECOND TEST.** (a) The automatic tabulating equipment may not be used to count ballots



voted in the election until a test conducted under Section 127.093(c) is successful.

(b) If the initial test is unsuccessful, the presiding judge shall prepare a written record of the changes to the program, adjustments to the equipment, and other actions taken to achieve a successful test. The record shall be retained with the test materials.

(c) When a test is successful, the presiding judge shall certify in writing that a test was successful and the date and hour the test was completed. The certification shall be retained with the test materials.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.098. CONDUCT OF THIRD TEST; VOID BALLOT COUNT.** (a) If the initial test conducted under Section 127.093(d) is unsuccessful, the count of ballots voted in the election obtained with the automatic tabulating equipment is void.

(b) If the initial test is successful, the automatic count of ballots voted in the election is valid for the purpose of certifying the election returns prepared at the central counting station. The presiding judge shall certify in writing that the initial test was successful and the date and hour the test was completed. The certification shall be retained with the test materials.

(c) If the ballot count is void under Subsection (a), the testing authorities shall follow the procedure prescribed by Section 127.097. When a test is successful, the ballots to be counted automatically shall immediately be counted. Immediately on completing the automatic count, the equipment shall again be tested, and if the initial test is successful the automatic count is valid for the purpose of certifying the election returns. Otherwise, the automatic ballot count is void.

(d) The procedure prescribed by Subsection (c) shall be repeated until a valid automatic count is obtained or the testing authorities determine that obtaining a valid automatic count is impracticable. In that case, the ballots shall be counted manually.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.099. SECURITY OF TEST MATERIALS.** (a) On completing each test, the presiding judge shall place the test ballots and other test materials in a container provided for that purpose and seal the container so it cannot be opened without breaking the seal. The manager, tabulation supervisor, presiding judge, and not more than two watchers, if one or more watchers are present, shall sign the seal. The watchers must be of opposing interests if such watchers are present.

(b) The test materials shall remain sealed for the period for preserving the precinct election records.

(c) The container may not be unsealed unless the contents are necessary to conduct a test under this subchapter, a criminal investigation, election contest, or other official proceeding under this code. If the container is unsealed, the authority in charge of the proceeding shall reseal the contents when not in use.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.100. CUSTODY OF TEST MATERIALS.** (a) The presiding judge is the custodian of the test materials until they are delivered under Subsection (b).

(b) The sealed container holding the test materials shall be delivered to the general custodian of election records with the delivery of the election returns prepared at the counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER E. PROCESSING RESULTS AT CENTRAL COUNTING STATION**

**Sec. 127.121. PROGRAMMER FOR TABULATING EQUIPMENT.** (a) If the automatic tabulating equipment to be used for counting ballots at a central counting station requires the preparation of a program, the authority responsible for having the ballot prepared for the election shall appoint a programmer.

(b) Any person who has the competence required to prepare the program is eligible for appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.122. APPROVAL OF PROGRAM.** If a person other than the tabulation supervisor is appointed as the programmer, the program shall be submitted to the tabulation supervisor for approval not later than the 10th day before the date the automatic tabulating equipment for which the program is prepared is first used to count ballots voted in the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.123. SECURITY OF PROGRAM.** (a) The tabulation supervisor shall protect the program prepared for the automatic tabulating equipment installed at the central counting station from tampering and unauthorized use, as prescribed by the secretary of state.

(b) After the automatic counting of ballots is completed, the program shall be sealed in the container for the secured test materials. The program shall remain in the sealed container for the same period as the test materials and may be unsealed only under the same conditions as the test materials.

(c) The secretary of state shall prescribe procedures for the security of programs for central counting station equipment for which compliance with this section is impracticable.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.1231. SECURITY OF AUTOMATIC TABULATING EQUIPMENT.** (a) Except as provided by Subsection (b), the general custodian of election records shall ensure that any computer terminals located outside the central counting station that are capable of accessing the automatic tabulating equipment during the tabulation are capable of inquiry functions only and shall ensure that no modem access to the tabulating equipment is available during the tabulation.

(b) The secretary of state may prescribe procedures for the use of a system to allow results to be transmitted by a modem to the central counting station from units of automatic tabulating equipment located at a precinct polling place or at a regional tabulating center serving several precincts. The system must provide for a secure transmission of data. Results may not be transmitted under this subsection until the polls close on election day.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 7, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 48, eff. Sept. 1, 1997.

**Sec. 127.1232. SECURITY OF VOTED BALLOTS.** (a) The general custodian of election records shall post a licensed peace officer to ensure the security of ballot boxes containing voted ballots throughout the period of tabulation at the central counting station.

(b) The general custodian of election records in a county with a population of 100,000 or more shall implement a video surveillance system that retains a record of all areas containing voted ballots:

(1) from the time the voted ballots are delivered to the central counting station until the canvass of precinct election returns; and

(2) from the time the voted ballots are delivered to the signature verification committee or early voting ballot board until the canvass of precinct election returns.

(c) A video from a system implemented under Subsection (b) shall be made available to the public by a livestream.

(d) The video recorded is an election record under Section 1.012 and shall be retained by the general custodian of election records until the end of the calendar year in which an election is held or until an election contest filed in the county has been resolved, whichever is later.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 7, eff. Sept. 1, 1987; Amended by S.B. 1, 87th Leg., 2nd C.S., Sec. 3.18, eff. Dec. 2, 2021.

**Sec. 127.124. EARLY PROCESSING OF BALLOTS.** (a) The authority adopting an electronic voting system for use in an election in which ballots are processed at a central counting station may provide by resolution, order, or other official action that processing the electronic system ballots will begin while the polls are open for voting on election day.

(b) The authority shall state in the official action the intervals during the day at which the ballots are to be delivered from the polling places to the central counting station for processing.

(c) The boxes in which the ballots are delivered to the counting station may be returned to the polling places for use in subsequent deliveries. If a box to be reused is a sealed ballot box authorized by Subchapter C, the authority responsible for distributing election supplies to the polling places, or the authority's designee, shall lock and seal the box at the counting station in the same manner as for the initial locking and sealing of the box and then deliver it to the appropriate polling place.

(d) The precinct election records shall be delivered to the central counting station in the last ballot box delivered from the polling place to the counting station.

(e) The authority may restrict early ballot processing to ballots voted at particular polling places by designating the polling places in the official action providing for the early processing. The authority may restrict the early processing to activities preparatory to the counting of ballots by stating in the official action the activities that are to be performed before the closing of the polls.

(f) Early processing of ballots under this section does not affect the time at which the results of the election may be disclosed.

(g) If the counting of ballots begins before the polls close, the provisions applicable to absences from the polling place by election officers while the polls are open apply to the personnel serving at the central counting station. The presiding judge shall supervise the absences.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 92, eff. Sept. 1, 1997.

**Sec. 127.125. PREPARING BALLOTS FOR AUTOMATIC COUNTING.** (a) The manager of a central counting station

shall have the ballots prepared for automatic counting.

(b) The manager shall have the ballots examined to detect any irregularly marked ballots and to determine whether the ballots to be counted automatically are ready for counting and can be properly counted. The manager shall have each irregularly marked ballot duplicated to indicate the intent of the voter if the voter's intent is clearly ascertainable, unless other law prohibits counting the vote. After making the appropriate determinations and taking the appropriate actions, the manager shall approve the ballots for counting.

(c) After the ballots are approved for counting, the manager shall deliver them to the tabulation supervisor or to the supervisor's designee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77th Leg., ch. 851, Sec. 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1054, Sec. 7, eff. Sept. 1, 2001.

**Sec. 127.126. DUPLICATING BALLOTS.** (a) The manager of a central counting station may have ballots duplicated for automatic counting as provided by this section.

(b) The valid portion of a partially invalid ballot may be duplicated on another ballot so that the valid portion can be automatically counted.

(c) If an electronic system ballot is damaged to the extent it cannot be automatically counted, the ballot may be duplicated so it can be automatically counted.

(d) A procedure other than duplication may not be used to process a ballot subject to this section unless the procedure is expressly authorized by the secretary of state.

(e) Each duplicate ballot must be clearly labeled "Duplicate" and must bear the serial number of the original ballot.

(f) The duplicate shall be substituted for the original ballot in the ballots prepared for automatic counting. The original shall be preserved with the other voted ballots for the same period.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 38, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 491, Sec. 2, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 51, eff. Sept. 1, 1993.

**Sec. 127.127. OPERATING EQUIPMENT AND HANDLING BALLOTS RESTRICTED.** A person other than the tabulation supervisor and the assistants to the tabulation supervisor may not operate the automatic tabulating equipment or handle the ballots that are automatically counted from the time the ballots are delivered to the tabulation supervisor for counting until the automatic counting is completed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.128. BALLOTS TABULATED BY PRECINCT.** The automatically counted ballots shall be separately tabulated according to election precinct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.129. CORRECTION OF RESULTS AFTER EQUIPMENT MALFUNCTION.** The secretary of state shall prescribe procedures for correcting results after the discovery of an equipment malfunction that caused the results to be incorrect.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 127.130. MANUAL COUNTING.** (a) Electronic system ballots that are not to be counted automatically and the write-in votes not counted at the polling places shall be counted manually at the central counting station.

(b) If the automatic counting of electronic system ballots becomes impracticable for any reason, the manager may direct that the ballots be counted manually at the central counting station.

(c) The procedure for manual counting is the same as that for regular paper ballots to the extent practicable. The manager is responsible for the manual counting of ballots at the central counting station.

(c-1) In any manual count conducted under this code, an irregularly marked vote on a ballot on which a voter indicates a vote by making a mark on the ballot is considered in the same manner as provided by Section 65.009.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 52, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1315, Sec. 51, eff. Jan. 1, 2004; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.21(1), eff. Jan. 1, 2006.

**Sec. 127.1301. CENTRALLY COUNTED OPTICAL SCAN BALLOTS.** (a) In an election using centrally counted optical scan ballots, the undervotes and overvotes on those ballots shall be tallied, tabulated, and reported by race and by election precinct in the form and manner prescribed by the secretary of state.

(b) An authority operating a central counting station under this chapter may only purchase or use a ballot scan system if the system is only capable of using a data transfer media device that:

(1), once a cast vote record is written, is incapable of being modified without automatic:

- (A) detection of the modification; and
- (B) rejection of the cast vote record; and

(2) does not allow for the process under Subdivision (1) to be overridden or circumvented.

(c) An authority that purchases system components in order to comply with this section is eligible to have 100 percent of the cost of those system components reimbursed.

(d) Subsection (b) applies starting on the earlier of:

- (1) the date on which the state certifies the first centrally counted optical ballot scan system under this section; or
- (2) September 1, 2026.

(e) This subsection and Subsection (d) expire October 1, 2026.

Added by Acts 2001, 77th Leg., ch. 1054, Sec. 8, eff. Sept. 1, 2001. Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.14, eff. January 1, 2006; S.B. 1, 87th Leg., 2nd C.S., Sec. 4.14, eff. Dec. 2, 2021; S.B. 1661, 88th Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 127.131. PREPARING RETURNS.** (a) After the automatic counting of ballots for each precinct is completed, the presiding judge of the central counting station shall prepare the election returns for that precinct and sign the returns to certify their accuracy.

(b) In addition to the results of the automatically counted votes, the returns must include the results of the manually counted votes.

(c) The same number of copies of the returns shall be prepared as for a precinct polling place using regular paper ballots.

(d) The returns may not be certified until a valid automatic count is obtained or a manual count is completed, as appropriate.

(e) If the automatic tabulating equipment produces a printout that contains all information required to appear on the election returns, the printout with the addition of the manually counted votes constitutes the return.

(f) The presiding judge of the central counting station shall provide and attest to a written reconciliation of votes and voters at the close of tabulation for election day and again after the central counting station meets for the last time to process late-arriving ballots by mail and provisional ballots. The secretary of state shall create and promulgate rules and a form to facilitate compliance with this subsection. The form shall be posted on a website maintained by the county along with election returns and results.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: S.B. 1, 87th Leg., 2nd C.S., Sec. 4.15, eff. Dec. 2, 2021.

**Sec. 127.1311. ANNOUNCING UNOFFICIAL RESULTS.** (a) Except as provided by Subsection (b), unofficial election results shall be released as soon as they are available after the polls close.

(b) The presiding judge of the central counting station, in cooperation with the county clerk, may withhold the release of unofficial election results until the last voter has voted.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 12, eff. Sept. 1, 2011.

**Sec. 127.132. DISPOSITION OF BALLOTS, RETURNS, AND OTHER RECORDS.** (a) The presiding judge of a central counting station shall distribute the voted ballots, election returns, and other election records from the counting station to the appropriate authorities.

(b) The voted ballots, election returns, poll list, tally lists for manually counted votes, and other election records shall be delivered to the authorities who receive the corresponding records from precinct polling places using regular paper ballots.

(c) The election records delivered to the general custodian of election records may be delivered in any container approved by the secretary of state for that purpose.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 22, eff. Sept. 1, 1987.

## **SUBCHAPTER F. PROCESSING RESULTS IN SYSTEM WITHOUT CENTRALIZED COUNTING**

**Sec. 127.151. APPLICABILITY OF SUBCHAPTER; PROCEDURES PRESCRIBED BY SECRETARY OF STATE.**

(a) This subchapter applies to the processing of election results in electronic voting systems that do not entail the counting of ballots at central locations established under Subchapter A.

(b) An electronic voting system used under this subchapter must require voters to deposit the ballots directly into a unit of automatic tabulating equipment. The tabulating equipment shall be programmed to return an irregularly marked ballot to the voter.

(c) The secretary of state shall prescribe any necessary procedures, in addition to those prescribed by this subchapter, for processing the election results.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987; Acts 2001, 77th Leg., ch. 1054, Sec. 9, eff. Sept. 1, 2001.

**Sec. 127.152. TEST OF TABULATING EQUIPMENT REQUIRED.** (a) Each unit of automatic tabulating equipment shall be tested, using all applicable ballot formats, in accordance with the testing procedures prescribed by Subchapter D to the extent those procedures can be made applicable.

(b) The general custodian of election records shall conduct the first test. The presiding election judge shall conduct the second and third tests at the polling place. If the second and third tests are not conducted in accordance with this subsection, the automatic tabulating equipment shall be used to count the ballots at a central location in accordance with Subchapter A unless the secretary of state determines that a particular test at the polling place is not feasible for the automatic tabulating equipment.

(c) The general custodian of election records shall preserve the test materials for at least one year after election day or for at least 22 months after election day for an election involving a federal office.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987.

**Sec. 127.153. TEST REPEATED IF EQUIPMENT MALFUNCTIONS.** If the tabulating of ballots must be restarted because of an equipment or system malfunction or any other reason, the tests required by Section 127.152 shall be repeated.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987.

**Sec. 127.154. IDENTIFICATION NUMBERS REQUIRED FOR EQUIPMENT.** (a) Each unit of automatic tabulating equipment must have a permanent identification number. Each part of that equipment that contains the ballot tabulation must also have a permanent identification number.

(b) Each of the identification numbers shall be recorded on the appropriate ballot and seal certificate.

(c) A ballot tabulation produced by automatic tabulating equipment that does not comply with Subsection (a) may not be used.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987.

**Sec. 127.155. PRESIDING JUDGE TO SIGN TAPE.** (a) The presiding judge shall sign any tape containing the ballot tabulation that is produced by the automatic tabulating equipment.

(b) The presiding judge shall retain a copy of the tape.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987.

**Sec. 127.156. TABULATION AT CENTRAL COUNTING STATION IF DISCREPANCY EXISTS IN BALLOT TOTALS.** If a discrepancy of more than three exists between the number of ballots recorded on the ballot and seal certificate and the number of ballots cast on the tape containing the ballot tabulation that is produced by the automatic tabulating equipment, the official tabulation of those ballots shall be conducted at a central counting station.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987.

**Sec. 127.157. PROCESSING IRREGULARLY MARKED BALLOTS.** (a) This section applies only to a voting system that allows voters to deposit the ballots directly into a unit of automatic tabulating equipment.

(b) While the polls are open or as soon as practicable after the polls close, the counted ballots shall be removed from the ballot box and examined for irregularly marked ballots. The ballot box may not be opened for the purpose of examining the ballots unless there are at least 10 ballots in the box.

(c) If an election officer determines that two or more ballots were improperly tabulated because of irregular marks, the irregularly marked ballots shall be separated from the ballots that were marked properly, and all of the ballots shall be delivered to a central counting station.

(d) At the central counting station, the irregularly marked ballots shall be duplicated, and the ballots shall be processed in accordance with Section 127.126. The duplicate ballots shall be automatically counted with the remainder of the ballots at the central counting station. The tabulation conducted at the central counting station is considered to be the official tabulation for those ballots.

(e) If only one ballot has been improperly tabulated because of an irregular mark, the ballot shall be placed in an envelope as prescribed by the secretary of state. The envelope must include the irregularly marked ballot and a form that identifies the nature and date of the election, ballot serial number, and applicable offices. The envelope shall be delivered to a central counting station. At the central counting station, the ballot shall be examined and adjustments shall be made to the

totals certified by the election judge to indicate the intent of the voter. The election results for the affected precinct shall be manually entered into the election processing system, but the original election returns may not be altered. The envelope containing the ballot and form shall be placed in the ballot box with the regular voted ballots and shall be preserved with those ballots for the same period.

Added by Acts 1991, 72nd Leg., ch. 632, Sec. 1, eff. Sept. 1, 1991.

## **SUBCHAPTER H. ADDITIONAL COUNT OF ELECTRONIC VOTING SYSTEM BALLOTS**

### **Sec. 127.201. PARTIAL COUNT OF ELECTRONIC VOTING SYSTEM BALLOTS BY GENERAL CUSTODIAN.**

(a) To ensure the accuracy of the tabulation of electronic voting system results, the general custodian of election records shall conduct a manual count of all the races in at least one percent of the election precincts or in three precincts, whichever is greater, in which the electronic voting system was used. The custodian shall select the precincts at random and shall begin the count not later than 72 hours after the polls close. The count shall be completed not later than the 21st day after election day. Subsection (b) supersedes this subsection to the extent of a conflict.

(b) In a general election for state and county officers, primary election, or election on a proposed amendment to the state constitution or other statewide measure submitted by the legislature, the secretary of state shall select, in accordance with rules adopted by the secretary, the precincts to be counted under Subsection (a). The secretary shall designate not more than three offices and not more than three propositions to be counted in the selected precincts. The secretary shall notify the general custodian of election records of the precincts, offices, and propositions selected under this subsection not earlier than the day after election day.

(c) On selection or notification, as applicable, of the precincts to be counted, the general custodian of election records shall post in the custodian's office a notice of the date, hour, and place of the count.

(d) Each candidate in the election is entitled to be present at the count and is entitled to have a representative present. A representative must deliver a certificate of appointment to the general custodian at the time the representative reports for service. The certificate must be in writing and must include:

- (1) the printed name and signature of the representative;
- (2) the election subject to the count; and
- (3) the printed name and signature of the candidate making the appointment.

(e) Not later than the third day after the date the count is completed, the general custodian of election records shall deliver a written report of the results of the count to the secretary of state.

(f) Repealed by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 10.01, eff. Dec. 1, 2021.

(g) This section does not apply to the tabulation of electronic voting system results for a voting system that uses direct recording electronic voting machines.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 9, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 53, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 49, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 26, eff. September 1, 2011; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 10.01, eff. Dec. 2, 2021.

**Sec. 127.202. COUNT OF ELECTRONIC VOTING SYSTEM BALLOTS BY SECRETARY OF STATE.** (a) To ensure the accuracy of the tabulation of electronic voting system results, the secretary of state or the secretary's designee may conduct a manual or automatic count of any portion of any number of ballots from any precinct in which the electronic voting system was used.

(b) The count may be conducted at any time during the period for preserving the applicable precinct election records.

(c) The general custodian of election records is entitled to be present at the count.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 9, eff. Sept. 1, 1987.

## **SUBCHAPTER I. RISK-LIMITING AUDIT**

**Sec. 127.301. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to an election:

- (1) that occurs after August 31, 2026;
- (2) that contains a race or measure that is voted on statewide; and
- (3) in which an auditable voting system described by Section 129.003(a) is used.

Added by S.B. 598, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2021.

**Sec. 127.302. RISK-LIMITING AUDIT.** (a) Not later than 24 hours after all ballots have been counted in an election, the

general custodian of election records shall conduct a risk-limiting audit for a selected statewide race or measure.

(b) The secretary of state shall select, in accordance with rules adopted by the secretary, the precincts to be counted and the office or proposition to be counted.

(c) The general custodian of election records shall complete the audit not later than 24 hours before the time for conducting the canvass of the election.

(d) The general custodian of election records shall post a notice of the date, hour, and place of the audit in the custodian's office and on the county's Internet website, if the county maintains a website.

(e) A watcher may be present for the audit if appointed by a candidate in the election. A watcher must deliver a certificate of appointment to the general custodian of election records at the time the watcher reports for service. The certificate must be in writing and must include:

- (1) the printed name and signature of the watcher;
- (2) the election subject to the audit; and
- (3) the printed name and signature of the candidate making the appointment.

(f) The secretary of state may appoint personnel to assist with the audit, including applicable voting system technicians or representatives and persons who have assisted with the design and implementation of the audit.

Added by S.B. 598, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2021.

**Sec. 127.303. RULES.** (a) The secretary of state shall adopt rules prescribing procedures necessary to implement this subchapter.

(b) Rules adopted under this subchapter must include a rule, using widely accepted statistical methods, that provides for the number or percentage of paper records that must be counted in a risk-limiting audit under Section 127.302.

Added by S.B. 598, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2021.

**Sec. 127.304. PUBLICATION OF RESULTS.** The results of a risk-limiting audit conducted under this subchapter must be published on the Internet website of the secretary of state not later than three days after the completion of the audit.

Added by S.B. 598, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2021.

**Sec. 127.305. PILOT PROGRAM.** (a) Notwithstanding Section 127.301(1), the secretary of state shall conduct a pilot program, beginning with the election taking place November 8, 2022, of the risk-limiting audit program created under this subchapter.

(b) The secretary of state shall select at least five counties to participate in the pilot program. At least one county participating in the pilot program must have a population of at least 500,000.

(c) After each election conducted under the pilot program, the secretary of state shall send a detailed report to each member of the legislature evaluating the success of the program and making a recommendation as to whether the legislature should act to delay the statewide implementation of the program.

(d) The secretary of state shall adopt rules as necessary to implement this section.

(e) This section expires August 31, 2026.

Added by S.B. 598, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2021.

**Sec. 127.306. WAIVER NOT PERMITTED.** The secretary of state may not waive any requirements of this subchapter.

Added by S.B. 598, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2021.

## **SUBCHAPTER J. RANDOMIZED AUDITS**

**Sec. 127.351. RANDOMIZED COUNTY AUDITS.** (a) Immediately after the uniform election date in November of an even-numbered year, the secretary of state shall conduct an audit of the elections held on the uniform election date in four counties during the previous two years.

(b) The secretary of state shall select the counties to be audited under Subsection (a) at random, except that:

- (1) two of the counties selected must have a total population of less than 300,000;
- (2) two of the counties selected must have a total population of 300,000 or more; and
- (3) a county selected in the most recent audit cycle may not be selected in the current audit cycle.

(c) A county selected to be audited may not pay the cost of performing an audit under this section.

(d) If the secretary of state completes the audit of a county under Subsection (b)(1) before the end of a two-year period, the secretary may randomly select another county with a total population of less than 300,000 to be audited.

(e) If not later than July 31 of the first odd-numbered year following the commencement of an audit under this section,

the audit findings demonstrate to the secretary of state that a recurring pattern of problems with election administration or voter registration, as described under Section 31.017(a)(3), exists in an audited county and the problems impede the free exercise of a citizen's voting rights, the secretary:

(1) shall:

(A) publicly release the preliminary findings of the audit; and

(B) recommend the county for administrative oversight under Subchapter A, Chapter 31; and

(2) may conduct an audit of other elections held in the county in the previous two years, as determined necessary by the secretary.

(f) The secretary of state shall adopt rules as necessary to implement this section.

Added by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 3.19, eff. Dec. 2, 2021; S.B. 1933, 88<sup>th</sup> Leg., R.S., Sec. 4, eff. Sept. 1, 2023.



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## **CHAPTER 128. COMPUTERIZED VOTING SYSTEMS**

**Sec. 128.001. COMPUTERIZED VOTING SYSTEM STANDARDS.** (a) The secretary of state shall prescribe procedures to allow for the use of a computerized voting system. The procedures must provide for the use of a computerized voting system with:

(1) multiple voting terminals for the input of vote selections on the ballot presented by a main computer;  
and

(2) a main computer to coordinate ballot presentation, vote selection, ballot image storage, and result tabulation.

(b) Notwithstanding Chapter 66, a system under this section may allow for the storage of processed ballot materials in an electronic form on the main computer.

(c) The secretary of state may modify existing procedures as necessary to allow the use of a system authorized by this chapter.

Added by Acts 1997, 75th Leg., ch. 1349, Sec. 50, eff. Sept. 1, 1997.

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## CHAPTER 129. DIRECT RECORDING ELECTRONIC VOTING MACHINES

### SUBCHAPTER A. GENERAL PROVISIONS

**Sec. 129.001. APPLICABILITY.** (a) This chapter applies only to a voting system that uses direct recording electronic voting machines.

(b) To the extent possible, the procedures applicable to an electronic voting system under Chapter 127 are applicable to a voting system under this chapter.

Added by Acts 2001, 77th Leg., ch. 1054, Sec. 10, eff. Sept. 1, 2001. Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. Sept. 1, 2009.

**Sec. 129.002. GENERAL PROCEDURES.** (a) Each direct recording electronic voting machine must provide the voter with a screen in summary format of the voter's choices for the voter to review before the vote is actually cast.

(b) During the early voting period, the early voting clerk shall conduct a daily audit of the direct recording electronic voting machines used in the election to ensure proper correspondence among the numbers of ballots provided on the machines, names on the poll list, and ballots cast on the machines.

(c) The secretary of state shall prescribe any procedures necessary to implement this chapter and to ensure the orderly and proper administration of elections using direct recording electronic voting machines.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009.

**Sec. 129.003. PAPER AUDIT TRAIL REQUIRED.** (a) In this section, "auditable voting system" means a voting system that:

(1) uses, creates, or displays a paper record that may be read by the voter; and

(2) is not capable of being connected to the Internet or any other computer network or electronic device.

(b) Except as otherwise provided by this section, a voting system that consists of direct recording electronic voting machines may not be used in an election unless the system is an auditable voting system.

(c) The electronic vote is the official record of the vote cast if a risk-limiting audit conducted under Section 127.302 produces strong evidence that the reported outcome of the election matches the results that a full counting of the paper records would reveal.

(d) The paper record is the official record of the vote cast:

(1) for a recount under Title 13, including a recount of ballots cast on a system involving direct recording electronic voting machines;

(2) for an election contest under Title 14; or

(3) if a risk-limiting audit conducted under Section 127.302 fails to produce strong evidence that the reported outcome of the election matches the results that a full counting of the paper records would reveal.

(e) An authority that purchased a voting system other than an auditable voting system after September 1, 2014, and before September 1, 2021, may use available federal funding and, if federal funding is not available, available state funding to convert the purchased voting system into an auditable voting system in accordance with the following schedule:

(1) if the voting system was converted into an auditable voting system not later than the election taking place November 8, 2022, the authority is eligible to have 100 percent of the cost of conversion reimbursed under this section; and

(2) if the authority is not eligible for a 100 percent reimbursement of cost under Subdivision (1) and the voting system was converted into an auditable voting system not later than the election taking place November 3, 2026, the authority is eligible to have 50 percent of the cost of conversion reimbursed under this section.

(f) The secretary of state may use any available funds to assist an authority with the purchase of an auditable voting system if the funds have been appropriated for that purpose.

(g) Subsections (b), (c), and (d) do not apply to an election held before September 1, 2026.

(h) A paper record generated by an auditable voting system may be used only for the purposes described by this section and may not be retained by the voter.

(i) Notwithstanding Subsection (b), a voter voting under Section 64.009 may use a direct recording electronic voting machine regardless of whether the direct recording electronic voting machine is part of an auditable voting system.

(j) The secretary of state may not waive any requirements of this section.

Added by S.B. 598, 87<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept 1, 2021.

## SUBCHAPTER B. PRE-ELECTION ACCEPTANCE AND TESTING OF VOTING SYSTEM

**Sec. 129.021. ACCEPTANCE TESTING.** Immediately after receiving a voting system from a vendor, the general custodian of election records shall:

- (1) verify that the system delivered is certified by the secretary of state;
- (2) perform a hardware diagnostic test on the system as provided by Section 129.022(b);
- (3) perform a public test of logic and accuracy on the system as provided by Section 129.023; and
- (4) perform any additional test that the secretary of state may prescribe.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009.

**Sec. 129.022. HARDWARE DIAGNOSTIC TEST.** (a) The general custodian of election records shall conduct a successful hardware diagnostic test before a voting system is used in an election.

(b) The hardware diagnostic test must ensure that each part of the system functions properly as prescribed by the secretary of state.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009.

**Sec. 129.023. PUBLIC TEST OF LOGIC AND ACCURACY.** (a) The general custodian of election records shall create a testing board consisting of at least two persons. The general custodian of election records shall make every reasonable effort to ensure that the testing board consists of at least one person from each political party that holds a primary election.

(b) Not later than 48 hours before voting begins on a voting system, the general custodian of election records shall conduct a logic and accuracy test. Public notice of the test must be published on the county's Internet website, if the county maintains an Internet website, or on the bulletin board used for posting notice of meetings of the commissioners court if the county does not maintain an Internet website, at least 48 hours before the test begins, and the test must be open to the public.

(b-1) If the test is being conducted for a primary election, the general custodian of election records shall notify the county chair of the test at least 48 hours before the date of the test. The county chair shall confirm receipt of the notice.

(b-2) If the test is being conducted for an election in which a county election board has been established under Section 51.002, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required by Subsection (e)(1).

(c) The general custodian of election records shall adopt procedures for testing that:

- (1) direct the testing board to cast votes;
- (2) verify that each contest position, as well as each precinct and ballot style, on the ballot can be voted and is accurately counted;
- (3) include overvotes and undervotes for each race, if applicable to the system being tested;
- (4) include write-in votes, when applicable to the election;
- (5) include provisional votes, if applicable to the system being tested;
- (6) calculate the expected results from the test ballots;
- (7) ensure that each voting machine has any public counter reset to zero and presented to the testing board for verification before testing;
- (8) require that, for each feature of the system that allows disabled voters to cast a ballot, at least one vote be cast and verified by a two-person testing board team using that feature; and
- (9) require that, when all votes are cast, the general custodian of election records and the testing board observe the tabulation of all ballots and compare the actual results to the expected results.

(c-1) A test conducted under this section must also require the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered.

(d) A test is successful if the actual results are identical to the expected results.

(e) To provide a full and accurate account of the condition of a given voting machine, the testing board and the general custodian of election records shall:

- (1) sign a written statement attesting to:
  - (A) the qualification of each direct recording electronic voting machine that was successfully tested;
  - (B) any problems discovered; and
  - (C) the cause of any problem if it can be identified; and
- (2) provide any other documentation as necessary.

(f) On completing the testing:

(1) the testing board shall witness and document all steps taken to reset, seal, and secure any equipment or test materials, as appropriate; and

(2) the general custodian for election records shall preserve a copy of the system's software at a secure location that is outside the administrator's and programming entity's control until at least 22 months after election day.  
Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 27, eff. September 1, 2011; H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 21, eff. Sept. 1, 2017; H.B. 25, 85<sup>th</sup> Leg., R.S., Sec. 7, eff. Sept. 1, 2020; H.B. 933, 86<sup>th</sup> Leg., Sec. 12, eff. Sept. 1, 2019; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 4.16, eff. Dec. 2, 2021.

**Sec. 129.024. SECURITY OF TEST MATERIALS.** (a) On completing each test, the general custodian of election records shall place the test materials in a container provided for that purpose and seal the container in a manner that prevents opening without breaking the seal. The general custodian of election records and at least two members of the testing board shall sign the seal.

(b) The test materials shall remain sealed for the period for preserving the precinct election records.

(c) The container may not be unsealed unless the contents are necessary to conduct a test under this subchapter or a criminal investigation, election contest, or other official proceeding under this code. If the container is unsealed, the authority in charge of the proceeding shall reseal the contents when not in use.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009.

### **SUBCHAPTER C. VOTING SYSTEM SECURITY**

**Sec. 129.051. PRE-ELECTION SECURITY PROCEDURE.** (a) The general custodian of election records shall create and maintain an inventory of all electronic information storage media.

(b) The general custodian of election records shall develop a procedure for tracking the custody of each electronic information storage medium from its storage location, through election coding and the election process, to its final post-election disposition and return to storage. The chain of custody must require two or more individuals to perform a check and verification check whenever a transfer of custody occurs.

(c) The general custodian of election records shall establish a secured location for storing electronic information storage media when not in use, coding a medium for an election, transferring and installing the medium into voting system equipment, and storing voting system equipment after election parameters are loaded.

(d) An election information storage medium shall be kept in the presence of an election official or in a secured location once the medium has been coded for an election.

(e) The general custodian of election records shall create a procedure for tracking the custody of voting system equipment once election parameters are loaded.

(f) The general custodian of election records shall create a recovery plan to be followed if a breach in security procedures is indicated. This plan must include immediately notifying the secretary of state.

(g) The general custodian of election records shall conduct a criminal background check for relevant election officials, staff, and temporary workers upon hiring.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009.

**Sec. 129.052. TRANSPORT OF VOTING SYSTEM EQUIPMENT.** (a) The general custodian of election records shall adopt procedures for securely storing and transporting voting system equipment. The procedures shall include provisions for locations outside the direct control of the general custodian of election records, including overnight storage at a polling location. Procedures relating to the chain of custody must require two or more individuals to perform a check and verification check whenever a transfer of custody occurs.

(b) The general custodian of election records shall create a recovery plan to be followed if a breach in security procedures is indicated. This plan must include immediately notifying the secretary of state.

(c) The general custodian of election records shall provide a training plan for relevant election officials, staff, and temporary workers that addresses the procedures authorized under this section.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009.

**Sec. 129.053. ACCESS TO VOTING SYSTEM EQUIPMENT.** The general custodian of election records shall secure access control keys or passwords to voting system equipment. Use of access control keys or passwords must be witnessed by one or more individuals authorized to use that information. The use of an access control key or password must be documented and witnessed in a log dedicated for that purpose that is retained until the political subdivision disposes of the equipment.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009.

**Sec. 129.054. NETWORK CONNECTIONS AND WIRELESS TECHNOLOGY.** (a) A voting system may not be connected to any external communications network, including the Internet. Beginning September 1, 2026, a voting system may not be capable of being connected to any external or internal communications network, including the Internet.

(b) A voting system may not have the capability of permitting wireless communication unless the system uses line-of-sight infrared technology that shields the transmitter and receiver from external infrared transmissions and the system can only accept transmissions generated by the system. Beginning September 1, 2026, a voting system may not have the capability of permitting wireless communication.

(c) The secretary of state may not waive any requirements of this section.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009; S.B. 598, 87<sup>th</sup> Leg., R.S., Sec. 3, eff. Sept 1, 2021.

**Sec. 129.055. EQUIPMENT AND SOFTWARE.** The sole purpose of voting system equipment is the conduct of an election, and only software certified by the secretary of state and necessary for an election may be loaded on the equipment.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009.

**Sec. 129.056. PLAN FOR MACHINE FAILURE.** The general custodian of election records shall create a contingency plan for addressing direct recording electronic voting machine failure. This plan must include the timely notification of the secretary of state.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009.

**Sec. 129.057. USE OF MACHINE IN EARLY VOTING.** A direct recording electronic voting machine deployed for early voting may not be deployed on election day.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 682 (H.B. 2524), Sec. 2, eff. September 1, 2009.

# TITLE 9. CANDIDATES

## CHAPTER 141. CANDIDACY FOR PUBLIC OFFICE GENERALLY

### SUBCHAPTER A. ELIGIBILITY FOR PUBLIC OFFICE

**Sec. 141.001. ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFICE.** (a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

- (1) be a United States citizen;
- (2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;
- (3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:
  - (A) totally mentally incapacitated; or
  - (B) partially mentally incapacitated without the right to vote;
- (4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
  - (A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;
  - (B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;
  - (C) for a write-in candidate, the date of the election at which the candidate's name is written in;
  - (D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and
  - (E) for an appointee to an office, the date the appointment is made;
- (6) on the date described by Subdivision (5), be registered to vote in the territory from which the office is elected; and
- (7) satisfy any other eligibility requirements prescribed by law for the office.

(a-1) For purposes of satisfying the continuous residency requirement of Subsection (a)(5), a person who claims an intent to return to a residence after a temporary absence may establish that intent only if the person:

- (1) has made a reasonable and substantive attempt to effectuate that intent; and
- (2) has a legal right and the practical ability to return to the residence.

(a-2) Subsection (a-1) does not apply to a person displaced from the person's residence due to a declared local, state, or national disaster.

(a-3) The authority with whom an application for a place on a general primary election ballot is filed under Section 172.022 shall, to the extent permitted by law, use Subsections (a) and (a-1) in determining whether a candidate meets the residency requirements for a public elective office.

(b) A statute outside this code supersedes Subsection (a) to the extent of any conflict.

(c) Subsection (a) does not apply to an office for which the federal or state constitution or a statute outside this code prescribes exclusive eligibility requirements.

(d) Subsection (a)(6) does not apply to a member of the governing body of a district created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 28, eff. Sept. 1, 2007; Acts 2015, 84th Leg., R.S., Ch. 504 (H.B. 484), Sec. 1, eff. Sept. 1, 2015; H.B. 831, 86<sup>th</sup> Leg., Sec. 1, eff. Jan. 1, 2020.

**Sec. 141.002. EFFECT OF BOUNDARY CHANGE ON RESIDENCE REQUIREMENT FOR PRECINCT OFFICE.**

(a) Instead of the six-month residence requirement prescribed by Section 141.001(a)(5), a candidate for or appointee to a precinct office must be a resident of the precinct on the date prescribed by Section 141.001(a)(5) and must have resided continuously in the county in which the precinct is located for six months immediately preceding that date if an order creating



the precinct or changing the boundary of the precinct:

- (1) was adopted less than seven months before that date; or
- (2) was in litigation at any time during the seventh month immediately preceding that date.

(b) For the purpose of this section, an order is in litigation if the judgment concluding a judicial proceeding in which the order is mandated or the validity of the order is challenged has not become final.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.003. AGE AND RESIDENCE REQUIREMENTS FOR HOME-RULE CITY OFFICE.** (a) Different age and residence requirements from those prescribed by Section 141.001 may be prescribed by a home-rule city charter, but a minimum age may not be more than 21 years and a minimum length of residence in the state or city may not be more than 12 months immediately preceding election day.

(b) A charter provision is void if it prescribes a minimum age requirement of more than 21 years or a minimum length of residence requirement of more than 12 months.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.004. EFFECT OF BOUNDARY CHANGE ON RESIDENCE REQUIREMENT FOR CITY OFFICE.** In determining whether a person has complied with a residence requirement under Section 141.001 or 141.003 for a city office, residence in an area while the area was not part of the city is considered as residence within the city if the area is part of the city on the date that is the basis for determining the applicable period of residence.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER B. APPLICATION FOR PLACE ON BALLOT**

**Sec. 141.031. GENERAL REQUIREMENTS FOR APPLICATION.** (a) A candidate's application for a place on the ballot that is required by this code must:

- (1) be in writing;
- (2) be signed and sworn to before a person authorized to administer oaths in this state by the candidate and indicate the date that the candidate swears to the application;
- (3) be timely filed with the appropriate authority; and
- (4) include:
  - (A) the candidate's name;
  - (B) the candidate's occupation;
  - (C) the office sought, including any place number or other distinguishing number;
  - (D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;
  - (E) a statement that the candidate is a United States citizen;
  - (F) a statement that the candidate has not been determined by a final judgment of a court exercising probate jurisdiction to be:
    - (i) totally mentally incapacitated; or
    - (ii) partially mentally incapacitated without the right to vote;
  - (G) an indication that the candidate has either not been finally convicted of a felony or if so convicted has been pardoned or otherwise released from the resulting disabilities;
  - (H) the candidate's date of birth;
  - (I) the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence;
  - (J) the candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application;
  - (K) the statement: "I, \_\_\_\_\_, of \_\_\_\_\_ County, Texas, being a candidate for the office of \_\_\_\_\_, swear that I will support and defend the constitution and laws of the United States and of the State of Texas";
  - (L) a statement that the candidate is aware of the nepotism law, Chapter 573, Government Code; and
  - (M) a public mailing address at which the candidate receives correspondence relating to the

candidate's campaign, if available, and an electronic mail address at which the candidate receives correspondence relating to the candidate's campaign, if available.

(a-1) A person who has been convicted of a felony shall include in the application proof that the person is eligible for public office under Section 141.001(a)(4).

(b) Instead of the statement required by Subsection (a)(4)(F), a candidate eligible for office because of Section 1.020(a) shall include in the application a statement that the person's mental capacity has been completely restored by a final judgment of a court.

(c) Instead of the statement required by Subsection (a)(4)(F), a candidate eligible for office because of Section 1.020(b) shall include in the application a statement that the person's guardianship has been modified to include the right to vote or the person's mental capacity has been completely restored, as applicable, by a final judgment of a court.

(d) The secretary of state may prescribe a different form for an application for a place on the ballot for each of the following:

- (1) an office of the federal government;
- (2) an office of the state government; or
- (3) an office of a political party.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 427, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3A.03, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(26), eff. Sept. 1, 1995; Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 29, eff. Sept. 1, 2007; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 12, eff. Sept. 1, 2013; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 1, eff. Sept. 1, 2015; H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 22, eff. Sept. 1, 2017; H.B. 2157, 85<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2017; H.B. 4555, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept 1, 2021.

**Sec. 141.0311. ADDITIONAL REQUIREMENTS FOR APPLICATION FOR JUDICIAL OFFICE.** (a) This section applies to candidates for the following judicial offices:

- (1) chief justice or justice of the supreme court;
- (2) presiding judge or judge of the court of criminal appeals;
- (3) chief justice or justice of a court of appeals;
- (4) district judge, including a criminal district judge; and
- (5) judge of a statutory county court.

(b) In addition to other requirements under this code, a candidate's application for a place on the ballot must:

(1) include the candidate's state bar number for:

- (A) this state; and
- (B) any other state in which the candidate has been licensed to practice law;

(2) disclose any public:

- (A) sanction or censure, as those terms are defined by Section 33.001, Government Code, the State Commission on Judicial Conduct or a review tribunal has issued against the candidate;
- (B) disciplinary sanction imposed on the candidate by the state bar; and
- (C) disciplinary sanction imposed on the candidate by an entity in another state responsible for attorney discipline in that state;

(3) include statements describing for the preceding five years:

- (A) the nature of the candidate's legal practice, including any area of legal specialization; and
- (B) the candidate's professional courtroom experience; and

(4) disclose any final conviction of a Class A or Class B misdemeanor in the 10 years preceding the date the person would assume the judicial office for which the person is filing the application.

(c) A candidate for a judicial office described by Subdivision (a)(1), (2), or (3) who does not hold or has not previously held a judicial office described by those subdivisions must, in addition to the other requirements of this section and this code, include in the application a description of:

- (1) appellate court briefs the candidate has prepared and filed in the preceding five years; and
- (2) oral arguments the candidate has presented before any appellate court in the preceding five years.

(d) Each officially prescribed form for an application under this section must include a statement informing candidates that knowingly providing false information on the application, in addition to other penalties prescribed by law, constitutes professional misconduct subject to public sanctions or censure by the State Commission on Judicial Conduct or the state bar, as applicable.

(e) The secretary of state shall prescribe the form and content of the application materials under this section. The secretary of state may consult with the Office of Court Administration of the Texas Judicial System, the supreme court, and the court of criminal appeals when prescribing the form and content of application materials under this section.

H.B. 2384, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 141.032. REVIEW OF APPLICATION; NOTICE TO CANDIDATE.** (a) On the filing of an application for a place on the ballot, the authority with whom the application is filed shall review the application to determine whether it complies with the requirements as to form, content, and procedure that it must satisfy for the candidate's name to be placed on the ballot.

(b) Except as provided by Subsection (c), the review shall be completed not later than the fifth day after the date the application is received by the authority.

(c) If an application is accompanied by a petition, the petition is considered part of the application, and the review shall be completed as soon as practicable after the date the application is received by the authority. However, the petition is not considered part of the application for purposes of determining compliance with the requirements applicable to each document, and a deficiency in the requirements for one document may not be remedied by the contents of the other document. Unless the petition is challenged, the authority is only required to review the petition for facial compliance with the applicable requirements as to form, content, and procedure.

(d) A determination under this section that an application complies with the applicable requirements does not preclude a subsequent determination that the application does not comply, subject to Section 141.034.

(e) If an application does not comply with the applicable requirements, the authority shall reject the application and immediately deliver to the candidate written notice of the reason for the rejection.

(f) This section does not apply to a determination of a candidate's eligibility.

(g) Except as otherwise provided by this code:

(1) a candidate may not amend an application filed under Section 141.031; and

(2) the authority with whom the application is filed may not accept an amendment to an application filed under Section 141.031.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 54, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 51, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 254 (H.B. 1135), Sec. 1, eff. Sept. 1, 2011; S.B. 44, 85th Leg., R.S., Sec. 1, eff. May 23, 2017; H.B. 3107, 87th Leg., R.S., Sec. 76, eff. Sept. 1, 2021.

**Sec. 141.033. FILING APPLICATIONS FOR MORE THAN ONE OFFICE PROHIBITED.** (a) A candidate may not file applications for a place on the ballot for two or more offices that:

(1) are not permitted by law to be held by the same person; and

(2) are to be voted on at one or more elections held on the same day.

(b) If a person files more than one application for a place on a ballot in violation of this section, each application filed subsequent to the first one filed is invalid.

(c) This section does not apply to candidacy for the office of president or vice-president of the United States and another office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.034. LIMITATION ON CHALLENGE OF APPLICATION.** (a) An application for a place on the ballot may not be challenged for compliance with the applicable requirements as to form, content, and procedure after the 50th day before the date of the election for which the application is made.

(b) This section does not apply to a determination of a candidate's eligibility.

(c) A challenge must state with specificity how the application does not comply with the applicable requirements as to form, content, and procedure. The authority's review of the challenge is limited to the specific items challenged and any response filed with the authority by the challenged candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.07, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.57; Acts 1991, 72nd Leg., ch. 554, Sec. 28, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 55, eff. Sept. 1, 1993; S.B. 44, 85th R.S., Sec. 2, eff. May 23, 2017; H.B. 3107, 87th Leg., R.S., Sec. 77, eff. Sept. 1, 2021.

**Sec. 141.035. APPLICATION AS PUBLIC INFORMATION.** An application for a place on the ballot, including an accompanying petition, is public information immediately on its filing.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.036. PRESERVATION OF APPLICATION.** The authority with whom an application for a place on the ballot is required to be filed shall preserve each application filed with the authority for two years after the date of the election for which the application is made.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.037. FORM OF NAME CERTIFIED FOR PLACEMENT ON BALLOT.** An authority responsible for certifying

the names of candidates for placement on the ballot shall certify each name in the form indicated on the candidate's application for a place on the ballot, subject to Subchapter B, Chapter 52.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.038. REFUND OF FILING FEE.** (a) A filing fee paid in connection with a candidate's application for a place on the ballot shall be refunded to the candidate or to the candidate's estate, as appropriate, if before the date of the election for which the application is made:

- (1) the candidate dies;
- (2) the candidate is declared ineligible; or
- (3) the candidate's application for a place on the ballot is determined not to comply with the requirements as to form, content, and procedure that it must satisfy for the candidate's name to be placed on the ballot.

(b) A claim for a refund of a filing fee must be presented to the authority with whom the candidate's application for a place on the ballot is filed.

(c) A filing fee may not be refunded except as provided by this section.

(d) The refunding of filing fees for home-rule city offices may be regulated by the city charter, and those regulations supersede this section to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.08, eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 93, eff. Sept. 1, 1997.

**Sec. 141.039. OFFICIAL APPLICATION FORM.** In addition to the other statements and spaces for entering information that appear on an officially prescribed form for an application for a place on the ballot, each official form for an application that a candidate is required to file under this code must include:

- (1) a space for indicating the form in which the candidate's name is to appear on the ballot;
- (2) a space for the candidate's public mailing address;
- (3) spaces for the candidate's home and office telephone numbers and e-mail address at which the candidate receives correspondence relating to the candidate's campaign;

(4) a statement informing candidates that the furnishing of the telephone numbers is optional;

(5) a statement informing candidates that knowingly providing false information on the application under Section 141.031(a)(4)(G) constitutes a Class B misdemeanor; and

(6) a statement informing candidates that a candidate who indicates under Section 141.031(a)(4)(G) that the candidate has been convicted of a felony must comply with the requirements of Section 141.031(a-1).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 279 (H.B. 1593), Sec. 1, eff. September 1, 2011; H.B. 1735, 85th Leg., R.S., Sec. 23, eff. September 1, 2017; H.B. 4555, 87th Leg., R.S., Sec. 2, eff. Sept. 1, 2021.

**Sec. 141.040. NOTICE OF DEADLINES AND FILING METHODS.** (a) The authority with whom an application for a place on the ballot under this subchapter must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office not later than the 30th day before:

(1) the first day on which a candidate may file the application; or

(2) the last day on which a candidate may file the application, if this code does not designate a first day on which the candidate may file the application.

(b) This section does not apply to an office filled at the general election for state and county officers.

(c) An authority shall designate an e-mail address in the notice required by this section for the purpose of filing an application for a place on the ballot under Section 143.004.

Added by Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 13, eff. Sept. 1, 2009. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 28, eff. Sept. 1, 2011; H.B. 3107, 87th Leg., R.S., Sec. 78 & 79, eff. Sept. 1, 2021.

## SUBCHAPTER C. PETITION

**Sec. 141.061. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to each petition filed in connection with a candidate's application for a place on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 493, Sec. 1, eff. Sept. 1, 1987.

**Sec. 141.062. VALIDITY OF PETITION.** (a) To be valid, a petition must:

(1) be timely filed with the appropriate authority;

(2) contain valid signatures in the number required by this code; and

- (3) comply with any other applicable requirements for validity prescribed by this code.
- (b) A petition may consist of multiple parts.
- (c) After the filing deadline:
  - (1) a candidate may not amend a petition in lieu of a filing fee submitted with the candidate's application; and
  - (2) the authority with whom the application is filed may not accept an amendment to a petition in lieu of a filing fee submitted with the candidate's application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 254 (H.B. 1135), Sec. 2, eff. September 1, 2011.

**Sec. 141.063. VALIDITY OF SIGNATURE.** (a) A signature on a petition is valid if:

- (1) except as otherwise provided by this code, the signer, at the time of signing, is a registered voter of the territory from which the office sought is elected or has been issued a registration certificate for a registration that will become effective in that territory on or before the date of the applicable election;
- (2) the petition includes the following information with respect to each signer:
  - (A) the signer's residence address;
  - (B) the signer's date of birth or the signer's voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration;
  - (C) the date of signing; and
  - (D) the signer's printed name;
- (3) the part of the petition in which the signature appears contains the affidavit required by Section 141.065;
- (4) each statement that is required by this code to appear on each page of the petition appears, at the time of signing, on the page on which the signature is entered; and
- (5) any other applicable requirements prescribed by this code for a signature's validity are complied with.

(b) The signature is the only information that is required to appear on the petition in the signer's own handwriting.

(c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.

(d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. The omission of the zip code from the address does not invalidate a signature.

(e) The signer's residence address and registration address are not required to be the same if the signer would otherwise be able to vote for that office under Section 11.004 or 112.002.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 52, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 726 (H.B. 1509), Sec. 1, eff. September 1, 2005; H.B. 3107, 87th Leg., R.S., Sec. 80, eff. Sept. 1, 2021.

**Sec. 141.064. METHOD OF ACQUIRING SIGNATURE.** A person circulating a petition must:

- (1) before permitting a person to sign, point out and read to the person each statement pertaining to the signer that appears on the petition;
- (2) witness each signature;
- (3) ascertain that each date of signing is correct; and
- (4) before the petition is filed, verify each signer's registration status and ascertain that each registration number entered on the petition is correct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.065. AFFIDAVIT OF CIRCULATOR.** (a) Each part of a petition must include an affidavit of the person who circulated it, executed before a person authorized to administer oaths in this state, stating that the person:

- (1) pointed out and read to each signer, before the petition was signed, each statement pertaining to the signer that appears on the petition;
- (2) witnessed each signature;
- (3) verified each signer's registration status; and
- (4) believes each signature to be genuine and the corresponding information to be correct.

(b) If a petition contains an affidavit that complies with Subsection (a), for the purpose of determining whether the petition contains a sufficient number of valid signatures, the authority with whom the candidate's application is filed may treat as valid each signature to which the affidavit applies, without further verification, unless proven otherwise.

(c) A single notarized affidavit by any person who obtained signatures is valid for all signatures gathered by the person if the date of notarization is on or after the date of the last signature obtained by the person.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by H.B. 2157, 85<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2017.

**Sec. 141.066. SIGNING MORE THAN ONE PETITION PROHIBITED.** (a) A person may not sign the petition of more than one candidate for the same office in the same election.

(b) The following statement must appear at the top of each page of a petition: "Signing the petition of more than one candidate for the same office in the same election is prohibited."

(c) A signature on a candidate's petition is invalid if the signer signed the petition subsequent to signing a petition of another candidate for the same office in the same election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 94, eff. Sept. 1, 1997.

**Sec. 141.067. WITHDRAWAL OF SIGNATURE.** (a) A signature may be withdrawn from a petition as provided by this section.

(b) To withdraw a signature, the signer must request that the signer's signature be withdrawn.

(c) To be effective, a withdrawal request must:

(1) be in writing and be signed and acknowledged by the signer of the petition; and

(2) be filed with the authority with whom the petition is required to be filed not later than the date the petition is received by the authority or the seventh day before the petition filing deadline, whichever is earlier.

(d) A withdrawal request filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(e) The signer must deliver a copy of the withdrawal request to the candidate when the request is filed.

(f) The filing of an effective withdrawal request nullifies the signature on the petition and places the signer in the same position as if the signer had not signed the petition.

(g) If the withdrawal of a signature reduces the number of signatures on the petition below the prescribed minimum for the petition to be valid, the authority with whom the request is filed shall notify the candidate immediately by telephone, telegram, or an equally or more expeditious method of the number of withdrawn signatures. Before the third day after the date the candidate receives the notice, the candidate's petition may be supplemented with signatures equal in number to the number of signatures withdrawn.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 95, eff. Sept. 1, 1997.

**Sec. 141.068. DUTY OF LOCAL AUTHORITY TO VERIFY SIGNATURES.** (a) On request of the secretary of state, a voter registrar shall verify the voter registration status of a signer of a petition filed with the secretary who the petition indicates is registered or has been accepted for registration in the county served by the registrar.

(b) On request of the secretary of state, a county clerk shall ascertain from the records in the clerk's custody whether a signer of a petition filed with the secretary is shown to have voted in a particular election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.069. VERIFYING SIGNATURES BY STATISTICAL SAMPLE.** If signatures on a petition that is required to contain more than 1,000 signatures are to be verified by the authority with whom the candidate's application is required to be filed, the authority may use as the basis for the verification any reasonable statistical sampling method that ensures an accuracy rate of at least 95 percent.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 54, Sec. 16(b), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1349, Sec. 53, eff. Sept. 1, 1997.

**Sec. 141.070. ESTIMATING GUBERNATORIAL VOTE FOR TERRITORY WITH CHANGED BOUNDARY.** (a) If, since the most recent gubernatorial general election, a district or precinct from which an officer of the federal, state, or county government is elected is created or has had its boundary changed, the number of votes received in the district or precinct by a political party's gubernatorial candidate or by all the gubernatorial candidates shall be estimated, as provided by this section, for the purpose of computing the number of signatures required on a candidate's petition.

(b) The secretary of state, for a district, or the county clerk of the county in which the precinct is situated, for a precinct, shall estimate the applicable vote total on the request of:

(1) a candidate affected by the creation or change; or

(2) an authority with whom an affected candidate's application for a place on the ballot is required to be filed.

(c) Not later than the 30th day after the date the secretary of state or county clerk receives an estimate request, the

secretary or clerk shall certify the secretary's or clerk's estimate in writing and deliver a copy of the certification to the candidate and to the authority with whom the candidate's application for a place on the ballot is required to be filed.

(d) If an estimate is not requested under Subsection (b), the authority with whom an affected candidate's application for a place on the ballot is required to be filed shall make the estimate before acting on a petition.

(e) If, before completing an estimate, the estimating authority determines that the total estimated vote will be large enough to make a computation of the number of signatures required to appear on the petition unnecessary, the authority may certify that fact in writing instead of completing the estimate.

(f) A candidate for an office that is affected by an estimate or by a determination made under Subsection (e) may challenge the accuracy of the estimate or determination by filing a petition, stating the ground of the challenge, in a district court having general jurisdiction in the territory involved. Review in the district court is by trial de novo, and the court's decision is not appealable.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 96, eff. Sept. 1, 1997.

## **SUBCHAPTER D. COERCION OF CANDIDACY**

**Sec. 141.101. COERCION AGAINST CANDIDACY PROHIBITED.** (a) A person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to:

- (1) not file an application for a place on the ballot or a declaration of write-in candidacy; or
- (2) withdraw as a candidate.

(b) In this section, "coercion" has the meaning assigned by Section 1.07, Penal Code.

(c) An offense under this section is a Class A misdemeanor unless the intimidation or coercion is a threat to commit a felony, in which event it is a felony of the third degree.

Added by Acts 1995, 74th Leg., ch. 667, Sec. 1, eff. Sept. 1, 1995.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 3, eff. September 1, 2009; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 82, eff. Sept. 1, 2021.

## **CHAPTER 142. INDEPENDENT CANDIDATE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS**

**Sec. 142.001. APPLICABILITY OF CHAPTER.** This chapter applies to an independent candidate for an office that is to be voted on at the general election for state and county officers except the offices of president and vice-president of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 142.002. DECLARATION OF INTENT REQUIRED.** (a) To be entitled to a place on the general election ballot, a candidate must make a declaration of intent to run as an independent candidate.

(b) A declaration of intent to run as an independent candidate must:

- (1) be in writing and be signed and acknowledged by the candidate;
- (2) be filed with the authority with whom the candidate's application for a place on the ballot is required to be filed within the regular filing period for an application for a place on a general primary election ballot; and
- (3) contain:
  - (A) the candidate's name and residence address;
  - (B) the office sought, including any place number or other distinguishing number; and
  - (C) an indication of whether the office sought is to be filled for a full or unexpired term, if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers.

(c) This section does not apply to:

- (1) a candidate for an unexpired term if the vacancy occurs after the 10th day before the regular filing deadline for an application for a place on a general primary election ballot; or
- (2) a candidate for an office for which the regular application filing deadline for candidates in a primary election is extended.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 142.0021. FILING DECLARATIONS OF INTENT FOR MORE THAN ONE OFFICE PROHIBITED.** (a) A candidate may not file declarations of intent for two or more offices that:

- (1) are not permitted by law to be held by the same person; and
- (2) are to be voted on at one or more elections held on the same day.

(b) If a person files more than one declaration of intent in violation of this section, each declaration filed subsequent to the first one filed is invalid.

Added by Acts 1997, 75th Leg., ch. 1349, Sec. 54, eff. Sept. 1, 1997.

**Sec. 142.003. PRESERVATION OF DECLARATION.** The authority with whom a declaration of intent is required to be filed shall preserve each declaration filed with the authority until the day after general election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 97, eff. Sept. 1, 1997.

**Sec. 142.004. APPLICATION REQUIRED.** (a) To be entitled to a place on the general election ballot, a candidate must make an application for a place on the ballot.

(b) An application must, in addition to complying with Section 141.031, be accompanied by a petition that satisfies the requirements prescribed by Section 141.062.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 142.005. AUTHORITY WITH WHOM APPLICATION FILED.** An application for a place on the ballot must be filed with:

- (1) the secretary of state, for a statewide or district office; or
- (2) the county judge, for a county or precinct office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 142.006. REGULAR FILING DEADLINE FOR APPLICATION.** (a) An application for a place on the ballot must be filed not later than 5 p.m. of the 30th day after runoff primary election day, except as provided by Section 202.007.

(b) An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.



Amended by Acts 1987, 70th Leg., ch. 472, Sec. 39, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 490, Sec. 1, eff. Sept. 1, 1987.

**Sec. 142.007. NUMBER OF PETITION SIGNATURES REQUIRED.** The minimum number of signatures that must appear on a candidate's petition is:

- (1) for a statewide office, one percent of the total vote received by all candidates for governor in the most recent gubernatorial general election; or
- (2) for a district, county, or precinct office, the lesser of:
  - (A) 500; or
  - (B) five percent of the total vote received in the district, county, or precinct, as applicable, by all candidates for governor in the most recent gubernatorial general election, unless that number is under 25, in which case the required number of signatures is the lesser of:
    - (i) 25; or
    - (ii) 10 percent of that total vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 142.008. STATEMENT ON PETITION.** The following statement must appear at the top of each page of a candidate's petition: "I know the purpose of this petition. I have not voted in the general primary election or runoff primary election of any political party that has nominated, at either election, a candidate for the office of (insert office title) for which (insert candidate's name) is a candidate."

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 142.009. PETITION TO BE CIRCULATED AFTER PRIMARY.** A signature on a candidate's petition is invalid if the signer:

- (1) signed the petition on or before general primary election day or, if a runoff primary is held for the office sought by the candidate, on or before runoff primary election day; or
- (2) voted in the general or runoff primary election of a political party that made a nomination, at either primary, for the office sought by the candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 142.010. CERTIFICATION OF CANDIDATES' NAMES FOR PLACEMENT ON GENERAL ELECTION BALLOT.** (a) Except as provided by Subsection (c), the authority with whom applications for a place on the ballot are required to be filed shall certify in writing for placement on the general election ballot the name of each candidate who files with the authority a declaration of intent that complies with Section 142.002(b), if required, and an application that complies with Section 142.004(b).

(b) Not later than the 68th day before general election day, the certifying authority shall deliver the certification to the authority responsible for having the official ballot prepared in each county in which the candidate's name is to appear on the ballot.

(c) A candidate's name may not be certified:

- (1) if, before delivering the certification, the certifying authority learns that the name is to be omitted from the ballot under Section 145.064; or
- (2) for an office for which the candidate's declaration or application is invalid under Section 142.0021 or 141.033, as applicable.

(d) In conjunction with the certification required under Subsection (a), the secretary of state shall include appropriate ballot translation language, as applicable, for each language certified statewide or in a specific county by the director of the census under 42 U.S.C. Section 1973aa-1a.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 55, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1014 (H.B. 2477), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 16, eff. September 1, 2011.

## **CHAPTER 143. CANDIDATE FOR CITY OFFICE**

**Sec. 143.001. APPLICABILITY OF CHAPTER.** This chapter applies to a candidate for a city office.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 143.002. INDEPENDENT CANDIDACY REQUIRED.** Except as provided by Section 143.003, a candidate's name may appear on the ballot only as an independent.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 143.003. PARTISAN CANDIDACY FOR HOME-RULE CITY OFFICE AUTHORIZED.** (a) A city charter may authorize nominations of partisan candidates by political organizations for an office of a home-rule city. Implementing regulations may be prescribed by the charter or by ordinance under charter authorization.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1236, Sec. 6.001, eff. September 1, 2015.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by: Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 6.001, eff. September 1, 2015.

**Sec. 143.004. APPLICATION REQUIRED.** (a) Subject to Section 143.005, to be entitled to a place on the ballot, a candidate must make an application for a place on the ballot.

(b) An application, other than an application required to be accompanied by fee, may be filed through e-mail transmission of the completed application in a scanned format to the e-mail address designated by the filing authority in the notice required under Section 141.040.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 83, eff. Sept. 1, 2021.

**Sec. 143.005. APPLICATION FOR HOME-RULE CITY OFFICE.** (a) A city charter may prescribe requirements in connection with a candidate's application for a place on the ballot for an office of a home-rule city. This section does not authorize a city charter requirement in connection with the timely filing of an application, and any charter requirement related to an application's timely filing is superseded by Section 143.007 and other applicable filing provisions prescribed by this code.

(b) If a city charter prescribes the requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, Section 141.031(a)(4)(L) also applies to the application. The other provisions of Section 141.031 do not apply.

(c) If a city charter requires candidates to pay a filing fee, the amount of the fee and an alternative procedure to payment of the fee shall be prescribed by the charter or by ordinance under charter authorization. However, if an ordinance prescribing an alternative procedure to payment of a filing fee is adopted before the effective date of this code without charter authorization, the ordinance, as it exists on the effective date of this code, continues in effect until the adoption of a charter provision prescribing an alternative procedure or authorizing prescription of an alternative procedure by ordinance.

(d) For any petition required or authorized to be filed in connection with a candidate's application for a place on the ballot for an office of a home-rule city, the minimum number of signatures that must appear on the petition is the greater of:

(1) 25; or

(2) one-half of one percent of the total vote received in the territory from which the office is elected by all candidates for mayor in the most recent mayoral general election.

(e) If the city charter of a home-rule city with a population of more than 1.18 million located primarily in a county with a population of 2.5 million or more that holds nonpartisan elections for its offices requires both a petition and a \$50 fee to be filed for a candidate's name to be placed on the ballot, those requirements supersede this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 11(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 427, Sec. 5, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 597, Sec. 66, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 15, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 695, Sec. 1, eff. June 20, 2003; Amended by: Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 30, eff. Sept. 1, 2007; Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 14, eff. Sept. 1, 2011; H.B. 4559, 88<sup>th</sup> Leg., R.S., Sec. 29, eff. Sept. 1, 2023.

**Sec. 143.006. AUTHORITY WITH WHOM APPLICATION FILED.** (a) Except as provided by Subsections (b) and (c), an application for a place on the ballot must be filed with the city secretary.

(b) An authority other than the city secretary may be designated to receive applications by a home-rule city charter or ordinance adopted under charter authorization.

(c) An application for a place on the ballot for the first election of officers following the incorporation of a city must be filed with the authority designated by law.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 143.007. FILING PERIOD.** (a) Except as otherwise provided by this code, an application for a place on the ballot must be filed not later than 5 p.m. of the 62nd day before election day. An application may not be filed earlier than the 30th day before the date of the filing deadline.

(b) An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(c) For an election to be held on a uniform election date, the day of the filing deadline is the 78th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 2003, 78th Leg., ch. 925, Sec. 2, eff. Nov. 1, 2003; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 3, eff. September 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 17, eff. September 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 9, eff. September 1, 2015.

**Sec. 143.008. EXTENDED FILING DEADLINE FOR CERTAIN OFFICES.** (a) This section applies only to an office with a four-year term.

(b) If at the deadline prescribed by Section 143.007 no candidate has filed an application for a place on the ballot for an office, the filing deadline for that office is extended to 5 p.m. of the 57th day before election day.

(c) This section does not apply to an election to be held on the date of the general election for state and county officers.

Added by Acts 1987, 70th Leg., ch. 133, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 2003, 78th Leg., ch. 925, Sec. 3, eff. Nov. 1, 2003; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 4, eff. September 1, 2005.

## **CHAPTER 144. CANDIDATE FOR OFFICE OF POLITICAL SUBDIVISION OTHER THAN COUNTY OR CITY**

**Sec. 144.001. APPLICABILITY OF CHAPTER.** This chapter applies to a candidate for an office of a political subdivision other than a city or county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 144.002. INDEPENDENT CANDIDACY REQUIRED.** A candidate's name may appear on the ballot only as an independent.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 144.003. APPLICATION REQUIRED.** (a) Except as otherwise provided by law, to be entitled to a place on the ballot, a candidate must make an application for a place on the ballot. An application, other than an application required to be accompanied by fee, may be filed through e-mail transmission of the completed application in a scanned format to the e-mail address designated by the filing authority in the notice required under Section 141.040.

(b) If a law outside this code purports to prescribe the exclusive requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, Section 141.031(a)(4)(L) also applies to the application. The other provisions of Section 141.031 do not apply.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 427, Sec. 6, eff. Sept. 1, 1987; Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 31, eff. September 1, 2007; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 84, eff. Sept. 1, 2021.

**Sec. 144.004. AUTHORITY WITH WHOM APPLICATION FILED.** Except as otherwise provided by law, an application for a place on the ballot must be filed with the secretary of the political subdivision's governing body or, if the governing body has no secretary, with the governing body's presiding officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 144.005. FILING DEADLINE.** (a) Except as provided by Subsection (d), an application for a place on the ballot must be filed not later than 5 p.m. of the 62nd day before election day. Notwithstanding any other law outside this code, an application may not be filed earlier than the 30th day before the date of the filing deadline.

(b) Except as otherwise provided by law, an application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(c) The governing body of a political subdivision for which a deadline for filing for candidacy is prescribed by a law outside this code shall take appropriate action to comply with Subsections (a) and (d) and to adjust any affected date, deadline, or procedure to allow the same interval of time in relation to the filing deadline as would be provided by application of the other law. The secretary of state shall prescribe any rules necessary to facilitate the implementation of this subsection.

(d) For an election to be held on a uniform election date, the day of the filing deadline is the 78th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 2003, 78th Leg., ch. 925, Sec. 4, eff. Nov. 1, 2003; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 5, eff. September 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 18, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 13, eff. September 1, 2013; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 10, eff. September 1, 2015.

**Sec. 144.006. FILING DEADLINE FOR DECLARED WRITE-IN CANDIDATE.** (a) Except as otherwise provided by law, a declaration of write-in candidacy must be filed not later than 5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed in an election in which:

(1) the filing deadline for an application for a place on the ballot is the 62nd day before election day; and

(2) write-in votes may be counted only for names appearing on a list of declared write-in candidates.

(b) For an election to be held on a uniform election date, the day of the filing deadline is the 74th day before election day.

(c) A write-in candidate may not withdraw from the election after the 71st day before election day.

Added by Acts 2003, 78th Leg., ch. 1316, Sec. 35, eff. Sept. 1, 2003.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 6, eff. September 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 19, eff. September 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 11, eff. September 1, 2015.

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## CHAPTER 145. WITHDRAWAL, DEATH AND INELIGIBILITY OF CANDIDATE

### SUBCHAPTER A. GENERAL PROVISIONS

**Sec. 145.001. METHOD FOR WITHDRAWAL AS CANDIDATE.** (a) To withdraw from an election, a candidate whose name is to appear on the ballot must request that the candidate's name be omitted from the ballot.

(b) A withdrawal request must:

(1) be in writing and be signed and acknowledged by the candidate; and

(2) be timely filed with the appropriate authority or an agent of an authority only as expressly provided by this code.

(c) A withdrawal request filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(d) The time of a withdrawal is the time that an effective withdrawal request is filed.

(d-1) A withdrawal that is not filed in compliance with Subsection (b) has no legal effect and is not considered filed.

(e) This section does not apply to a candidate for president or vice-president of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 98, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 29, eff. September 1, 2011.

**Sec. 145.002. PROCEDURE FOR OMITTING DECEASED CANDIDATE'S NAME FROM BALLOT.** (a) Except as provided by Subsection (b), if a candidate's name is to be omitted from the ballot under this code because the candidate has died, the authority responsible for having the official ballot prepared shall omit the candidate's name from the ballot on receipt of reliable information of the death.

(b) If a deceased candidate's name has been certified by the secretary of state for placement on the ballot, the candidate's name may not be omitted from the ballot without authorization from the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.003. ADMINISTRATIVE DECLARATION OF INELIGIBILITY.** (a) Except for a judicial action in which a candidate's eligibility is in issue, a candidate may be declared ineligible only as provided by this section.

(b) Except as provided by Subsection (f-1), a candidate in the general election for state and county officers may be declared ineligible before the 30th day preceding election day by:

(1) the party officer responsible for certifying the candidate's name for placement on the general election ballot, in the case of a candidate who is a political party's nominee;

(2) the authority with whom the candidate's application for a place on the ballot is required to be filed, in the case of an independent candidate; or

(3) the secretary of state, if the candidate is ineligible under Subsection (f)(3).

(c) A candidate in an election other than the general election for state and county officers may be declared ineligible before the beginning of early voting by personal appearance by the authority with whom an application for a place on the ballot for the office sought by the candidate is required to be filed.

(d) The presiding officer of the final canvassing authority for the office sought by a candidate may declare the candidate ineligible after the polls close on election day and, except as provided by Subsection (e), before a certificate of election is issued.

(e) In the case of a candidate for governor or lieutenant governor, a declaration of ineligibility by the final canvassing authority's presiding officer may not be made after the final canvass for that office is completed.

(f) A candidate may be declared ineligible only if:

(1) the information on the candidate's application for a place on the ballot indicates that the candidate is ineligible for the office;

(2) facts indicating that the candidate is ineligible are conclusively established by another public record; or

(3) the candidate fails to pay the filing fee or submit a petition in lieu of a filing fee.

(f-1) A candidate may not be declared ineligible under Subsection (f)(3) after the 74<sup>th</sup> day preceding election day.

(g) When presented with an application for a place on the ballot or another public record containing information pertinent to a candidate's eligibility, the appropriate authority shall promptly review the record. If the authority determines that the record establishes ineligibility as provided by Subsection (f), the authority shall declare the candidate ineligible.

(h) If a candidate is declared ineligible after the deadline for omitting an ineligible candidate's name from the ballot, the authority making the declaration shall promptly certify in writing the declaration of ineligibility to the canvassing authority

for the election.

(i) If a candidate is declared ineligible, the authority making the declaration shall promptly give written notice of the declaration of ineligibility to the candidate.

(j) This section does not apply to a challenge on an application under Section 141.034.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.58; Acts 1991, 72nd Leg., ch. 554, Sec. 29, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 56, eff. Sept. 1, 1993; ; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 85, eff. Sept. 1, 2021; S.B. 994, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 145.004. FINAL JUDGMENT REQUIRED FOR ADJUDICATION OF INELIGIBILITY.** A candidate's entitlement to a place on the ballot or to a certificate of election is not affected by a judicial determination that the candidate is ineligible until a judgment declaring the candidate to be ineligible becomes final.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.005. EFFECT OF VOTES CAST FOR DECEASED, WITHDRAWN, OR INELIGIBLE CANDIDATE.** (a) If the name of a deceased, withdrawn, or ineligible candidate appears on the ballot under this chapter, the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for the other candidates.

(b) If the deceased, withdrawn, or ineligible candidate receives the vote required for election, the resulting vacancy shall be filled in the regular manner.

(c) If the deceased, withdrawn, or ineligible candidate and another candidate tie for the most votes in an election in which a plurality vote is sufficient for election, the other candidate is considered to be elected. If more than one other candidate is tied with the deceased, withdrawn, or ineligible candidate, the winner of the election shall be determined by resolving the tie between the other candidates in the regular manner for resolving a tie vote in the election.

(d) In a race in which a runoff is required, if the deceased, withdrawn, or ineligible candidate received the vote that would entitle the candidate to a place on the runoff election ballot or tied for that number of votes, the candidates in the runoff shall be determined in the regular manner but without regard to the votes received by the deceased, withdrawn, or ineligible candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 99, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 30, eff. September 1, 2011.

## **SUBCHAPTER B. PARTY NOMINEE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS**

**Sec. 145.031. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to a candidate who is a political party's nominee in the general election for state and county officers except a candidate for president or vice-president of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.032. DEADLINE FOR WITHDRAWAL.** A candidate may not withdraw from the general election after the 74th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 7, eff. September 1, 2005.

**Sec. 145.033. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED.** A candidate must file a withdrawal request with:

- (1) the secretary of state, for a statewide or district office; or
- (2) the authority responsible for having the official ballot prepared, for a county or precinct office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.034. COPY OF WITHDRAWAL REQUEST DELIVERED TO EXECUTIVE COMMITTEE.** At the same time a withdrawal request is filed, a candidate must deliver a copy of the request to the chair of the executive committee authorized to fill a vacancy in the nomination. If a vacancy exists in the office of chair of a precinct or district executive committee, the copy must be delivered to:

- (1) the chair of the state executive committee, for a district office; or
- (2) the chair of the county executive committee, for a precinct office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 100, eff. Sept. 1, 1997.

**Sec. 145.035. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT.**

A candidate's name shall be omitted from the ballot if the candidate withdraws, dies, or is declared ineligible on or before the 74th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 7, eff. September 1, 2005.

**Sec. 145.036. FILLING VACANCY IN NOMINATION.** (a) Except as provided by Subsections (b) and (b-1), if a candidate's name is to be omitted from the ballot under Section 145.035, the political party's state, district, county, or precinct executive committee, as appropriate for the particular office, may nominate a replacement candidate to fill the vacancy in the nomination.

(b) An executive committee may make a replacement nomination following a withdrawal only if:

(1) the candidate:

(A) withdraws because of a catastrophic illness that was diagnosed after the first day after the date of the regular filing deadline for the general primary election and the illness would permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought; and

(B) files with the withdrawal request a certificate describing the illness and signed by at least two licensed physicians;

(2) no political party that held primary elections has a nominee for the office sought by the withdrawing candidate as of the time of the withdrawal; or

(3) the candidate has been elected or appointed to fill a vacancy in another elective office or has become the nominee for another office.

(b-1) An executive committee may make a replacement nomination following an administrative declaration of ineligibility under Section 145.003(f)(3) only if the replacement candidate pays the filing fee or submits a petition in lieu of a filing fee.

(c) Under the circumstances described by Subsection (b)(2), the appropriate executive committee of each political party making nominations for the general election for state and county officers may make a replacement nomination for the office sought by the withdrawing candidate.

(d) For the purpose of filling a vacancy, a majority of the committee's membership constitutes a quorum. To be nominated, a person must receive a favorable vote of a majority of the members voting.

(e) A vacancy in a nomination for a district, county, or precinct office that was made by primary election may not be filled before the beginning of the term of office of the county executive committee members elected in the year in which the vacancy occurs.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 20, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 337, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 101, eff. Sept. 1, 1997; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 12, eff. September 1, 2015; H.B. 1735, 85th Leg., R.S., Sec. 24, eff. Sept. 1, 2017; S.B. 994, 88th Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 145.037. CERTIFICATION OF REPLACEMENT NOMINEE FOR PLACEMENT ON BALLOT.** (a) For the name of a replacement nominee to be placed on the general election ballot, the chair of the executive committee making the replacement nomination must certify in writing the nominee's name for placement on the ballot as provided by this section.

(b) The certification must be signed and acknowledged by the chair.

(c) In addition to the name of the replacement nominee, the certification must include:

(1) the replacement nominee's residence address and mailing address, if different from the residence address;

(2) the name of the original nominee;

(3) the office sought, including any place number or other distinguishing number;

(4) the cause of the vacancy;

(5) an identification of the executive committee making the replacement nomination; and

(6) the date of the replacement nomination.

(d) The chair must deliver the certification to:

(1) the secretary of state, for a statewide or district office; or

(2) the authority responsible for having the official ballot prepared, for a county or precinct office.

(e) The certification must be delivered not later than 5 p.m. of the 71st day before election day.

(f) A certification of a replacement nominee that is delivered by mail is considered to be delivered at the time of its receipt by the appropriate authority.

(g) A replacement nominee's name may not be certified if, before delivering the certification, the certifying authority



learns that the replacement nominee's name is to be omitted from the ballot under Section 145.035.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 102, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 8, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 20, eff. September 1, 2011.

**Sec. 145.038. FAILURE OF DISTRICT EXECUTIVE COMMITTEE TO MAKE REPLACEMENT NOMINATION.**

(a) If a political party's district executive committee fails to nominate a replacement candidate to fill a vacancy in a nomination for a district office, the state executive committee may nominate a candidate to fill the vacancy.

(b) The state chair must deliver the certification of the replacement nominee not later than 5 p.m. of the 69th day before election day.

(c) A certification of a replacement nominee that is delivered by mail is considered to be delivered at the time of its receipt by the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 102, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 9, eff. September 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 21, eff. September 1, 2011.

**Sec. 145.039. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT.** If a candidate dies or is declared ineligible after the 74th day before election day, the candidate's name shall be placed on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 10, eff. September 1, 2005.

**SUBCHAPTER C. INDEPENDENT CANDIDATE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS**

**Sec. 145.061. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to an independent candidate in the general election for state and county officers except a candidate for president or vice-president of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.062. DEADLINE FOR WITHDRAWAL.** A candidate may not withdraw from the general election after the 74th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 11, eff. September 1, 2005.

**Sec. 145.063. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED.** A candidate must file a withdrawal request with the authority with whom the candidate's application for a place on the ballot is required to be filed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.064. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT.**

(a) Except as provided by Subsection (b), a candidate's name shall be omitted from the ballot if the candidate withdraws, dies, or is declared ineligible on or before the 74th day before election day.

(b) The name of a deceased candidate may not be omitted if:

(1) the decedent was the incumbent in the office for which the decedent was a candidate; or

(2) no other candidate's name is to appear on the ballot in the race in which the decedent was a candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 104, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 11, eff. September 1, 2005.

**Sec. 145.065. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT.** If a candidate dies or is declared ineligible after the 74th day before election day, the candidate's name shall be placed on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 11, eff. September 1, 2005.

**SUBCHAPTER D. CANDIDATE IN ELECTION OTHER THAN GENERAL ELECTION FOR STATE AND**

## COUNTY OFFICERS

**Sec. 145.091. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to a candidate in a general or special election, except the general election for state and county officers.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.092. DEADLINE FOR WITHDRAWAL.** (a) Except as otherwise provided by this section, a candidate may not withdraw from an election after 5 p.m. of the fifth day after the deadline for filing the candidate's application for a place on the ballot.

(b) A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 62nd day before election day may not withdraw from the election after 5 p.m. of the 57th day before election day.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1164, Sec. 44, eff. September 1, 2011.

(d) A candidate in a runoff election may not withdraw from the election after 5 p.m. of the third day after the date of the final canvass for the main election.

(e) Section 1.006 does not apply to this section.

(f) A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 78th day before election day may not withdraw from the election after 5 p.m. of the 71st day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 472, Sec. 40, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.59; Acts 1991, 72nd Leg., ch. 554, Sec. 30, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 925, Sec. 5, eff. Nov. 1, 2003; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 12, eff. September 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 31, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 44, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 22, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. 904), Sec. 3, eff. September 1, 2013; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 13, eff. September 1, 2015.

**Sec. 145.093. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED.** (a) A candidate must file a withdrawal request with the authority with whom applications for a place on the ballot are required to be filed.

(b) If the authority with whom applications for a place on the ballot are required to be filed is not responsible for having the official ballot prepared for the election, on the filing of a withdrawal request, the authority shall certify the candidate's name in writing as a withdrawn candidate and promptly deliver the certification to the authority responsible for having the official ballot prepared.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.094. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT.**

(a) The name of a candidate shall be omitted from the ballot if the candidate:

(1) dies before the second day before the date of the deadline for filing the candidate's application for a place on the ballot;

(2) withdraws or is declared ineligible within the time prescribed by Section 145.092(a), in an election subject to that section;

(3) withdraws or is declared ineligible within the time prescribed by Section 145.092(b), in an election subject to that section; or

(4) withdraws or is declared ineligible before 5 p.m. of the 71st day before election day, in an election subject to Section 145.092(f).

(b) This section does not apply to a runoff election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 41, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.60; Acts 1991, 72nd Leg., ch. 554, Sec. 31, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 925, Sec. 6, eff. Nov. 1, 2003; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 13, eff. September 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 32, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 23, eff. September 1, 2011.

**Sec. 145.095. EFFECT OF WITHDRAWAL FROM RUNOFF.** If a runoff candidate withdraws, the remaining candidate is considered to be elected and the runoff election for that office is not held.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.096. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON BALLOT.** (a) Except as provided by Subsection (b) or Section 145.098(b), a candidate's name shall be placed on the ballot if the candidate:

(1) dies on or after the second day before the deadline for filing the candidate's application for a place on the ballot;

(2) is declared ineligible after 5 p.m. of the fifth day after the deadline for filing the candidate's application for a place on the ballot, in an election subject to Section 145.092(a);

(3) is declared ineligible after 5 p.m. of the 57th day before election day, in an election subject to Section 145.092(b); or

(4) is declared ineligible after 5 p.m. of the 71st day before election day, in an election subject to Section 145.092(f).

(b) If a candidate in a runoff election dies or is declared ineligible before runoff election day, the candidate's name shall be placed on the runoff election ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 42, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.61; Acts 1991, 72nd Leg., ch. 554, Sec. 32, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 925, Sec. 7, eff. Nov. 1, 2003; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 14, eff. Sept. 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 24, eff. Sept. 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 14, eff. Sept. 1, 2013; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 14, eff. Sept. 1, 2015; H.B. 1067, 86<sup>th</sup> Leg., Sec. 1, eff. May 24, 2019.

**Sec. 145.097. HOME-RULE CITY CANDIDATE.** Provisions governing the withdrawal, death, or ineligibility of candidates for city offices prescribed by a home-rule city charter supersede this chapter to the extent of any conflict, except that this subchapter prevails in regard to an election subject to Section 145.092(f).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 15, eff. September 1, 2005.

**Sec. 145.098. WITHDRAWAL OR DEATH OF CANDIDATE BEFORE CERTAIN EVENTS OCCUR.** (a) If a candidate files a withdrawal request after the deadline prescribed by Section 145.092, and the candidate complies with each requirement under Section 145.001 except that the candidate's filing to withdraw is untimely, the authority responsible for preparing the ballots may choose to omit the candidate from the ballot if at the time the candidate files the withdrawal request:

(1) the ballots have not been prepared; and

(2) if using a voting system to which Chapter 129 applies, public notice of the test of logic and accuracy has not been published.

(b) If a candidate dies on or before the deadline for filing an application for a place on the ballot:

(1) the authority responsible for preparing the ballots may choose to omit the candidate from the ballot; and

(2) if the authority omits the candidate's name under Subdivision (1), the filing deadline for an application for a place on the ballot for the office sought by the candidate is extended until the fifth day after the filing deadline.

Added by H.B. 1661, 85<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2017; Amended by H.B. 1067, 86<sup>th</sup> Leg., eff. May 24, 2019; H.B. 4129, 86<sup>th</sup> Leg., eff. Sept. 1, 2019.

## CHAPTER 146. WRITE-IN CANDIDATE

### SUBCHAPTER A. WRITE-INS GENERALLY

**Sec. 146.001. WRITE-IN VOTES PERMITTED.** Except as otherwise provided by law, if the name of the person for whom a voter desires to vote does not appear on the ballot, the voter may write in the name of that person.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 146.002. WRITE-IN VOTING IN RUNOFF PROHIBITED.** Write-in voting is not permitted in a runoff election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

### SUBCHAPTER B. WRITE-IN CANDIDATE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

**Sec. 146.021. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to a write-in candidate for an office that is to be voted on at the general election for state and county officers.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 146.022. CANDIDATE'S NAME REQUIRED TO APPEAR ON LIST.** A write-in vote may not be counted unless the name written in appears on the list of write-in candidates required by Section 146.031.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 146.023. DECLARATION OF WRITE-IN CANDIDACY REQUIRED.** (a) To be entitled to a place on the list of write-in candidates, a candidate must make a declaration of write-in candidacy.

(b) A declaration of write-in candidacy must, in addition to satisfying the requirements prescribed by Section 141.031 for an application for a place on the ballot, be accompanied by the appropriate filing fee or, instead of the filing fee, a petition that satisfies the requirements prescribed by Subchapter C, Chapter 141.

(c) A candidate may not file a declaration of write-in candidacy for more than one office. If a person files more than one declaration of write-in candidacy in violation of this subsection, each declaration filed subsequent to the first one filed is invalid.

(d) A declaration of write-in candidacy is public information immediately on its filing.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 170, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 58, eff. Sept. 1, 1993.

**Sec. 146.0231. FILING FEE.** (a) The filing fee for a write-in candidate is the amount prescribed by Section 172.024 for a candidate for nomination for the same office in a general primary election.

(b) A filing fee received by the secretary of state shall be deposited in the state treasury to the credit of the general revenue fund.

(c) A filing fee received by the county judge shall be deposited in the county treasury to the credit of the county general fund.

Added by Acts 1991, 72nd Leg., ch. 170, Sec. 1, eff. Sept. 1, 1991.

**Sec. 146.0232. NUMBER OF PETITION SIGNATURES REQUIRED.** The minimum number of signatures that must appear on the petition authorized by Section 146.023(b) is the number prescribed by Section 172.025 to appear on a petition of a candidate for nomination for the same office in a general primary election.

Added by Acts 1991, 72nd Leg., ch. 170, Sec. 1, eff. Sept. 1, 1991.

**Sec. 146.024. AUTHORITY WITH WHOM DECLARATION FILED.** A declaration of write-in candidacy must be filed with:

(1) the secretary of state, for a statewide or district office; or

(2) the county judge, for a county or precinct office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 146.025. FILING PERIOD.** (a) Except as otherwise provided by this code, a declaration of write-in candidacy:

- (1) must be filed not later than 5 p.m. of the 78th day before general election day; and
- (2) may not be filed earlier than the 30th day before the date described by Subdivision (1).

(b) If a candidate whose name is to appear on the general election ballot dies or is declared ineligible after the third day before the date of the filing deadline prescribed by Subsection (a), a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 75th day before election day.

(c) A declaration of write-in candidacy filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 472, Sec. 43, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 59, eff. Sept. 1, 1993; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 16, eff. September 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 25, eff. September 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 15, eff. September 1, 2015.

**Sec. 146.026. REVIEW OF DECLARATION.** The authority with whom a declaration of write-in candidacy is filed shall review the declaration and take the appropriate action in the manner prescribed by Section 141.032 for the review of an application for a place on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 146.027. LIMITATION ON CHALLENGE OF DECLARATION.** A declaration of write-in candidacy may not be challenged for compliance with the applicable requirements after the 15th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 146.028. PRESERVATION OF DECLARATION.** A declaration of write-in candidacy shall be preserved in the same manner as a candidate's application for a place on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 146.029. CERTIFICATION OF CANDIDATE FOR PLACEMENT ON LIST OF WRITE-IN CANDIDATES.** (a) Except as provided by Section 146.030, the authority with whom a declaration of write-in candidacy is required to be filed shall certify in writing for placement on the list of write-in candidates the name of each candidate who files with the authority a declaration that complies with Section 146.023(b). If no name is to be certified, the authority shall certify that fact in writing.

(b) Each name shall be certified in the form indicated on the candidate's declaration of write-in candidacy, subject to Subchapter B, Chapter 52.

(c) Not later than the 68th day before election day, the certifying authority shall deliver the certification to the authority responsible for having the official ballot prepared in each county in which the office sought by the candidate is to be voted on.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 43, eff. Sept. 1, 1987.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 17, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 26, eff. September 1, 2011.

**Sec. 146.030. CANDIDATE NOT CERTIFIED.** A write-in candidate may not be certified for placement on the list of write-in candidates if:

(1) the information on the candidate's declaration of write-in candidacy indicates that the candidate is ineligible for the office;

(2) facts indicating that the candidate is ineligible are conclusively established by another public record;

(3) the candidate is determined ineligible by a final judgment of a court;

(4) the candidate's declaration of write-in candidacy is invalid for the office under Section 146.023(c); or

(5) the certifying authority learns that the candidate's name is to be omitted from the list under Section 146.0301.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 60, eff. Sept. 1, 1993.

**Sec. 146.0301. WITHDRAWAL AS WRITE-IN CANDIDATE.** (a) A write-in candidate may not withdraw from the election after the 71st day before election day.

(b) To withdraw from the election, a write-in candidate must file a written withdrawal request, signed and acknowledged by the candidate, with the authority with whom the candidate's declaration of write-in candidacy is required to be filed.

(c) A withdrawal request filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(d) A candidate's name shall be omitted from the list of write-in candidates if the candidate withdraws on or before the 71st day before election day.

(e) Not later than the day after the date the withdrawal request is received, the appropriate authority shall deliver a

written notice of the withdrawal of any candidate previously certified under Section 146.029 to the same authority to whom the certification was delivered.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 61, eff. Sept. 1, 1993.

Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.22, eff. September 1, 2005; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 18, eff. September 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 14, eff. September 1, 2009; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 16, eff. September 1, 2015.

**Sec. 146.031. LIST OF WRITE-IN CANDIDATES.** (a) The authority responsible for having the official ballot prepared shall prepare a list containing the name of each write-in candidate certified to the authority. Each name must appear in the form in which it is certified.

(b) A write-in candidate's name may not appear more than once on the list.

(c) Copies of the list shall be distributed to the counting officers in the election for use in counting write-in votes.

(d) Copies of the list shall be distributed to each presiding election judge with the other election supplies. A copy of the list shall be posted in each polling place at each place where an instruction poster is required to be posted.

(e) The authority responsible for having the official ballot prepared shall retain a copy of the list and preserve it for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 62, eff. Sept. 1, 1993.

**Sec. 146.032. OFFICIAL DECLARATION FORM.** An officially prescribed form for a declaration of write-in candidacy must include the elements required by Section 141.039 to be included in an official form for an application for a place on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

### **SUBCHAPTER C. WRITE-IN CANDIDATE IN CITY ELECTION**

**Sec. 146.051. CANDIDATE'S NAME REQUIRED TO APPEAR ON LIST.** In an election for city officers, a write-in vote may not be counted unless the name written in appears on the list of write-in candidates.

Added by Acts 1991, 72nd Leg., ch. 363, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 215, Sec. 1, eff. Sept. 1, 2001.

**Sec. 146.052. DECLARATION OF WRITE-IN CANDIDACY REQUIRED.** To be entitled to a place on the list of write-in candidates, a candidate must make a declaration of write-in candidacy.

Added by Acts 1991, 72nd Leg., ch. 363, Sec. 1, eff. Sept. 1, 1991.

**Sec. 146.053. AUTHORITY WITH WHOM DECLARATION FILED.** A declaration of write-in candidacy must be filed with the authority with whom an application for a place on the ballot is required to be filed in the election.

Added by Acts 1991, 72nd Leg., ch. 363, Sec. 1, eff. Sept. 1, 1991.

**Sec. 146.054. FILING DEADLINE.** (a) Except as provided by Subsection (b), a declaration of write-in candidacy must be filed not later than 5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed.

(b) For an election to be held on a uniform election date, the day of the filing deadline is the 74th day before election day.

(c) A write-in candidate may not withdraw from the election after the 71st day before election day.

Added by Acts 1991, 72nd Leg., ch. 363, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 667, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1349, Sec. 56, eff. Sept. 1, 1997.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 19, eff. September 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 27, eff. September 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 17, eff. September 1, 2015.

**Sec. 146.055. APPLICABILITY OF OTHER CODE PROVISIONS.** Subchapter B applies to write-in voting in an election for city officers except to the extent of a conflict with this subchapter.

Added by Acts 1991, 72nd Leg., ch. 363, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 2001, 77th Leg., ch. 215, Sec. 1, eff. Sept. 1, 2001.

### **SUBCHAPTER D. WRITE-IN CANDIDATE IN SPECIAL ELECTION TO FILL VACANCY IN LEGISLATURE**

**Sec. 146.081. CANDIDATE'S NAME REQUIRED TO APPEAR ON LIST.** In a special election to fill a vacancy in the

legislature, a write-in vote may not be counted unless the name written in appears on the list of write-in candidates.

Added by Acts 2001, 77th Leg., ch. 17, Sec. 3, eff. Jan. 1, 2002.

**Sec. 146.082. DECLARATION OF WRITE-IN CANDIDACY REQUIRED.** To be entitled to a place on the list of write-in candidates, a candidate must file a declaration of write-in candidacy with the secretary of state.

Added by Acts 2001, 77th Leg., ch. 17, Sec. 3, eff. Jan. 1, 2002.

**Sec. 146.083. FILING DEADLINE.** A declaration of write-in candidacy must be filed not later than 5 p.m. on the date an application for a place on the ballot is required to be filed. A write-in candidate may not withdraw from an election after 5 p.m. of the fifth day after the deadline for filing a declaration of write-in candidacy.

Added by Acts 2001, 77th Leg., ch. 17, Sec. 3, eff. Jan. 1, 2002.

Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.23, eff. September 1, 2005; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 18, eff. September 1, 2015.

**Sec. 146.084. APPLICABILITY OF OTHER CODE PROVISIONS.** Subchapter B applies to write-in voting in a special election to fill a vacancy in the legislature except to the extent of a conflict with this subchapter.

Added by Acts 2001, 77th Leg., ch. 17, Sec. 3, eff. Jan. 1, 2002.

# TITLE 10. POLITICAL PARTIES

## SUBTITLE A. INTRODUCTORY PROVISIONS

### CHAPTER 161. GENERAL PROVISIONS

**Sec. 161.001. INHERENT POWERS.** A political party retains all of its inherent powers except as limited by this code.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 161.002. PARTY NAME.** (a) The name of a political party as printed on the ballot for an election may not consist of more than three words.

(b) A party may not select for its name a name previously assumed by another existing party.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 161.003. METHODS OF MAKING NOMINATIONS.** A political party may make nominations for public office only by the methods provided by this code.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 161.004. PARTY DOCUMENT AS PUBLIC INFORMATION.** If a document, record, or other paper is expressly required by this title to be filed, prepared, or preserved, it is public information unless this title provides otherwise.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 161.005. ELIGIBILITY FOR PARTY OFFICES GENERALLY.** (a) To be eligible to be a candidate for or to serve as an officer of a political party, a person must:

(1) except as provided by Subsection (c), not be a candidate for nomination or election to, or be the holder of, an elective office of the federal, state, or county government; and

(2) if the office is a county or precinct chair of a political party, be a qualified voter of the county.

(a-1) For purposes of this section, the following are officers of a political party:

(1) a precinct chair;

(2) a county chair; and

(3) a member, a chair, or a vice chair of a state

executive committee of a political party.

(b) For purposes of this section, a person becomes a candidate at the earliest time at which one of the following occurs:

(1) the person files:

(A) a declaration of intent to run as an independent candidate;

(B) an application for a place on a primary or general election ballot or for nomination by a convention; or

(C) a declaration of write-in candidacy; or

(2) the person is nominated by a convention or executive committee.

(c) A candidate for nomination or election to, or the holder of, an elective office of the federal, state, or county government is eligible to serve as an officer of a political party to which Chapter 181 applies.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 105, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 576 (S.B. 817), Sec. 1, eff. June 14, 2013; H.B. 1987, 87th Leg., R.S., Sec. 1, eff. Sept. 1, 2021.

**Sec. 161.006. HOLDING PRECINCT CONVENTION OF MORE THAN ONE PARTY IN SAME BUILDING.** A political party may not hold a precinct convention in the same building in which another party is holding a precinct convention on the same day unless:

(1) the rooms in which the conventions are held are separated so that communication from one room to the other is precluded; and

(2) a sign in bold print identifying the party holding the convention is posted at the entrance to each room.



Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 57, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1350, Sec. 7, eff. Sept. 1, 1997.

**Sec. 161.007. UNLAWFULLY PROHIBITING EMPLOYEE FROM ATTENDING POLITICAL CONVENTION.** (a) A person commits an offense if, with respect to another over whom the person has authority in the scope of employment, the person knowingly:

(1) refuses to permit the other person to be absent from work for the purpose of attending a precinct convention in which the other person is eligible to participate or attending a county, district, or state convention to which the other person is a delegate; or

(2) subjects or threatens to subject the other person to a penalty for the purpose of preventing or retaliating for the other person's attendance at a precinct convention in which the other person is eligible to participate or for the other person's attendance at a county, district, or state convention to which the other person is a delegate.

(b) In this section, "penalty" means a loss or reduction of wages or other benefit of employment other than a deduction for the actual time of absence from work.

(c) An offense under this section is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 106, eff. Sept. 1, 1997.

**Sec. 161.008. CERTIFICATION OF NOMINEES FOR STATEWIDE AND DISTRICT OFFICES FOR PLACEMENT ON GENERAL ELECTION BALLOT.** (a) Except as provided by Subsection (c), the secretary of state shall certify in writing for placement on the general election ballot the name of each candidate nominated at a primary election or convention of a political party for a statewide or district office.

(b) Not later than the 68th day before general election day, the secretary of state shall deliver the certification to the authority responsible for having the official general election ballot prepared in each county in which the candidate's name is to appear on the ballot. The secretary of state may deliver the certification by notifying the authority that the candidates posted on the secretary of state's Internet website are the candidates certified. In addition to the other methods of delivering the certification under this section, the secretary of state shall deliver a copy of the certification to the authority by e-mail.

(c) A candidate's name may not be certified if, before delivering the certification, the secretary of state learns that the name is to be omitted from the ballot under Section 145.035.

(d) In conjunction with the certification required under Subsection (a), the secretary of state shall include appropriate ballot translation language, as applicable, for each language certified statewide or in a specific county by the director of the census under 42 U.S.C. Section 1973aa-1a.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 20, eff. September 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1014 (H.B. 2477), Sec. 2, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 28, eff. September 1, 2011; H.B. 2640, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019.

**Sec. 161.009. PARTY OFFICER SUBJECT TO MANDAMUS.** The performance of a duty placed by this code on an officer of a political party is enforceable by writ of mandamus in the same manner as if the party officer were a public officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 161.010. CHALLENGING CONVENTION DELEGATES.** A political party holding a convention under this title may provide by rule for challenging the qualifications of the convention delegates and for replacing unqualified delegates.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **CHAPTER 162. REGULATING PARTICIPATION IN PARTY AFFAIRS**

**Sec. 162.001. AFFILIATION WITH PARTY REQUIRED.** (a) A person must be affiliated with a political party to be eligible:

- (1) to serve as a delegate to or otherwise participate in a convention held by the party under this code;
- (2) to be elected as a member of or be appointed to fill a vacancy on a state executive committee;
- (3) to be appointed to fill a vacancy on a county executive committee; or
- (4) for any other purpose within the party as adopted by state party rules.

(b) The affiliation requirement prescribed by Subsections (a)(2) and (3) applies only during a voting year in which the general election for state and county officers is held and does not apply until:

- (1) general primary election day, for a party holding a primary election; or
- (2) the date of the precinct conventions held under this title, for a party nominating by convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 1, eff. June 14, 2013.

**Sec. 162.002. ELIGIBILITY TO AFFILIATE.** To be eligible to affiliate with a political party, a person must be:

- (1) a registered voter; or
- (2) eligible to vote a limited ballot at the time of affiliating.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 162.003. AFFILIATION BY VOTING IN PRIMARY.** A person becomes affiliated with a political party when the person:

- (1) is accepted to vote in the party's primary election; or
- (2) returns an early voting or limited primary ballot voted by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.62; Acts 1991, 72nd Leg., ch. 554, Sec. 33, eff. Sept. 1, 1991; H.B. 2640, 86<sup>th</sup> Leg., Sec. 3, eff. Sept. 1, 2019.

**Sec. 162.004. AFFILIATION PROCEDURE: VOTING AT POLLING PLACE.** (a) The signature roster for a primary election must state at the top of each page: "A person commits a criminal offense if the person knowingly votes in a primary election or participates in a convention of a party after having voted in a primary election or participated in a convention of another party during the same voting year."

(a-1) An election officer shall stamp a voter registration certificate with a party affiliation under Subsection (b) or provide an affiliation certificate under Subsection (c) unless, not later than the 90th day before the date of the primary election, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification of attendance at a precinct convention.

(b) Subject to Subsection (a-1), an election officer at a primary election polling place shall stamp the party's name in the party affiliation space of the registration certificate of each voter who presents the voter's registration certificate and is accepted to vote unless the party name has already been stamped in the space.

(c) Subject to Subsection (a-1), if a voter is accepted to vote without presenting a registration certificate, the presiding judge shall issue the voter an affiliation certificate. The certificate is not required to be issued to a voter in a runoff primary unless the voter requests it. The affiliation certificate may be combined with the notice provided under Section 172.1114. If the combined form is used, an election officer is not required to comply with Subsection (b).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 107, eff. Sept. 1, 1997; H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 25, eff. Sept. 1, 2017; H.B. 2640, 86<sup>th</sup> Leg., Sec. 4, eff. Sept. 1, 2019.

**Sec. 162.005. AFFILIATION PROCEDURE: EARLY VOTING BY MAIL.** Subject to Section 162.004(a-1), the early voting clerk in a general primary election shall provide an affiliation certificate with each early voting or limited ballot to be voted by mail. The certificate is not required to be provided to an applicant for a runoff primary ballot unless the applicant requests it.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.63; Acts 1991, 72nd Leg., ch. 554, Sec. 34, eff. Sept. 1, 1991; H.B. 2640, 86<sup>th</sup> Leg., Sec. 5, eff. Sept. 1, 2019.

**Sec. 162.006. AFFILIATION BY TAKING OATH.** A person becomes affiliated with a political party when the person takes an oath of affiliation as provided by Section 162.007 or 162.008.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 162.007. AFFILIATION PROCEDURE: TAKING OATH AT PRECINCT CONVENTION.** (a) This section applies only to a precinct convention held under this title by a political party making nominations by convention.

(b) On admitting a person for participation in the convention, the temporary chair shall administer to the person the following oath: "I swear that I have not voted in a primary election or participated in a convention of another party during this voting year. I hereby affiliate myself with the \_\_\_\_\_ Party."

(c) After administering the oath, the temporary chair shall request the person's registration certificate and stamp the party's name in the party affiliation space unless the party name has already been stamped in the space. If the person does not present a registration certificate, the temporary chair on the person's request shall issue the person an affiliation certificate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 108, eff. Sept. 1, 1997.

**Sec. 162.008. AFFILIATION PROCEDURE: TAKING OATH GENERALLY.** (a) A person may affiliate with a political party at any time by taking an oath of affiliation.

(b) On request of a person desiring to affiliate with a political party, a member of the county executive committee for the county in which the person resides or other person authorized by party rule shall administer the following oath: "I swear that I have not voted in a primary election or participated in a convention of another party during this voting year. I hereby affiliate myself with the \_\_\_\_\_ Party."

(c) After administering the oath, the committee member or authorized person may stamp the party's name in the party affiliation space unless the party name has already been stamped in the space. If the person does not present a registration certificate, the committee member or authorized person on the person's request shall issue the person an affiliation certificate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 109, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 58, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 2, eff. June 14, 2013; H.B. 2640, 86th Leg., Sec. 6, eff. Sept. 1, 2019.

**Sec. 162.009. CONTENTS OF AFFILIATION CERTIFICATE.** The authority issuing an affiliation certificate under this chapter shall enter on the certificate:

- (1) the name of the person to whom the certificate is issued;
- (2) the name of the political party of the affiliation;
- (3) the name and official position of the issuing authority;
- (4) the party function at which the affiliation occurred, if applicable; and
- (5) the date of affiliation.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 162.010. DURATION OF AFFILIATION.** (a) Except as provided by Subsection (b), a party affiliation expires at the end of the voting year in which the person became affiliated.

(b) A party affiliation made in an odd-numbered year expires on the first day on which a person may file an application for a place on the general primary election ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 3, eff. June 14, 2013.

**Sec. 162.011. PRESENTATION OF FALSE EVIDENCE OF AFFILIATION PROHIBITED.** (a) A person commits an offense if for the purpose of participating in a political party's convention or other party meeting or event the person presents to a party official:

- (1) an affiliation certificate that the person knows was not issued in compliance with this chapter; or
- (2) a voter registration certificate with a party affiliation stamp that the person knows was not obtained in compliance with this chapter.

(b) An offense under this section is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 4, eff. June 14, 2013.

**Sec. 162.012. INELIGIBILITY TO AFFILIATE WITH ANOTHER PARTY.** A person who is affiliated with a political party is ineligible to become affiliated with another political party during the same voting year.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 162.013. VOID VOTE.** A vote in a primary election is void if the voter previously voted in a primary election of another party or participated in a convention of another party during the same voting year.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 162.014. UNLAWFUL PARTICIPATION IN PARTY AFFAIRS.** (a) A person commits an offense if the person knowingly votes or attempts to vote in a primary election or participates or attempts to participate in a convention of a party after having voted in a primary election or participated in a convention of another party during the same voting year.

(b) Except as provided by Subsections (c) and (d), an offense under this section is a Class C misdemeanor.

(c) An offense under this section is a felony of the second degree if the conduct constituting an offense under Subsection (a) consists of knowingly voting in a primary election after having voted in a primary election of another party during the same voting year.

(d) An offense under this section is a state jail felony if the conduct constituting an offense under Subsection (a) consists of knowingly attempting to vote in a primary election after having voted in a primary election of another party during the same voting year.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 26, eff. Sept. 1, 2017.

**Sec. 162.015. RESTRICTIONS ON CANDIDACY IN GENERAL ELECTION BY CANDIDATE OR VOTER IN PRIMARY.** (a) A person who voted at a primary election or who was a candidate for nomination in a primary is ineligible for a place on the ballot for the succeeding general election for state and county officers as:

(1) an independent candidate for an office for which a candidate was nominated in the primary; or

(2) the nominee of a political party other than the party holding the primary in which the person voted or was a candidate.

(b) A person who was a candidate for nomination in a primary election is ineligible for a place on the list of write-in candidates for the succeeding general election for state and county officers as a write-in candidate for the office sought by that candidate in the primary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 363, Sec. 2, eff. Sept. 1, 1991.

**Sec. 162.016. WITHDRAWN CONVENTION NOMINEE INELIGIBLE FOR ANOTHER NOMINATION.** If a person nominated by a convention withdraws from the general election for state and county officers, the person is ineligible for a place on the general election ballot as the party's nominee for another office unless the second nomination is for an unexpired term for which the vacancy occurred too late for a convention to make a nomination under Section 202.005.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 162.017. PREREGISTRATION.** (a) A political party holding a precinct convention may preregister attendees for the convention by electronic means or any other method the party may adopt by rule.

(b) The party may, through the preregistration process, collect the following information from attendees:

(1) demographic data;

(2) information needed to organize and prepare records of the convention; and

(3) any additional information required by party rule.

(c) In a presidential election year, the party may collect through preregistration declarations of support for presidential candidates or a statement of uncommitted status. The party may by rule use this information to aid in the selection of delegates to its county or senatorial district convention.

(d) If a political party collects declarations of support for presidential candidates or a statement of uncommitted status through preregistration under Subsection (c), it must employ a process by which an attendee may change the attendee's stated preference before the precinct convention.

(e) The preregistration process must include the statement described by Section 162.004(a) and require a preregistering attendee to affiliate with the party by taking the oath described in Section 162.007(b).

(f) The date and time at which preregistration opens and closes may be set by party rule.

(g) A person who does not preregister to attend a precinct convention under this section may register in person at the convention and must have voting rights identical to those of a person who preregistered.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 5, eff. June 14, 2013.

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## CHAPTER 163. PARTY RULES

**Sec. 163.001. APPLICABILITY OF CHAPTER.** This chapter applies only to a political party that has a state executive committee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 163.002. REQUIRED RULES.** A political party that makes nominations in this state shall adopt rules that:

(1) prescribe the parliamentary procedure governing the conduct of party meetings and conventions from the precinct level to the state level, including:

- (A) quorums;
- (B) casting and counting votes;
- (C) operation of executive committees;
- (D) appointment and duties of convention committees; and
- (E) presentation of matters before a convention;

(2) prescribe the method of selecting the party's presidential elector candidates;

(3) prescribe the manner of selecting party officers, convention delegates, any convention alternates, and convention officials;

(4) provide for representative apportionment of party officers, convention delegates, any convention alternates, and convention officials throughout the state on the basis of population, party strength, or both, within the appropriate territorial unit;

(5) provide for periodic publication and publicizing of party rules; and

(6) prescribe the manner of adopting party rules and amendments to the rules.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 576 (S.B. 817), Sec. 2, eff. June 14, 2013.

**Sec. 163.003. CONSISTENCY WITH STATE LAW.** The rules adopted by a political party must be consistent with state law.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 163.004. ADOPTING RULES.** (a) A political party's rules, including amendments to rules, governing or affecting its general or runoff primary elections, conventions held under this code, or nominees may be adopted only by:

(1) a state convention; or

(2) the state executive committee as:

(A) a temporary rule, if adoption before the next state convention is necessary; or

(B) a permanent rule, if the state executive committee is expressly required or authorized by statute to adopt a rule.

(b) A temporary rule must be considered by the first state convention following its adoption. The state convention may rescind, modify, or ratify the temporary rule. If the state convention fails to act, the temporary rule expires on the day after the date the convention adjourns.

(c) In this chapter, "rule on electoral affairs" means a rule or amendment of the class described by Subsection (a).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 8, eff. Sept. 1, 1987.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 6, eff. June 14, 2013.

**Sec. 163.005. FILING AND POSTING RULES; EFFECTIVE DATE.** (a) The state chair shall file a copy of each rule on electoral affairs with the secretary of state.

(b) Except as provided by Section 163.006, the rule shall be filed not later than the 30th day after the date of its adoption.

(c) If the state chair fails to make a timely filing, any member of the state executive committee may make the filing.

(d) A filing must be accompanied by a written statement signed by the state chair or any two members of the state executive committee indicating whether the rule is temporary or permanent.

(e) A rule on electoral affairs is not effective until filed.

(f) All rules, temporary or permanent, shall be posted on the state party's Internet website.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 110, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 7, eff. June 14, 2013; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 8, eff. June 14, 2013.

**Sec. 163.006. DEADLINE FOR FILING CERTAIN RULES.** (a) A rule on electoral affairs that is to become effective in a year in which the party will hold precinct conventions under this title must be filed with the secretary of state and posted on the party's Internet website not later than the 30th day before the date the party convenes its earliest precinct conventions. The secretary of state may extend this deadline for good cause.

(b) If a political party fails to file a rule as provided by Subsection (a), the party is not entitled to have its nominees placed on the ballot for the general election for state and county officers.

(c) Before general primary election day, the secretary of state shall notify the authority responsible for having the official general election ballot prepared in each county of each political party that failed to file a rule as provided by Subsection (a) and shall order those authorities to omit the party's nominees from the general election ballot.

(d) Before January 15 of each year in which political parties hold precinct conventions under this title, the secretary of state shall deliver written notice of the requirements of this section to the state chair of each party that had a nominee for a statewide or district office on the most recent general election ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 111, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 9, eff. June 14, 2013.

**Sec. 163.007. RULES ENFORCEABLE BY MANDAMUS.** A rule on electoral affairs is enforceable by writ of mandamus in the same manner as if the rule were a statute.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## SUBTITLE B. PARTIES NOMINATING BY PRIMARY ELECTION

### CHAPTER 171. ORGANIZATION

#### SUBCHAPTER A. STATE EXECUTIVE COMMITTEE

**Sec. 171.001. STATE EXECUTIVE COMMITTEE ESTABLISHED.** A state executive committee is established as provided by this subchapter for each political party holding a primary election in this state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 171.002. COMMITTEE COMPOSITION.** (a) The state executive committee consists of two members from each state senatorial district or congressional district, as determined by party rule. One of each district's members must be a man and the other a woman.

(b) In addition to the members representing the senatorial or congressional districts, the committee has a chair and a vice chair, one of whom must be a man and the other a woman. Except as otherwise provided by party rule, the chair and vice chair are considered members of the committee.

(c) The chair, vice chair, and members representing the senatorial or congressional districts are elected at the party's biennial state convention. However, the chair, vice chair, and members may be elected for four-year terms at the state convention held in gubernatorial election years. Each holds office until a successor is elected and assumes office.

(d) The members elected to represent a particular senatorial or congressional district must be those recommended by the convention delegates representing that senatorial or congressional district.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 112, eff. Sept. 1, 1997; H.B. 2640, 86<sup>th</sup> Leg., Sec. 7, eff. Sept. 1, 2019.

**Sec. 171.003. FILLING VACANCY.** (a) The state executive committee shall fill by appointment any vacancy on the committee, including a vacancy in the office of chair or vice chair.

(b) A majority of the committee's membership constitutes a quorum for the purpose of filling a vacancy. To be elected, a person must receive a favorable vote of a majority of the members voting.

(c) To be eligible to serve as a replacement to fill a vacancy in a membership representing a senatorial or congressional district, a person must reside in the district.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 113, eff. Sept. 1, 1997; H.B. 2640, 86<sup>th</sup> Leg., Sec. 8, eff. Sept. 1, 2019.

**Sec. 171.004. PROXY.** (a) To participate in a state executive committee meeting as a proxy for a member representing a senatorial or congressional district, a person must reside in that district.

(b) A person may not hold more than one proxy at any meeting.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; H.B. 2640, 86<sup>th</sup> Leg., Sec. 9, eff. Sept. 1, 2019.

#### SUBCHAPTER B. COUNTY EXECUTIVE COMMITTEE

**Sec. 171.021. COUNTY EXECUTIVE COMMITTEE ESTABLISHED.** For each county in which a primary election is held, a county executive committee is established as provided by this subchapter for the political party holding the primary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 171.022. COMMITTEE COMPOSITION.** (a) A county executive committee consists of:

(1) a county chair, who is the presiding officer, elected at the general primary election by majority vote of the qualified voters of the county who vote in the primary on that office or appointed by the county executive committee as provided by this subchapter; and

(2) a precinct chair from each county election precinct, elected at the general primary by majority vote of the qualified voters of the precinct who vote in the primary on that office, subject to Section 171.0221, or appointed by the county executive committee as provided by this subchapter.



(b) Except as provided by Subsection (d), if no candidate receives a majority of the votes, a runoff to determine the office is conducted in the same manner as a runoff primary election to determine a nomination for public office. The candidates to be in a runoff are determined in the same manner as candidates in a runoff for a nomination.

(c) Each committee member serves for a term of two years beginning the 20th day after runoff primary election day.

(d) The state executive committee by rule may provide for the election of the county chair or precinct chairs of a particular county by plurality vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 63, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 499, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 864, Sec. 114, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 59, eff. Sept. 1, 1997.

**Sec. 171.0221. ELECTION NOT HELD FOR OFFICE OF PRECINCT CHAIR.** (a) If only one candidate's name is to be placed on the ballot for the office of precinct chair and no candidate's name is to be placed on the list of write-in candidates for that office, the election for that office is not held, and the unopposed candidate, if otherwise eligible, shall be declared elected to the office at the time of the local canvass.

(b) The county chair shall prepare a document that shall be posted that states: "Pursuant to Section 171.0221, Election Code, (insert name of unopposed candidate for precinct chair), if otherwise eligible, shall be declared elected to the office of precinct chair at the time of the local canvass." The county chair or entity contracted to hold the election shall distribute copies of the document to the presiding judge of the election precinct with the other election supplies. An election officer shall post the document in one or more locations in the polling place where it can be read by persons waiting to vote.

(c) The county chair shall post the name of a candidate declared elected under Subsection (a) at a public place in the election precinct.

Added by Acts 1997, 75th Leg., ch. 499, Sec. 2, eff. Sept. 1, 1997.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 10, eff. June 14, 2013.

**Sec. 171.023. RESIDENCE OF PRECINCT CHAIR.** (a) To be eligible to be a candidate for or to serve as a precinct chair, a person must reside in the election precinct in addition to satisfying the other applicable eligibility requirements.

(b) A change in a county election precinct boundary creates a vacancy in the office of precinct chair if more than one precinct chair resides in the changed precinct or if none resides there.

(c) For the purpose of determining whether a precinct chair is a resident of a particular county election precinct, a change in a precinct boundary is not effective until February 1 following the adoption of the order making the change, except as provided by Subsection (d).

(d) If a change in a precinct boundary made by an order adopted on or after February 1 of a primary election year is scheduled to become effective before general primary election day, the change is effective on the date the order is adopted for the purpose specified by Subsection (c).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 115, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 5.12, eff. Sept. 1, 1999.

**Sec. 171.0231. WRITE-IN CANDIDATE FOR COUNTY CHAIR OR PRECINCT CHAIR.** (a) Write-in candidates are not permitted for county chair or precinct chair unless a county executive committee authorizes write-in candidates.

(b) If the county executive committee authorizes write-in candidates:

(1) a write-in vote for the office of county chair or precinct chair may not be counted unless the name written in appears on the list of write-in candidates;

(2) to be entitled to a place on the list of write-in candidates, a candidate must make a declaration of write-in candidacy;

(3) a declaration of write-in candidacy must be filed with the authority with whom an application for a place on the ballot is required to be filed for the office;

(4) a declaration of write-in candidacy must be filed not later than 6 p.m. of the fifth day after the date of the filing deadline for the general primary election;

(5) with the appropriate modifications and to the extent practicable, Subchapter B, Chapter 146, applies to write-in voting for the office of county chair or precinct chair; and

(6) the secretary of state shall prescribe any procedures necessary to implement this subsection.

Added by Acts 1997, 75th Leg., ch. 499, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 729, Sec. 1 to 3, eff. Sept. 1, 2003; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 30, eff. September 1, 2011; H.B. 2640, 86<sup>th</sup> Leg., Sec. 10, eff. Sept. 1, 2019.

**Sec. 171.024. FILLING VACANCY.** (a) The county executive committee shall fill by appointment any vacancy on the committee. The state executive committee may by rule adopt procedures for filling vacancies.

(b) A majority of the committee's membership must participate in filling a vacancy in the office of county chair. To be elected, a person must receive a favorable vote of a majority of the members voting.

(c) Each party shall adopt rules to determine a percentage of committee membership that constitutes a quorum for purposes of filling a vacancy in the office of precinct chair. To be elected, a person must receive a favorable vote of a majority of the members voting.

(d) A vacancy may not be filled before the beginning of the term of office in which the vacancy occurs.

(e) After a vacancy is filled, the county chair shall submit the replacement member's name to the secretary of state for posting on the secretary of state's Internet website.

(f) The secretary of state shall create a system for the county chair to submit the information to the secretary of state for posting on the secretary of state's Internet website under Subsection (e).

(g) The state executive committee may by rule require a specific deadline for filling vacancies on a county executive committee before that committee fills a vacancy in nomination for public office, but may not set the deadline for a date later than the date that the vacancy in nomination for public office occurred. The deadline does not apply to the filling of a vacancy if the executive committee contains no members.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 116, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 60, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 11, eff. June 14, 2013; Acts 2013, 83rd Leg., R.S., Ch. 1262 (H.B. 630), Sec. 1, eff. June 14, 2013; Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 6.002, eff. September 1, 2015; H.B. 2640, 86<sup>th</sup> Leg., Sec. 11, eff. Sept. 1, 2019.

**Sec. 171.025. PROCEDURE FOR FILLING VACANCY IN OFFICE OF COUNTY CHAIR.** (a) If a vacancy occurs in the office of county chair, the secretary of the county executive committee shall call a meeting for the purpose of filling the vacancy. If a committee member files with the secretary a written request for a meeting to fill a vacancy, the secretary shall call the meeting to convene not later than the 20th day after the date the secretary receives the request.

(b) If the committee does not have a secretary or if after receiving a written request under Subsection (a) the secretary fails to call the meeting, the state chair, on written request of a member of the county executive committee filed with the state chair, shall call the meeting to convene not later than the 20th day after the date the chair receives the request.

(c) The authority calling the meeting shall notify each committee member in advance of the meeting of its time, place, and purpose.

(d) The authority calling the meeting shall designate a committee member as temporary chair, who shall call the meeting to order and preside until the vacancy is filled.

(e) In a county with a population of less than 5,000, a vacancy in the office of county chair may be filled by appointment by the state chair of a person who is not a resident of the county if:

(1) the person resides in a county in this state with a population of less than 5,000 that is adjacent to the county in which the vacancy occurs; and

(2) the secretary of state approves the appointment of the person under procedures prescribed by the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 117, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1262 (H.B. 630), Sec. 2, eff. June 14, 2013.

**Sec. 171.0251. TEMPORARY REPLACEMENT OF COMMITTEE MEMBER IN MILITARY.** (a) In this section, "armed forces of the United States" means the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.

(b) A member of the county executive committee who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the committee member may appoint a replacement to serve as a temporary acting officer if the committee member will be unable to fulfill the member's duties, due to the member's obligations to the armed forces of the United States.

(c) The temporary acting officer appointed as provided by Subsection (b) must be:

(1) a member of the same political party as the committee member being temporarily replaced; and

(2) qualified for office under Section 161.005.

(d) The temporary acting officer appointed as provided by Subsection (b) has all the powers, privileges, and duties of the office and is entitled to the same compensation, payable in the same manner and from the same source, as the member of the county executive committee who is temporarily replaced.

(e) The temporary acting officer appointed as provided by Subsection (b) shall perform the duties of the committee member until the earlier of:

(1) the date the active military service of the committee member who is temporarily replaced ends; or

(2) the date the term of office of the committee member who is temporarily replaced expires.

Added by Acts 2005, 79th Leg., Ch. 654 (H.B. 3162), Sec. 1, eff. June 17, 2005.

**Sec. 171.026. PROXY NOT ALLOWED.** A person may not participate in a county executive committee meeting as a proxy. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 171.027. TEMPORARY COMMITTEE.** (a) If a county executive committee for a political party does not exist in a county in which the party is holding a primary election, the party shall establish a temporary county executive committee as provided by this section.

(b) The state executive committee or the state chair shall appoint a temporary county chair. If the state chair appoints a temporary county chair, the state executive committee at the next regular meeting of the committee shall ratify the appointment of the temporary county chair or appoint another person as temporary county chair. A favorable vote of a majority of the members of the committee voting is required for ratification or an appointment.

(c) The temporary county chair shall call, for the purpose of electing the other members of a temporary county executive committee, a meeting of the voters of the county who consider themselves to be aligned with the party. The voters present at the meeting shall elect the other members of the committee.

(d) The eligibility requirements for serving as a member of a temporary county executive committee are the same as those for serving as a member of a regularly constituted county executive committee except that affiliation with the political party is not required.

(e) A temporary county executive committee may exercise the authority and shall perform the duties of a regularly constituted county executive committee.

(f) A county executive committee for a county served by a temporary committee shall be elected at the general primary election. The temporary committee members serve until the elected members assume office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 118, eff. Sept. 1, 1997; Acts 2007, 80th Leg., R.S., Ch. 215 (H.B. 862), Sec. 1, eff. September 1, 2007.

**Sec. 171.028. COUNTY CHAIR TRANSITION.** (a) Not later than the 30th day after the date the term of office of a new county chair begins, the person formerly serving as the county chair shall transfer to the new county chair:

- (1) local party bank accounts over which the former county chair has authority; and
- (2) the following original records that are in the possession of the former county chair:
  - (A) precinct chair and county chair canvass results;
  - (B) candidate applications;
  - (C) paperwork related to the primary election; and
  - (D) other documents concerning party affairs.

(b) Before transferring records to a new county chair under Subsection (a), the person formerly serving as the county chair may make copies of those records.

(c) A person commits an offense if the person fails to transfer records as required by Subsection (a).

(d) An offense under Subsection (c) is a Class C misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. 173 (H.B. 1071), Sec. 1, eff. May 23, 2007.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 825 (H.B. 2959), Sec. 1, eff. September 1, 2011.

**Sec. 171.029. REMOVAL OF PRECINCT CHAIR OR COUNTY CHAIR FOR ABANDONMENT OF OFFICE.** (a) A precinct or county chair who has failed to perform statutory duties provided by this code or failed to attend four or more consecutive meetings of the county executive committee may be removed for abandonment of office as provided by this section.

(b) If authorized by a resolution passed by the county executive committee, a county chair may send a notice to a precinct chair that states that the precinct chair is considered to have abandoned the office of precinct chair and the duties of the office. The notice must:

- (1) state the reasons the county executive committee believes the precinct chair has abandoned the office;
- (2) be sent by certified mail; and
- (3) request a response from the precinct chair not later than the seventh day after the date the precinct chair receives the notice.

(c) If authorized by a resolution passed by the state executive committee, a state chair may send a notice to a county chair that states that the county chair is considered to have abandoned the office of county chair and the duties of the office. The notice must:

- (1) state the reasons the state executive committee believes the county chair has abandoned the office;
- (2) be sent by certified mail; and

(3) request a response from the county chair not later than the seventh day after the date the county chair receives the notice.

(d) A precinct or county chair must respond to a notice under Subsection (b) or (c) on or before the seventh day after the date the chair receives the notice and state whether the chair wishes to continue in office. A chair's failure to respond and affirmatively state that the chair wishes to remain in office results in a vacancy in the office of precinct or county chair, as applicable. The vacancy shall be filled as provided by this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 119 (S.B. 1072), Sec. 1, eff. September 1, 2015.

## **SUBCHAPTER C. DISTRICT EXECUTIVE COMMITTEE**

**Sec. 171.051. DISTRICT EXECUTIVE COMMITTEE ESTABLISHED.** (a) For each district from which an officer of the federal or state government is elected, a district executive committee is established as provided by this subchapter for each political party holding a primary election.

(b) The state executive committee may by rule require a specific deadline for filling vacancies on a district executive committee before that committee fills a vacancy in nomination for public office, but may not set the deadline for a date later than the date that the vacancy in nomination for public office occurred. The deadline does not apply to the filling of a vacancy if the executive committee contains no members.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; H.B. 2640, 86<sup>th</sup> Leg., Sec. 12, eff. Sept. 1, 2019.

**Sec. 171.052. COMMITTEE COMPOSITION: DISTRICT COTERMINOUS WITH COUNTY.** The district executive committee for a district that is coterminous with a single county consists of the county executive committee, with the county chair serving as chair of the district committee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 119, eff. Sept. 1, 1997.

**Sec. 171.053. COMMITTEE COMPOSITION: DISTRICT COMPRISING PART OF A COUNTY; FIRST MEETING.** (a) The district executive committee for a district comprising only a part of a single county consists of the members of the county executive committee who reside in the district.

(b) The members of a district executive committee shall elect a chair at the committee's first meeting from among the committee membership.

(c) Except as provided by Subsection (d), the county chair shall call the first meeting of the district executive committee to convene at any time after the precinct chairs take office. The county chair shall notify each committee member in advance of the meeting of its time, place, and purpose.

(d) If a vacancy exists in the office of chair of a senatorial district executive committee immediately before the date for conducting the regular drawing for a place on the general primary ballot, the committee shall convene on that date at the hour and place specified by the county chair to elect the district executive committee chair.

(e) Not later than the third day after the date the chair for a senatorial district executive committee is elected, the county chair shall deliver to the state chair written notice of the name and address of the person elected.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 120, eff. Sept. 1, 1997; H.B. 2640, 86<sup>th</sup> Leg., Sec. 12, eff. Sept. 1, 2019.

**Sec. 171.054. COMMITTEE COMPOSITION: DISTRICT SITUATED IN MORE THAN ONE COUNTY; FIRST MEETING.** (a) The district executive committee for a district situated in more than one county consists of the members of each county executive committee who reside in the district.

(b) The state chair shall call a meeting of the district executive committee to convene either as a whole in one location or separately in each county in the district at any time after the precinct chairs take office to fill a vacancy in a nomination or to transact any other business by the committee. The state chair shall notify the members of the district executive committee in advance of the time, place, and purpose of any meeting or meetings.

(c) If a vacancy exists in the office of senatorial district chair for a county immediately before the date for conducting the regular drawing for a place on the general primary ballot, the appropriate county executive committee members shall convene on that date at the hour and place specified by the county chair to elect that officer.

(d) If the district executive committee is meeting as a whole in one location, the members of the committee shall elect a chair at the committee's first meeting from among the committee membership. If the district executive committee is meeting separately in each county, the members meeting in each county shall elect a chair at the committee's first meeting from among the committee membership in that county.

(e) For the purposes of filling a vacancy in a nomination, the state chair shall canvass the votes of the district executive committee when meeting separately in each county and make the certification required by Section 145.037.

(f) The state executive committee shall by rule determine the quorum requirements for a district executive committee to conduct business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 121, eff. Sept. 1, 1997; Acts 2015, 84th Leg., R.S., Ch. 814 (H.B. 3456), Sec. 1, eff. September 1, 2015; H.B. 2640, 86<sup>th</sup> Leg., Sec. 42, eff. Sept. 1, 2019.

## **SUBCHAPTER D. PRECINCT EXECUTIVE COMMITTEE**

**Sec. 171.071. PRECINCT EXECUTIVE COMMITTEE ESTABLISHED.** (a) For each commissioners precinct and for each justice precinct, a precinct executive committee is established as provided by this subchapter for each political party holding a primary election.

(b) The state executive committee may by rule require a specific deadline for filling vacancies on a precinct executive committee before that committee fills a vacancy in nomination for public office, but may not set the deadline for a date later than the date that the vacancy in nomination for public office occurred. The deadline does not apply to the filling of a vacancy if the executive committee contains no members.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; H.B. 2640, 86<sup>th</sup> Leg., Sec. 14, eff. Sept. 1, 2019.

**Sec. 171.072. COMMITTEE COMPOSITION: PRECINCT WITH THREE OR MORE ELECTION PRECINCTS; FIRST MEETING.** (a) The precinct executive committee for a commissioners precinct or for a justice precinct containing three or more county election precincts consists of the members of the county executive committee who reside in the commissioners or justice precinct, as applicable.

(b) The members of a precinct executive committee shall elect a chair at the committee's first meeting from among the committee membership.

(c) The county chair shall call the first meeting of the precinct executive committee and shall notify each committee member in advance of the meeting of its time, place, and purpose.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 122, eff. Sept. 1, 1997; H.B. 2640, 86<sup>th</sup> Leg., Sec. 15, eff. Sept. 1, 2019.

**Sec. 171.073. COMMITTEE COMPOSITION: PRECINCT WITH FEWER THAN THREE ELECTION PRECINCTS.** The precinct executive committee for a commissioners precinct or for a justice precinct containing fewer than three county election precincts consists of the county executive committee, with the county chair serving as chair of the precinct committee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 123, eff. Sept. 1, 1997.

## **CHAPTER 172. PRIMARY ELECTIONS**

### **SUBCHAPTER A. NOMINATING BY PRIMARY ELECTION GENERALLY**

**Sec. 172.001. NOMINATING BY PRIMARY ELECTION REQUIRED.** Except as otherwise provided by this code, a political party's nominees in the general election for offices of state and county government and the United States Congress must be nominated by primary election, held as provided by this code, if the party's nominee for governor in the most recent gubernatorial general election received 20 percent or more of the total number of votes received by all candidates for governor in the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 172.002. NOMINATING BY PRIMARY ELECTION AUTHORIZED.** (a) Except as otherwise provided by this code, a political party's nominees in the general election for offices of state and county government and the United States Congress may be nominated by primary election, held as provided by this code, if the party's nominee for governor in the most recent gubernatorial general election received at least two percent but less than 20 percent of the total number of votes received by all candidates for governor in the election.

(b) If any nominee of a party is nominated by primary election, none of that party's nominees may be nominated that year by convention.

(c) For a political party to be entitled to hold a primary election under this section, the state chair, not later than one year before general election day, must deliver written notice to the secretary of state that the party will hold a primary election in the general election year.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 124, eff. Sept. 1, 1997.

**Sec. 172.003. MAJORITY VOTE REQUIRED.** Except as otherwise provided by this code, to receive a political party's nomination, a candidate in a primary election must receive a majority of the total number of votes received by all the candidates for the nomination.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 172.004. RUNOFF PRIMARY.** (a) If no candidate for nomination to a particular office receives the vote required for nomination in the general primary election, a runoff primary election shall be held to determine the nomination.

(b) The candidates in a runoff for a nomination shall be determined and a tie vote in a runoff resolved as provided by Subchapter B, Chapter 2, for a runoff for an election to office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

### **SUBCHAPTER B. APPLICATION FOR PLACE ON BALLOT**

**Sec. 172.021. APPLICATION REQUIRED.** (a) To be entitled to a place on the general primary election ballot, a candidate must make an application for a place on the ballot.

(b) An application must, in addition to complying with Section 141.031, be accompanied by the appropriate filing fee or a petition in lieu of the filing fee that satisfies the requirements prescribed by Section 141.062. A political party may not require payment of a fee as a condition to applying for a place on the ballot as a candidate for county chair or precinct chair.

(b-1) Except as provided by Subsection (b-2), the authority receiving an application shall return it to the applicant as incomplete if the applicant submits payment of a fee that is returned for insufficient funds. The applicant may resubmit the application before the end of the filing period, but payment of the filing fee may not be made in the form of a check from the same account as that of the payment previously returned for insufficient funds.

(b-2) If a payment of a filing fee is returned for insufficient funds after the end of the filing period, the application is not considered to be timely filed, and the authority receiving the application shall inform the applicant that the application was not valid.

(c) An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(d) The circulation of a petition to be filed under this subchapter in connection with a candidate's application for a place on the ballot does not constitute candidacy or an announcement of candidacy for purposes of the automatic resignation provisions of Article XVI, Section 65, or Article XI, Section 11, of the Texas Constitution.

(e) A candidate for an office specified by Section 172.024(a)(8), (10), or (12), or for justice of the peace in a county with a population of more than 1.5 million, who chooses to pay the filing fee must also accompany the application with a petition for a place on the primary ballot as a candidate for judicial office that complies with the requirements prescribed for the petition authorized by Subsection (b), except that the minimum number of signatures that must appear on the petition required by this subsection is 250. If the candidate chooses to file the petition authorized by Subsection (b) in lieu of the filing fee, the minimum number of signatures required for that petition is increased by 250. Signatures on a petition filed under this subsection or Subsection (b) by a candidate covered by this subsection may not be obtained on the grounds of a county courthouse or courthouse annex.

(f) A political party's state executive committee by rule may require that an application for the office of county chair be accompanied by a nominating petition containing the signatures of at least 10 percent of the incumbent precinct chairs serving on the county executive committee.

(g) A candidate for the office of chief justice or justice, supreme court, or presiding judge or judge, court of criminal appeals, who chooses to pay the filing fee must also accompany the application with a petition that complies with the requirements prescribed for a petition authorized by Subsection (b), except that the minimum number of signatures that must appear on the petition required by this subsection is 50 from each court of appeals district.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 9, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 54, Sec. 13(b), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 90, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 7.09, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 265, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 728, Sec. 64, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 125, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 5.13, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 219, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 883, Sec. 1, eff. June 20, 2003; Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 15, eff. September 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 2, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 15(1), eff. September 1, 2015; S.B. 44, 85<sup>th</sup> Leg., R.S., Sec. 3, eff. May 23, 2017.

**Sec. 172.022. AUTHORITY WITH WHOM APPLICATION FILED.** (a) An application for a place on the general primary election ballot must be filed with:

- (1) the state chair, for an office filled by voters of more than one county; or
- (2) the county chair or the secretary, if any, of the county executive committee, for an office filled by voters of a single county.

(b) Not later than the day before the last day of the filing period, the county chair shall post on the political party's Internet website or in the location where a candidate files for a place on the ballot notice of the address at which the county chair or secretary will be available to receive applications on the last day of the filing period. If both the county chair and the secretary will be available, the notice must contain the address at which each will be available. Section 1.006 does not apply to this subsection.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 65, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 126, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 204, Sec. 1, eff. Sept. 1, 1999; Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. 3103), Sec. 1, eff. June 14, 2013.

**Sec. 172.0221. NOTICE TO CANDIDATE REGARDING POSTING OF CERTAIN INFORMATION.** The authority with whom an application is filed must inform the candidate that the candidate's public mailing address and, if provided on the application, the candidate's electronic mail address will be posted by the secretary of state on the secretary's publicly viewable website.

Added by Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 3, eff. September 1, 2015.

**Sec. 172.0222. REVIEW OF APPLICATION; NOTICE TO CANDIDATE.** (a) If the application of this section conflicts with the application of Section 141.032, this section prevails.

(b) On the filing of an application for a place on the general primary election ballot, the authority with whom the application is filed shall review the application to determine whether it complies with the requirements as to form, content, and procedure that it must satisfy for the candidate's name to be placed on the general primary election ballot.

(c) Except as provided by Subsection (d) or (e), the review shall be completed not later than the fifth business day after the date the application is received by the authority.

(d) If an application is submitted fewer than five business days before the regular filing deadline, the review shall be completed not later than the first Friday after the regular filing deadline.

(e) If an application is accompanied by a petition, the petition is considered part of the application, and the review shall be completed as soon as practicable after the date the application is received by the authority. However, the petition is not considered part of the application for purposes of determining compliance with the requirements applicable to each document, and a deficiency in the requirements for one document may not be remedied by the contents of the other document. Unless the petition is challenged, the authority is only required to review the petition for facial compliance with the applicable requirement

as to form, content, and procedure.

(f) A determination under this section that an application complies with the applicable requirements does not preclude a subsequent determination that the application does not comply, subject to Section 172.0223.

(g) If an application does not comply with the applicable requirements, the authority shall reject the application and immediately deliver to the candidate written notice of the reason for the rejection.

(h) This section does not apply to a determination of a candidate's eligibility.

(i) After the filing deadline:

(1) a candidate may not amend an application filed under Section 172.021; and

(2) the authority with whom the application is filed may not accept an amendment to an application filed under Section 172.021.

Added by H.B. 2640, 86<sup>th</sup> Leg., Sec. 16, eff. Sept. 1, 2019.

**Sec. 172.0223. LIMITATION ON CHALLENGE OF APPLICATION.** (a) If the application of this section conflicts with the application of Section 141.034, this section prevails.

(b) An application for a place on the general primary election ballot may not be challenged for compliance with the applicable requirements as to form, content, and procedure after the 50th day before the date of the election for which the application is made.

(c) This section does not apply to a determination of a candidate's eligibility.

(d) A challenge must state with specificity how the application does not comply with the applicable requirements as to form, content, and procedure. The authority's review of the challenge is limited to the specific items challenged and any response filed with the authority by the challenged candidate.

Added by H.B. 2640, 86<sup>th</sup> Leg., Sec. 16, eff. Sept. 1, 2019.

**Sec. 172.023. REGULAR FILING PERIOD.** (a) An application for a place on the general primary election ballot must be filed not later than 6 p.m. on the second Monday in December of an odd-numbered year unless the filing deadline is extended under Subchapter C.

(b) An application, other than an application for the office of precinct chair, may not be filed earlier than the 30th day before the date of the regular filing deadline. An application for the office of precinct chair may not be filed earlier than the 90th day before the date of the regular filing deadline.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 10, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 127, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 29, eff. September 1, 2011.

**Sec. 172.024. FILING FEE.** (a) The filing fee for a candidate for nomination in the general primary election is as follows:

(1) United States senator	\$5,000
(2) office elected statewide, except United States senator	3,750
(3) United States representative	3,125
(4) state senator	1,250
(5) state representative	750
(6) member, State Board of Education	300
(7) chief justice or justice, court of appeals, other than a justice specified by Subdivision (8)	1,875
(8) chief justice or justice of a court of appeals that serves a court of appeals district in which a county with a population of more than 1.2 million is wholly or partly situated	2,500
(9) district judge or judge specified by Section 52.092(d) for which this schedule does not otherwise prescribe a fee	1,500
(10) district or criminal district judge of a court in a judicial district wholly contained in a county with a population of more than 1.5 million	2,500
(11) judge, statutory county court, other than a judge specified by Subdivision (12)	1,500
(12) judge of a statutory county court in a county with a population of more than 1.5 million	2,500
(13) district attorney, criminal district attorney, or county attorney performing the duties of a district attorney	1,250
(14) county commissioner, district clerk, county clerk, sheriff, county tax assessor-collector, county treasurer, or judge, constitutional county court:	
(A) county with a population of 200,000 or more	1,250
(B) county with a population of under 200,000	750



- (15) justice of the peace or constable:
  - (A) county with a population of 200,000 or more 1,000
  - (B) county with a population of under 200,000 375
- (16) county surveyor 75
- (17) office of the county government for which this schedule does not otherwise prescribe a fee 750

(b) If a fee prescribed by Subsection (a) is declared invalid by a final judgment of a court, the secretary of state shall prescribe a filing fee consistent with the judgment to replace the invalidated fee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 14(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 90, Sec. 2, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 265, Sec. 2, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 1316, Sec. 36, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 142 (H.B. 964), Sec. 1, eff. September 1, 2005; Acts 2005, 79th Leg., Ch. 1229 (H.B. 1163), Sec. 1, eff. September 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 37 (H.B. 328), Sec. 3, eff. May 19, 2009; Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 5.33, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 16, eff. September 1, 2011; H.B. 4559, 88th Leg., R.S., Sec. 30, eff. Sept. 1, 2023.

**Sec. 172.025. NUMBER OF PETITION SIGNATURES REQUIRED.** The minimum number of signatures that must appear on the petition authorized by Section 172.021(b) is:

- (1) 5,000, for a statewide office; or
- (2) for a district, county, or precinct office, the lesser of:
  - (A) 500; or
  - (B) two percent of the total vote received in the district, county, or precinct, as applicable, by all the candidates for governor in the most recent gubernatorial general election, unless that number is under 50, in which case the required number of signatures is the lesser of:
    - (i) 50; or
    - (ii) 20 percent of that total vote

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 13(c), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 90, Sec. 3, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 496, Sec. 1, eff. Sept. 1, 1987.

**Sec. 172.026. RESTRICTION ON PETITION SIGNER.** On signing a petition to be filed under Section 172.021, the signer becomes ineligible to vote in a primary election or participate in a convention of another political party during the voting year in which the primary election is held.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 13(c), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 90, Sec. 3, eff. Sept. 1, 1987.

**Sec. 172.027. STATEMENT ON PETITION.** The following statement must appear at the top of each page of a petition to be filed under Section 172.021: "I know that the purpose of this petition is to entitle (insert candidate's name) to have his or her name placed on the ballot for the office of (insert office title, including any place number or other distinguishing number) for the (insert political party's name) primary election. I understand that by signing this petition I become ineligible to vote in a primary election or participate in a convention of another party, including a party not holding a primary election, during the voting year in which this primary election is held."

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 13(c), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 90, Sec. 3, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 128, eff. Sept. 1, 1997.

**Sec. 172.028. STATE CHAIR'S CERTIFICATION OF NAMES FOR PLACEMENT ON GENERAL PRIMARY BALLOT.** (a) Except as provided by Subsection (c), the state chair shall certify to the secretary of state for placement on the general primary election ballot the name of each candidate who files with the chair an application that complies with Section 172.021(b). The secretary of state shall post on the secretary's Internet website that is viewable by the public:

- (1) the certified list; and
- (2) for each certified candidate, the public mailing address and, if provided by the candidate, the electronic mail address at which the candidate receives correspondence relating to the candidate's campaign.

(b) Not later than the ninth day after the date of the regular filing deadline, the state chair shall notify the county chair in each county in which the candidate's name is to appear on the ballot that the certification has been posted by the secretary of state.

- (c) A candidate's name may not be certified:
  - (1) if, before delivering the certification, the state chair learns that the name is to be omitted from the ballot under Section 172.057; or
  - (2) for an office for which the candidate's application is invalid under Section 141.033.

(d) A copy of each certification shall be made available on request, without charge, to each newspaper published in this state and to each licensed radio and television station in this state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 11, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 129, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 31, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. 3103), Sec. 2, eff. June 14, 2013; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 19, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 4, eff. September 1, 2015.

**Sec. 172.029. SUBMISSION AND COMPILATION OF INFORMATION PERTAINING TO CANDIDATES.** (a) For each general primary election, the state chair and each county chair shall electronically submit the following information:

(1) the name of each candidate who files an application for a place on the ballot with the chair, including an application for the office of a political party;

(2) the name of each candidate whose application meets the requirements of Section 172.021 and is accepted by the chair, as the name is to appear on the ballot;

(3) the candidate's address as shown on the application;

(4) the date on which the candidate filed the application; and

(5) any additional information required by the secretary of state.

(b) The secretary of state shall continuously maintain an online database of information submitted under this section. The database must be accessible by the county and precinct chairs of the party that submitted the information. Any changes in the party's county or precinct chairs shall be reported to the secretary of state. The secretary of state shall adopt rules to implement this section, including rules regarding the public availability of information submitted under this section.

(c) The secretary of state may by rule prescribe a deadline by which the state chair must deliver the chair's submission regarding a candidate to the secretary of state, and each county chair shall deliver a copy of the chair's submission regarding a candidate to the county clerk, the state chair, and the secretary of state when the chair accepts the application. The secretary of state may by rule prescribe a deadline for the delivery of a submission under this subsection.

(d) The secretary of state shall be notified if a candidate withdraws, dies, or is declared ineligible, or if the candidate's application is determined not to comply with the applicable requirements. The secretary of state shall adopt rules implementing this subsection.

(e) The secretary of state shall:

(1) archive and keep available for inspection a list of all candidates for whom information has been submitted under this section; and

(2) prescribe rules for submitting the list electronically and methodology for distribution to each county clerk and state chair.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 130, eff. Sept. 1, 1997; Acts 2009, 81st Leg., R.S., Ch. 360 (H.B. 1265), Sec. 1, eff. June 19, 2009; Acts 2011, 82nd Leg., R.S., Ch. 570 (H.B. 3270), Sec. 1, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. 3103), Sec. 3, eff. June 14, 2013.

## **SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF CANDIDATE**

**Sec. 172.051. WITHDRAWAL, DEATH, OR INELIGIBILITY GENERALLY.** With respect to withdrawal, death, or ineligibility of a candidate in a primary election, this subchapter supersedes Subchapter A, Chapter 145, to the extent of any conflict.

Acts 1985, 69th Leg., Ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 172.052. WITHDRAWAL FROM GENERAL PRIMARY.** (a) A candidate for nomination may not withdraw from the general primary election after the first day after the date of the regular filing deadline for the general primary election.

(b) A withdrawal request for the general primary must be filed with the authority with whom the withdrawing candidate's application for a place on the ballot is required to be filed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 12, eff. Sept. 1, 1987; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 32, eff. September 1, 2011; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 20, eff. September 1, 2015.

**Sec. 172.053. ADMINISTRATIVE DECLARATION OF INELIGIBILITY AFTER POLLS CLOSE.** Except for a judicial action in which a candidate's eligibility is in issue, after the polls close on primary election day and before the final canvass for the office sought by the candidate is completed, a candidate for nomination may be declared ineligible only by the presiding officer of the primary's final canvassing authority for that office.

**Sec. 172.054. EXTENDED FILING DEADLINE.** (a) The deadline for filing an application for a place on the general primary election ballot is extended as provided by this section if a candidate who has made an application that complies with the applicable requirements:

(1) dies on or after the fifth day before the date of the regular filing deadline and on or before the first day after the date of the regular filing deadline;

(2) holds the office for which the application was made and withdraws or is declared ineligible on the date of the regular filing deadline or the first day after the date of the regular filing deadline; or

(3) withdraws or is declared ineligible during the period prescribed by Subdivision (2), and at the time of the withdrawal or declaration of ineligibility no other candidate has made an application that complies with the applicable requirements for the office sought by the withdrawn or ineligible candidate.

(b) An application for an office sought by a withdrawn, deceased, or ineligible candidate must be filed not later than 6 p.m. of the fifth day after the date of the regular filing deadline. An application filed by mail with the state chair is not timely if received later than 5 p.m. of the fifth day after the date of the regular filing deadline.

(c) An extension of the filing deadline under this section applies only to the primary election of the political party for which the withdrawn, deceased, or ineligible candidate applied for a place on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 13, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 131, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 33, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. 904), Sec. 4, eff. September 1, 2013; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 15, eff. September 1, 2013.

**Sec. 172.055. PUBLIC NOTICE OF EXTENDED FILING.** (a) If the deadline for filing applications is extended, notice of the extended filing shall be given as provided by this section.

(b) The authority with whom the withdrawn, deceased, or ineligible candidate's application was filed shall prepare a notice identifying the candidate and the office for which the filing deadline is extended and stating the extended deadline.

(c) Not later than 24 hours after the candidate withdraws or is declared ineligible or after the authority preparing the notice learns of the candidate's death, as applicable, the authority shall:

(1) deliver a copy of the notice to:

(A) at least one daily newspaper published in the county or, if none, at least one weekly newspaper published there, if any, for a notice prepared by the county chair;

(B) at least three daily newspapers that regularly maintain a news representative at the State Capitol, for a notice applicable to a statewide office; or

(C) at least one daily newspaper published in each county wholly or partly situated in the district or, if none, at least one weekly newspaper published there, if any, for a notice prepared by the state chair for a district office;

(2) post the notice on the authority's Internet website, if one is maintained; and

(3) send a copy of the notice to:

(A) the secretary of state, to be posted on the secretary of state's Internet website, for a candidate for an office filled by voters of more than one county; or

(B) the county clerk, to be posted on the county's Internet website, for an office filled by voters of a single county.

(d) A county or state chair's failure to perform a duty prescribed by this section is cause for the officer's removal by the executive committee over which the chair presides.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 14, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 132, eff. Sept. 1, 1997; H.B. 2640, 86<sup>th</sup> Leg., Sec. 17, eff. Sept. 1, 2019.

**Sec. 172.056. SUPPLEMENTAL LIST OF CANDIDATES.** (a) If the deadline for filing applications is extended, an electronic submission shall be made containing the name of each candidate:

(1) who files an application that complies with the applicable requirements during the extended filing period; and

(2) whose name is not submitted under Section 172.029.

(b) Notification shall be made as prescribed by Section 172.029 that additional names have been added during the extended period.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 133, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. 3103), Sec. 4, eff. June 14, 2013.

**Sec. 172.057. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM GENERAL PRIMARY BALLOT.** A candidate's name shall be omitted from the general primary election ballot if the candidate withdraws, dies, or is declared ineligible on or before the first day after the date of the regular filing deadline.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 15, eff. Sept. 1, 1987; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 34, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 34, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. 904), Sec. 5, eff. September 1, 2013; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 16, eff. September 1, 2013.

**Sec. 172.058. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL PRIMARY BALLOT.** (a) If a candidate who has made an application for a place on the general primary election ballot that complies with the applicable requirements dies or is declared ineligible after the first day after the date of the regular filing deadline, the candidate's name shall be placed on the ballot and the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for the other candidates.

(b) If the deceased or ineligible candidate receives the vote required for nomination, the appropriate executive committee may select the nominee and certify the nominee's name for placement on the general election ballot as provided by Subchapter B, Chapter 145, for filling a vacancy in a nomination.

(c) In a race in which a runoff is required, if the deceased or ineligible candidate received the vote that would entitle the candidate to a place on the runoff primary ballot or tied for that number of votes, the candidates in the runoff shall be determined in the regular manner but without regard to the votes received by the deceased or ineligible candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 16, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 54, Sec. 24(a), (b), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 134, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 35, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. 904), Sec. 6, eff. September 1, 2013; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 17, eff. September 1, 2013.

**Sec. 172.059. WITHDRAWAL FROM RUNOFF PRIMARY.** (a) A candidate for nomination may not withdraw from the runoff primary election after 5 p.m. of the 3rd day after the state canvass under Section 172.120.

(b) A withdrawal request for the runoff primary must be filed with the state chair, for a statewide or district office, or with the county chair, for a county or precinct office.

(c) If a runoff candidate withdraws, the remaining candidate is the nominee and the runoff election for that office is not held.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 135, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 36, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 21, eff. September 1, 2015.

**Sec. 172.060. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON RUNOFF PRIMARY BALLOT.** (a) If a runoff primary candidate dies or is declared ineligible before runoff primary election day, the candidate's name shall be placed on the ballot.

(b) If a deceased or ineligible candidate receives the vote required for nomination, the appropriate executive committee may select the nominee and certify the nominee's name for placement on the general election ballot as provided by Subchapter B, Chapter 145, for filling a vacancy in a nomination.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 172.061. CANDIDATE FOR PARTY OFFICE.** (a) Except for Sections 172.058(b), 172.059(c), and 172.060(b), this subchapter applies to a candidate for county chair or precinct chair.

(b) If a runoff candidate for county chair or precinct chair withdraws, the remaining candidate is considered to be elected and the runoff election for that office is not held.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 136, eff. Sept. 1, 1997.

## SUBCHAPTER D. BALLOT

**Sec. 172.081. PRIMARY COMMITTEE.** (a) Except as provided by Subsection (b), a primary committee is established in each county having a county executive committee. The primary committee consists of:

- (1) the county chair; and
- (2) four other members of the county executive committee, appointed by the county chair subject to the executive committee's approval.

(b) The county executive committee by resolution may provide that the primary committee consist of more or fewer than five members or that a primary committee not be established. If a primary committee is not established, the county chair shall perform the duties of the primary committee prescribed by this chapter unless the county executive committee designates another member of the committee for that purpose.

(c) The county chair serves as chair of the primary committee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 137, eff. Sept. 1, 1997.

**Sec. 172.082. ORDER OF NAMES ON GENERAL PRIMARY BALLOT: REGULAR DRAWING.** (a) The order of the candidates' names on the general primary election ballot for each county shall be determined by a drawing.

(b) The county chair or the county chair's designee shall conduct the drawing unless the county executive committee provides by resolution that the drawing be conducted by the primary committee.

(c) The drawing shall be conducted not later than the 10th day after the date of the regular filing deadline for the general primary election.

(d) Each candidate affected by a drawing is entitled to be present or have a representative present at the drawing.

(e) The county chair shall post notice of the date, hour, and place of the drawing for at least 24 consecutive hours immediately before the drawing begins. The notice shall be posted on the party's Internet website, if the party maintains a website. If the party does not maintain a website, the notice shall be posted on the bulletin board used for posting notice of meetings of the commissioners court. All candidates who provide an e-mail address on their filing form shall be notified electronically.

(f) The state chair shall conduct the drawing if:

(1) the county chair requests that the state chair conduct the drawing; or

(2) the county chair or the county chair's designee fails to conduct the drawing by the deadline set in this section.

(g) A designee appointed by the county chair to conduct the drawing under this section must be:

(1) a member of the county executive committee; or

(2) if no member of the county executive committee is available to conduct the drawing, a resident of the county served by the committee who is affiliated with the same political party.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 17, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 138, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 37, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. 3103), Sec. 5, eff. June 14, 2013; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 22, eff. September 1, 2015; H.B. 1735, 85th Leg., R.S., Sec. 27, eff. Sept. 1, 2017; H.B. 2640, 86th Leg., Sec. 18, eff. Sept. 1, 2019.

**Sec. 172.083. REVIEW AND APPROVAL OF BALLOT BY PRIMARY COMMITTEE.** If a primary committee was established, before having the official ballots for a general primary election printed, the county chair shall submit the format for the official ballot to the primary committee for its review and approval.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 139, eff. Sept. 1, 1997; H.B. 1735, 85th Leg., R.S., Sec. 28, eff. Sept. 1, 2017.

**Sec. 172.084. ORDER OF NAMES ON RUNOFF PRIMARY BALLOT.** (a) The order of the candidates' names on the runoff primary election ballot for each county shall be in the same order as on the general primary election ballot.

(b) Repealed by H.B. 1735, 85th Leg., R.S., Sec. 64(1), eff. Sept. 1, 2017.

(c) Repealed by H.B. 1735, 85th Leg., R.S., Sec. 64(1), eff. Sept. 1, 2017.

(d) Repealed by H.B. 1735, 85th Leg., R.S., Sec. 64(1), eff. Sept. 1, 2017.

(e) Repealed by H.B. 1735, 85th Leg., R.S., Sec. 64(1), eff. Sept. 1, 2017.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 140, eff. Sept. 1, 1997.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. 3103), Sec. 6, eff. June 14, 2013; H.B. 1735, 85th Leg., R.S., Secs. 29 & 64, eff. Sept. 1, 2017.

**Sec. 172.085. NAME OF PARTY ON BALLOT.** The name of the political party holding a primary election shall be placed at the top of the primary ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 172.086. PLEDGE ON BALLOT.** The following pledge shall be placed on the primary election ballot above the listing of candidates' names: "I am a (insert appropriate political party) and understand that I am ineligible to vote or participate in another political party's primary election or convention during this voting year."

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 172.087. REFERENDUM ORDERED BY STATE EXECUTIVE COMMITTEE.** The state executive committee

may provide by resolution that a proposal to include a demand for specific legislation or any other matter in the party's platform or resolutions be submitted to a vote by placement on the general primary election ballot. The state executive committee shall prescribe the wording of the proposition submitting a proposal.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 172.088. VOTER PETITION FOR REFERENDUM.** (a) Voters by petition may require that a proposal to include a demand for specific legislation or any other matter in a political party's platform or resolutions be submitted to a vote in the party's general primary election by placement on the general primary election ballot.

(b) Subject to Subsection (c), a petition under this section must satisfy the requirements prescribed by Section 141.062 for a candidate's petition and must state the proposal that is to be submitted. The petition is otherwise subject to the applicable provisions of Subchapter C, Chapter 141, except as provided by this section.

(c) A political party by rule may provide for restricting petition signers on the basis of party alignment or preference.

(d) The petition must be filed with the state chair of the political party holding the primary to which the petition applies before the date of the regular filing deadline for candidates' applications for a place on the primary ballot.

(e) The minimum number of signatures that must appear on the petition is five percent of the total vote received by all candidates for governor in the party's most recent gubernatorial general primary election.

(f) A signer's voter registration is not required to be in any particular territory.

(g) The state executive committee shall prescribe the wording of the ballot language for the proposition submitted by the petition.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 141, eff. Sept. 1, 1997; H.B. 2640, 86<sup>th</sup> Leg., Sec. 19, eff. Sept. 1, 2019.

**Sec. 172.089. ORDER OF PARTY OFFICES ON BALLOT.** The party offices of county chair and precinct chair shall be listed on the primary election ballot after the public offices with the office of county chair listed first.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 142, eff. Sept. 1, 1997.

**Sec. 172.090. SEPARATE BALLOT FOR OFFICE OF PRECINCT CHAIR.** (a) In a primary election the county executive committee may provide by resolution, order, or other official action for voting by separate paper ballot for the office of precinct chair.

(b) The separate paper ballot for precinct chair must conform to the applicable standards governing regular paper ballots, except that the ballot shall be limited to the office of precinct chair.

(c) The secretary of state shall prescribe the form of the ballot for precinct chair consistent with this section.

(d) The county chair or the county clerk may produce and number ballots by hand under this section.

(e) The secretary of state shall adopt rules for conducting a hand count of ballots under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 143, eff. Sept. 1, 1997; H.B. 2640, 86<sup>th</sup> Leg., Sec. 20, eff. Sept. 1, 2019.

## SUBCHAPTER E. CONDUCT OF ELECTION

**Sec. 172.111. CONDUCT OF PRIMARY ELECTION GENERALLY.** (a) With respect to the conduct of a primary election, this subchapter supersedes Title 6 to the extent of any conflict.

(b) The county executive committee shall supervise the overall conduct of a primary election in each county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 172.1111. POSTING NOTICE OF CONVENTIONS REQUIRED.** (a) Before the opening of the polls during the early voting period and on election day, the presiding judge shall post at each outside door through which a voter may enter the building in which the polling place is located a written notice in bold print of the date, hour, and place for each precinct, county, senatorial, or state convention that a voter in the precinct may be eligible to attend during the election year.

(b) Notice posted under this section may include:

(1) the website of the county party and state party; and

(2) any other information deemed necessary by the state executive committee.

(b-1) The state chair shall develop a form for the notice that may be used statewide. The judge is not required to use an officially prescribed form for the notice, but must include any information required by this section.

(b-2) A state chair, county chair, or precinct chair shall provide the presiding judge with the necessary information respecting the chair's associated convention.

(c) The notice must remain posted continuously through the early voting period and on election day.

Added by Acts 1987, 70th Leg., ch. 472, Sec. 44, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 61, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1350, Sec. 8, eff. Sept. 1, 1997; H.B. 1735, 85<sup>TH</sup> R.S., Sec. 30, eff. Sept. 1, 2017; H.B. 2640, 86<sup>th</sup> Leg., Sec. 21, eff. Sept. 1, 2019.

**Sec. 172.1112. NOTICE OF ELECTION.** (a) The county clerk shall post a notice of the election and a notice of consolidated precincts, if applicable, in the manner prescribed by Section 4.003(b) for general and special elections. The notice of the election shall be posted on the county's Internet website, if the county maintains a website. If the county does not maintain a website, the notice shall be posted on the bulletin board used for posting notice of meetings of the commissioners court.

(b) The requirements prescribed by Section 4.004 for the contents of the notice of a general or special election apply to the notice of election required by Subsection (a).

Added by Acts 1987, 70th Leg., ch. 479, Sec. 4, eff. Sept. 1, 1987. Renumbered from Election Code Sec. 172.1111 by Acts 1989, 71st Leg., ch. 2, Sec. 7.11, eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 144, eff. Sept. 1, 1997; H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 31, eff. Sept. 1, 2017; H.B. 2640, 86<sup>th</sup> Leg., Sec. 22, eff. Sept. 1, 2019.

**Sec. 172.1113. COUNTY CHAIR PERMITTED IN POLLING PLACE.** (a) In this section, "voting period" means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

(b) The county chair of a political party conducting a primary election may be in a polling place during the voting period as necessary to perform administrative functions related to the conduct of the election.

Added by Acts 2013, 83rd Leg., R.S., Ch. 333 (H.B. 1996), Sec. 1, eff. September 1, 2013.

**Sec. 172.1114. DISTRIBUTION OF NOTICE OF CONVENTIONS.** (a) A political party may prepare a notice not larger than letter-sized for distribution to each voter participating in the party's primary election at the time the voter is accepted for voting.

(b) The notice may include:

- (1) information describing the party's convention process;
- (2) information detailing the time and place of the party's first-level convention process;
- (3) contact information for the county and state political parties; and
- (4) website links for information and registration for party conventions.

(c) The state chair of a political party shall prescribe a form for a notice that may be used in any county. A county chair of a political party may prescribe a specific notice for the county chair's county. The same notice must be used in all precincts within a county.

(d) A notice must be approved by the secretary of state. If a county chair of a political party uses the form of notice prescribed by the state chair, only the convention location and time may be added without the secretary of state's approval.

(e) A county chair of a political party shall supply or contract with the authority to supply a notice prepared according to this section to the authority conducting the election not later than the 30th day before the date early voting by personal appearance begins. The authority's preparation of copies is a necessary expense incurred in connection with a primary election under Section 173.001.

(f) The secretary of state shall prescribe procedures and adopt rules as necessary to implement this section.

Added by H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 32, eff. Sept. 1, 2017; H.B. 2640, 86<sup>th</sup> Leg., Sec. 23, eff. Sept. 1, 2019.

**Sec. 172.112. WRITE-IN VOTING.** Write-in voting in a primary election is not permitted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 145, eff. Sept. 1, 1997; H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 33, eff. Sept. 1, 2017.

**Sec. 172.113. UNOFFICIAL TABULATION OF PRECINCT RESULTS.** (a) The authority establishing a central counting station shall prepare the unofficial tabulation of precinct results.

(b) Repealed by H.B. 1735, 85th Leg., R.S., Sec. 64, eff. Sept. 1, 2017.

(c) Repealed by H.B. 1735, 85th Leg., R.S., Sec. 64, eff. Sept. 1, 2017.

(d) The authority shall make the periodic announcements of the current state of the tabulation, including by posting the announcements on the Internet website of the county, if the county maintains a website.

(e) On completing the tabulation, the authority shall:

(1) deliver it to the general custodian; or

(2) post the tabulation on:

(A) the county's website; and

(B) if required by secretary of state rule, the secretary of state's website.

(f) A person employed to assist in the preparation of the unofficial tabulation is entitled to compensation at the same rate as an election clerk serving in the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 146, eff. Sept. 1, 1997; H.B. 1735, 85th Leg., R.S., Sec. 34, eff. Sept. 1, 2017; H.B. 2640, 86th Leg., Sec. 24, eff. Sept. 1, 2019; H.B. 3607, 87th Leg., R.S., Sec. 6.003, eff. Sept. 1, 2021.

**Sec. 172.114. DISPOSITION OF POLL LIST.** The general custodian of election records shall preserve the poll lists maintained for a primary election for 22 months.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
H.B. 1735, 85th Leg., R.S., Sec. 35, eff. Sept. 1, 2017.

**Sec. 172.1141. LIST OF REGISTERED VOTERS FOR CONVENTION.** (a) A county clerk shall prepare a list under this section unless, not later than the 90th day before the date of the primary, the county chair notifies the county clerk that the chair does not require a list. At the same time the acceptance of each voter for voting in the general primary election is indicated on the precinct list of registered voters furnished for use in the election, the acceptance of the voter shall also be indicated on the list furnished for use in the party's conventions.

(b) If a county records the acceptance of a voter electronically, the state chair or county chair may request and the county clerk shall provide not later than the date of the local general primary canvass an electronic document listing the persons who voted in the party primary, the unique identifier assigned to each person, and whether the person voted early in person or by mail, or voted in person on election day.

Added by Acts 1987, 70th Leg., ch. 501, Sec. 2, eff. Sept. 1, 1987. Amended by H.B. 1735, 85th Leg., R.S., Sec. 36, eff. Sept. 1, 2017; H.B. 2640, 86th Leg., Sec. 25, eff. Sept. 1, 2019.

**Sec. 172.115. DISPOSITION OF LIST OF REGISTERED VOTERS.** (a) Subject to Subsection (b), the voter registrar shall preserve each precinct list of registered voters that is used for a primary election for 22 months.

(b) The registrar shall return each list that is to be used in a subsequent primary election to the authority responsible for distributing the election supplies not earlier than the fourth day before the date it is needed for the subsequent primary.

(c) The presiding judge shall retain and provide at the appropriate time the list of registered voters to be used in the party's conventions, if the list was produced under Section 172.1141.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 501, Sec. 3, eff. Sept. 1, 1987; H.B. 1735, 85th Leg., R.S., Sec. 37, eff. Sept. 1, 2017; H.B. 2640, 86th Leg., Sec. 26, eff. Sept. 1, 2019.

**Sec. 172.116. LOCAL CANVASS RELATING TO CANDIDATES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS.** (a) The county chair or the county chair's designee and, if available, at least one member of the county executive committee selected by the county executive committee shall canvass the precinct election returns for the county.

(b) The county chair or the county chair's designee and any selected county executive committee member shall convene to conduct the local canvass on the second Thursday after election day at the hour specified by the county chair and posted on the county party website or the commissioners court bulletin board if the county organization of the political party does not maintain a website.

(c) The county clerk shall prepare and electronically submit to the secretary of state a report of the results of the canvass, which must include:

- (1) the total number of votes cast in each precinct for each candidate or measure; and
- (2) the number of counted and uncounted provisional ballots cast in each precinct.

(d) The final canvass is concluded when the chair digitally certifies the canvass report on the secretary of state's website. The posting on the site that the results are final completes the canvass report. The chair is not required to file any additional notice or report with the county clerk.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1179, Sec. 15(2), eff. September 1, 2015.

(f) The local canvass is open to the general public.

(g) The official result of the primary election, except for offices canvassed at the state level, is determined from the local canvass of precinct returns and shall be posted to the secretary of state's website.

(h) A designee appointed by the county chair to conduct the local canvass under this section must be:

- (1) a member of the county executive committee; or
- (2) if no member of the county executive committee is available to conduct the canvass, a resident of the county served by the committee who is affiliated with the same political party.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 18, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 275, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 728, Sec. 66, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 147, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 52, eff. Jan. 1, 2004; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 15, eff. September 1, 2009; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 5, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 6, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 15(2), eff. September 1, 2015; H.B. 1735, 85th Leg., R.S., Sec. 38, eff. Sept. 1, 2017; H.B.



**Sec. 172.117. CERTIFICATION OF NOMINEES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS FOR COUNTY AND PRECINCT OFFICES FOR PLACEMENT ON GENERAL ELECTION BALLOT.** (a) The county chair shall certify by posting on the secretary of state's website a notation next to the name and address of each primary candidate who is nominated for a county or precinct office for placement on the general election ballot. The chair shall digitally execute an affidavit certifying that the returns posted on the secretary of state's website are the correct and complete returns. The secretary of state shall adopt by rule a process to allow the chair to submit the affidavit digitally.

(a-1) The secretary of state shall develop appropriate notations to describe the status of each candidate. The notations shall include:

- (1) "filed";
- (2) "accepted";
- (3) "rejected";
- (4) "withdrew";
- (5) "lost primary";
- (6) "in runoff";
- (7) "lost runoff";
- (8) "deceased";
- (9) "declared ineligible"; or
- (10) "nominee for general election."

(a-2) The county chair shall update the notations after each general primary and runoff primary election, unless the secretary of state's Internet website automatically updates the notations based on election returns. After any withdrawal or death of a candidate, and subsequent replacement of the candidate on the ballot, the chair shall notify the state chair, who shall update the notation on the website. All notations must be completed and accurate on the date prescribed by the secretary of state by rule to ensure that an authority printing general election ballots may rely on the information.

(a-3) After the notations have been placed on the website and the affidavit has been filed as required by Subsection (a), the authority preparing the official general election ballot shall use the list of candidates named on the secretary of state's website as the nominees for general election in preparing the general election ballot.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1179, Sec. 15(3), eff. September 1, 2015.

(c) A candidate's name may not be certified if, before delivering the certification, the county chair learns that the name is to be omitted from the ballot under Section 145.035.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 148, eff. Sept. 1, 1997; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 7, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 8, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 15(3), eff. September 1, 2015; H.B. 1735, 85th Leg., R.S., Sec. 39, eff. Sept. 1, 2017; H.B. 2640, 86<sup>th</sup> Leg., Sec. 28, eff. Sept. 1, 2019.

**Sec. 172.118. NOTICE OF PERSONS ELECTED AS PARTY OFFICERS.** (a) Not later than the 20th day after the date the local canvass is completed, the county chair shall post on the secretary of state's website the names of the persons elected as county chair and precinct chairs for the county.

(b) The notice must include:

- (1) each party officer's address;
- (2) each precinct chair's precinct number; and
- (3) each precinct officer's phone number and e-mail address, if supplied by the officer.

(c) The secretary of state shall make information described by Subsections (b)(1) and (3) available to the state chair, but not available to the public.

(d) Any appointment to fill a vacancy in the office of precinct or county chair shall be posted on the secretary of state's website.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 149, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. 3103), Sec. 7, eff. June 14, 2013. H.B. 1735, 85th Leg., R.S., Sec. 40, eff. Sept. 1, 2017.

**Sec. 172.120. STATE CANVASS RELATING TO CANDIDATES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS.** (a) The state chair shall canvass the county election returns.

(b) The state chair shall conduct the state canvass for the general primary election not later than:

(1) the second Sunday after general primary election day, for an election in which three or more candidates are seeking election to the same office; or

(2) the 22nd day after general primary election day, for an election not described by Subdivision (1).

(b-1) Not later than the third Saturday after runoff primary election day, the state chair shall complete the state canvass of the runoff primary election.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1179, Sec. 15(4), eff. September 1, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1179, Sec. 15(4), eff. September 1, 2015.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1179, Sec. 15(4), eff. September 1, 2015.

(f) The secretary of state shall preserve and archive on the secretary's website all of the information pertaining to candidates and the canvass results.

(g) The state canvass is open to the general public.

(h) The official result of the primary election for offices canvassed by the state chair is determined from its canvass of the county returns.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S. ch. 14, Sec. 19, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 54, Sec. 21(a), (b), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 163, Sec. 3, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 151, eff. Sept. 1, 1997; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 16, eff. September 1, 2009; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 9, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 10, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 15(4), eff. September 1, 2015.

**Sec. 172.121. CERTIFICATION OF CANDIDATES FOR STATEWIDE AND DISTRICT OFFICES FOR PLACEMENT ON RUNOFF BALLOT.** (a) The state chair shall certify on the secretary of state's website for placement on the runoff primary election ballot the name of each general primary candidate for a statewide or district office who is to be a candidate in the runoff.

(b) The secretary of state shall update the status of each candidate as appropriate by posting next to the candidate's name on the secretary of state's website whether the person lost in the primary or is in a runoff for the position as soon as practicable after the state canvass of the general primary election is completed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 152, eff. Sept. 1, 1997; H.B. 1735, 85th Leg., R.S., Sec. 41, eff. Sept. 1, 2017; H.B. 2640, 86th Leg., Sec. 29, eff. Sept. 1, 2019.

**Sec. 172.122. CERTIFICATION OF NOMINEES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS FOR STATEWIDE AND DISTRICT OFFICES TO SECRETARY OF STATE.** (a) The state chair shall certify by posting on the secretary of state's website the name and address of each primary candidate who is nominated for a statewide or district office. The state chair shall execute and file digitally with the secretary of state an affidavit certifying that the returns posted on the secretary of state's website are the correct and complete returns. The secretary of state shall adopt by rule a process to allow the chair to submit the affidavit digitally.

(b) Not later than the 20th day after the date the state canvass is completed, the state chair shall submit the certification to the secretary of state for posting on the secretary of state's Internet website.

(c) The secretary of state shall create a system for the state chair to submit the information to the secretary of state for posting on the secretary of state's Internet website under Subsection (b).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 153, eff. Sept. 1, 1997; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 11, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 12, eff. September 1, 2015; H.B. 1735, 85th Leg., R.S., Sec. 42, eff. Sept. 1, 2017; H.B. 2640, 86th Leg., Sec. 30, eff. Sept. 1, 2019.

**Sec. 172.123. ENTERING PRIMARY RESULTS IN ELECTION REGISTER.** (a) The county clerk shall enter the precinct results for the primary election in the election register maintained for the commissioners court.

(b) The secretary of state shall enter the primary election results for statewide and district offices in the election register maintained for the governor.

(c) The requirements of this section may be met by entering the results on the secretary of state's website if the secretary of state maintains a website for that purpose.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 4, eff. Sept. 1, 1989; H.B. 1735, 85th Leg., R.S., Sec. 43, eff. Sept. 1, 2017.

**Sec. 172.124. REPORTING PRECINCT RESULTS TO SECRETARY OF STATE RELATING TO CANDIDATES WHO FILED AN APPLICATION FOR A PLACE ON THE BALLOT IN ACCORDANCE WITH THE GENERAL REQUIREMENTS.** (a) For each primary election, the county clerk shall prepare a report of the number of votes, including early voting votes, received in each county election precinct by each candidate for an office, other than a party office, as

provided by Section 67.017 for the report of precinct results for a general election.

(b) The county clerk shall deliver the report to the secretary of state not later than the 30th day after primary election day.

(c) Except as otherwise provided by this section, the report is subject to the requirements prescribed by Section 67.017 for the report prepared for a general election.

(d) The secretary of state shall create and maintain an electronic system for submission of the report.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 2(d), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 114, Sec. 13, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.64; Acts 1991, 72nd Leg., ch. 554, Sec. 35, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 154, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. 3103), Sec. 9, eff. June 14, 2013; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 13, eff. September 1, 2015; Acts 2015, 84th Leg., R.S., Ch. 1179 (S.B. 1073), Sec. 14, eff. September 1, 2015; H.B. 1735, 85th Leg., R.S., Sec. 44, eff. Sept. 1, 2017; H.B. 2640, 86<sup>th</sup> Leg., Sec. 31, eff. Sept. 1, 2019.

**Sec. 172.125. ADDITIONAL PROCEDURE FOR ACCEPTING VOTERS IN RUNOFF.** (a) For a runoff primary election, the voter registrar shall make appropriate notations to indicate the preceding party primary for which the voter was accepted for voting, if any.

(b) An election officer at a runoff primary election polling place shall determine whether the name of a voter offering to vote is noted on the list as having been accepted for voting in another party's primary. If the voter's name is so noted, the voter may not be accepted for voting at the runoff unless the voter executes an affidavit stating that the voter did not vote in the primary or participate in a convention of another party during the same voting year.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 67, eff. Sept. 1, 1993. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. 3103), Sec. 10, eff. June 14, 2013.

**Sec. 172.126. JOINT PRIMARIES AUTHORIZED.** (a) The primary elections in a county may be conducted jointly at the regular polling places designated for the general election for state and county officers. The county clerk shall supervise the overall conduct of the joint primary elections. This section applies to the conduct of joint primary elections notwithstanding and in addition to other applicable provisions of this code. The decision to conduct a joint general primary election or runoff primary election, as applicable, must be made by majority vote of the full membership of the commissioners court and with the unanimous approval of the county clerk and the county chair of each political party required to nominate candidates by primary election.

(b) The county clerk shall determine whether to consolidate election precincts under Section 42.009 and shall designate the location of the polling place in a consolidated precinct. To the extent possible, a polling place shall be designated that will accommodate the precinct conventions of each political party. If a polling place, whether for a regular or consolidated precinct, is not suitable for more than one precinct convention, the polling place may be used by the party whose candidate for governor received the most votes in the county in the most recent gubernatorial general election.

(c) One set of election officers shall conduct the primary elections at each polling place. Not later than the second Monday in December preceding the primary elections, each county chair shall deliver to the county clerk a list of the names of the election judges and clerks for that party. The presiding judge of each party, or alternate judge if applicable, serves as a co-judge for the precinct. If an eligible presiding co-judge and alternate co-judge cannot be found to serve for a particular party in a precinct, a joint primary may not be conducted in that precinct, and that precinct must be consolidated with another precinct that has an eligible presiding co-judge and alternate co-judge to serve for each party. The county clerk shall appoint the election clerks in accordance with rules prescribed by the secretary of state. The secretary of state shall prescribe the maximum number of clerks that may be appointed for each precinct. The early voting ballot board and any central counting station shall also be composed of and administered by one set of election officers that provides representation for each party, and the secretary of state by rule shall prescribe procedures consistent with this subsection for the appointment of those officers.

(d) Each co-judge has the law enforcement duties and powers provided under Section 32.075. Each co-judge has the exclusive authority to conduct challenges on the eligibility of voters, tabulate the votes, and deliver the election returns in the primary of the party with which that judge is affiliated or aligned.

(e) The county clerk shall obtain the candidates' names that are to appear on the primary ballot, office sought, and candidate and office ballot order from the certified list on the secretary of state's website.

(f) The county clerk shall determine the ballot format and voting system for each election precinct and shall procure the election equipment and supplies.

(g) A separate set of ballot boxes or other suitable containers approved by the secretary of state shall be used for each party's primary, except that one set of ballot boxes or other containers may be used in a joint primary using an electronic voting system in which the ballots are deposited by the voters directly into a unit of automatic tabulating equipment. The lists of registered voters and the voters' registration certificates shall be marked and stamped to show the appropriate party affiliation for each voter. A separate list of registered voters shall be used for each party's primary. The secretary of state by rule shall

prescribe requirements to ensure that one party's ballot is readily distinguished from another's, which may include the use of different colors of ink.

(g-1) A voter shall be allowed privacy to the extent possible when indicating the voter's choice as to which political party's primary the voter chooses to vote in. A voter may indicate, without verbalizing, the voter's choice by pointing to which party's ballot the voter chooses. The secretary of state shall prescribe a sign to inform voters of this option, and the co-judges of each polling place shall post the sign beside the signature roster.

(h) Separate election returns shall be prepared for each party's primary and shall be canvassed as provided by this code.

(i) The secretary of state by rule shall prescribe the procedures necessary to implement this section to ensure the orderly and proper administration of joint primary elections.

Added by Acts 1997, 75th Leg., ch. 1349, Sec. 62, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 37, eff. Sept. 1, 2003; H.B. 1735, 85th Leg., R.S., Sec. 45, eff. Sept. 1, 2017.

**Sec. 172.127. CONTENT OF SIGN USED TO IDENTIFY POLLING PLACE LOCATION.** (a) Repealed by H.B. 1735, 85th Leg., R.S., Sec. 64, eff. Sept. 1, 2017.

(b) The presiding judge or alternate presiding judge for the precinct may post signs at a polling place for a primary election or a primary runoff election that:

(1) identify the names of, or symbols representing, any political parties holding an election at the polling place; and

(2) do not refer to a candidate or measure on the ballot.

(c) The secretary of state shall adopt rules to provide that signs posted as authorized by Subsection (b) in the same county have a similar size and format.

Added by Acts 2009, 81st Leg., R.S., Ch. 606 (H.B. 719), Sec. 2, eff. September 1, 2009. Amended by H.B. 1735, 85th Leg., R.S., Sec. 46, eff. Sept. 1, 2017.

**Sec. 172.128. ALTERNATIVE PRIMARY PROCEDURE FOR COUNTIES WITHOUT COUNTY PARTY LEADERSHIP.** (a) Notwithstanding a conflicting provision of this code, a primary election that is required for the nomination of a political party to a statewide office, a multicounty district office, or a presidential primary election shall be held in accordance with this section in a county in which:

(1) the office of county chair is vacant and there is an insufficient number of members serving on the county executive committee to fill a vacancy on the committee; and

(2) the party is unable to establish a temporary executive committee under Section 171.027.

(b) On request of the state chair of a political party, a county clerk, county tax assessor-collector, or county elections administrator, as appropriate, shall contract with the state chair to hold a primary election under this section.

(c) The county clerk may combine voting precincts for an election held under this section to the extent necessary to adequately serve the voters.

(d) Voting shall be conducted at least during the hours that the county clerk's main business office is regularly open for business.

(e) The election returns for an election held under this section shall be delivered to the state chair of the applicable political party.

(f) A precinct convention is not required to be held following a primary election conducted under this section.

(g) A contract for election services entered into under this section shall provide that the county shall be eligible to be reimbursed for primary election expenses in the same manner a county chair would be reimbursed under Subchapter D, Chapter 173.

(h) Election officers appointed to serve a polling place for a primary election conducted under this section may be affiliated or aligned with any political party.

(i) The secretary of state shall adopt rules to implement this section in accordance with the conduct of elections and with party rule.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1262 (H.B. 630), Sec. 3, eff. June 14, 2013. Amended by: Acts 2015, 84th Leg., R.S., Ch. 264 (S.B. 1448), Sec. 1, eff. September 1, 2015; H.B. 1735, 85th Leg., R.S., Sec. 47, eff. Sept. 1, 2017.

**Sec. 172.129. STATEMENTS MADE BY ELECTION OFFICER WHEN PRIMARIES CONDUCTED AT SAME LOCATION.** (a) This section applies only to a polling place used to hold an election for more than one political party.

(b) An election officer conducting a primary election may not:

(1) suggest a political party's ballot to a voter; or

(2) discuss any race on the ballot with a voter.

**Sec. 172.130. ACTION BY STATE CHAIR TO MEET DEADLINES FOR CONDUCT OF PRIMARY.** (a) Notwithstanding a conflicting provision of this code, the state chair, or the state chair's designee, may perform any administrative duty of the county chair, the county chair's designee, or county executive committee related to the conduct of a primary election that has not been performed in the time required by law, including the submission of candidate information under Section 172.029, drawing for ballot order under Section 172.082, and canvassing returns under Section 172.116.

(b) The state chair must notify the county chair or county executive committee in writing or electronically that a duty has been performed under the authority of this section.

(c) If a county chair has a reasonable impediment or lacks appropriate technology to perform any administrative duty of the county chair related to the conduct of a primary election within the time required by law, the county chair may request that the state chair, or the state chair's designee, perform the duty instead of the county chair.

(d) The state chair may act in the role of the county chair for the purposes of Subchapter D, Chapter 173, with the approval of the secretary of state.

(e) The secretary of state shall adopt rules to implement this section in accordance with the conduct of elections and with party rule.

## **CHAPTER 173. PRIMARY ELECTION FINANCING**

### **SUBCHAPTER A. PRIMARY ELECTION EXPENSES GENERALLY**

**Sec. 173.001. STATE FUNDS FOR PRIMARY AUTHORIZED.** (a) Subject to legislative appropriation, state funds may be spent as provided by this chapter to pay expenses incurred by a political party in connection with a primary election.

(b) Expenses incurred in connection with a convention of a political party or other party activity that is not necessary for the holding of a primary election may not be paid with state funds.

(c) The secretary of state may spend state funds appropriated for primary finance to pay salaries and other necessary expenses in connection with the administration of primary elections.

(d) If the amount of the funds appropriated for the financing of primary elections is insufficient to satisfy the requests for those funds made under this code, the secretary of state may distribute the amount of the appropriation on a pro rata basis. Each party chair or executive committee is entitled to a proportionate share of that amount according to that committee's percentage of the total amount requested.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(c), eff. Sept. 1, 1987; H.B. 1735, 85th Leg., R.S., Sec. 49, eff. Sept. 1, 2017.

**Sec. 173.002. STATE NOT LIABLE FOR PRIMARY EXPENSES.** The state is not liable for the failure of a political party to pay expenses the party incurs in holding a primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 173.003. EXPENSES INCURRED BY COUNTY.** Except as otherwise provided by law, the county shall pay all the expenses incurred in connection with early voting in a primary election, except expenses relating to the printing of early voting ballots, and any other expenses incurred by a county authority in connection with a primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 472, Sec. 45, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.65; Acts 1991, 72nd Leg., ch. 554, Sec. 36, eff. Sept. 1, 1991.

**Sec. 173.004. STATE COMPENSATION OF COUNTY CHAIR AND SECRETARY OF COUNTY EXECUTIVE COMMITTEE.** (a) The total amount paid with state funds in a particular primary election year for the combined compensation of a county chair and the secretary, if any, of the county executive committee presided over by the chair may not be:

(1) less than \$300; or

(2) more than the lesser of

(A) \$8,000; or

(B) five percent of the total expenses incurred by the political party in holding primary elections in the county that year, exclusive of the combined annual compensation of the county chair and secretary.

(b) The status of a county executive committee's secretary as a committee member does not affect the applicability of this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 155, eff. Sept. 1, 1997.

**Sec. 173.005. STATE COMPENSATION FOR TRAINING ELECTION JUDGES.** The maximum hourly rate payable with state funds in a particular primary election year to election judges serving in a primary election for attending training programs is the same as the maximum rate prescribed by this code for compensation for attending a training program for election judges appointed to serve in elections ordered by the governor or a county authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 38, 44, eff. Sept. 1, 2003.

**Sec. 173.006. AUTHORITY TO REDUCE PRIMARY COSTS.** The secretary of state may adopt rules consistent with this code that reduce the cost of primary elections or facilitate the holding of primary elections within the amount appropriated by the legislature for that purpose.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 173.007. LIMITING STATE COMPENSATION FOR POLLING PLACES.** (a) The secretary of state may limit the

number of primary election polling places for which operating expenses are payable with state funds.

(b) Rules adopted under this section must provide for state compensation for a sufficient number of polling places in each county to adequately serve its voters, taking into account the area, geographic features, estimated voter turnout, and other relevant factors, but in no case may state compensation be limited to fewer than one polling place for each commissioners precinct.

(c) Rules adopted under this section do not limit a political party's authority under this code to consolidate election precincts for a primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 173.008. LIMITING STATE COMPENSATION FOR ELECTION PERSONNEL.** (a) The secretary of state may limit the number of election clerks in a primary election whose service is payable with state funds.

(b) The secretary of state may limit the total state compensation payable to persons employed to assist a county chair in connection with a primary election.

(c) Rules adopted under this section must provide for state compensation for sufficient personnel to properly hold the primary, taking into account the number of registered voters, number of votes cast in previous primary elections, method of voting, and other relevant factors, but in no case may state compensation be limited to fewer than two clerks for each election precinct.

(d) State funds may be paid in excess of the limits prescribed under this section if the secretary of state determines good cause exists for the additional state compensation.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 156, eff. Sept. 1, 1997.

**Sec. 173.009. DEADLINE FOR ADOPTING RULES.** A rule adopted by the secretary of state under this subchapter does not apply to a primary election held less than 45 days after the date the rule is adopted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 173.010. FURNISHING RULES AND GUIDELINES.** During October preceding each primary election year, the secretary of state shall post on the secretary's website a current set of the rules and any available guidelines adopted under this subchapter. The secretary of state shall e-mail each state or county chair who has provided the secretary of state an e-mail address when the rules and guidelines have been posted. If a rule or amendment of a rule is adopted after the set is posted, the secretary shall update the posting with the new rule or amendment not later than the 10th day after the date of its adoption.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 20, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 157, eff. Sept. 1, 1997; H.B. 1735, 85th Leg., R.S., Sec. 50, eff. Sept. 1, 2017.

**Sec. 173.011. FINANCING OF JOINT PRIMARY ELECTIONS GENERALLY.** (a) This section applies to the financing of joint primary elections notwithstanding and in addition to other applicable provisions of this code.

(b) Any surplus remaining in a county primary fund shall be remitted to the secretary of state immediately after the final payment from the fund of the necessary expenses for holding the primary elections for that year, but not later than July 1 following the applicable primary election. The surplus in the primary fund shall be remitted regardless of whether state funds were requested by the chair.

(c) The secretary of state shall adopt rules, consistent with this chapter to the extent practicable, that are necessary for the fair and efficient financing of joint primary elections.

Added by Acts 1997, 75th Leg., ch. 1349, Sec. 63, eff. Sept. 1, 1997.

Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 39, eff. Sept. 1, 2003.

## **SUBCHAPTER B. PRIMARY FUND**

**Sec. 173.031. COUNTY PRIMARY FUND.** (a) A county primary fund is created for each county executive committee of a political party holding a primary election.

(b) The county primary fund consists of:

- (1) the filing fees required to be deposited in the fund under Subchapter C;
- (2) the state funds paid to the county chair under Subchapter D;
- (3) the contributions to the county executive committee for the purpose of defraying primary election expenses; and
- (4) the income earned by the fund.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1997, 75th Leg., ch. 864, Sec. 158, eff. Sept. 1, 1997.

**Sec. 173.032. STATE PRIMARY FUND.** (a) A state primary fund is created for the state executive committee of each political party holding a primary election.

(b) The state primary fund consists of:

- (1) the filing fees required to be deposited in the fund under Subchapter C;
- (2) the state funds paid to the state chair under Subchapter D;
- (3) the contributions to the state executive committee for the purpose of defraying primary election expenses;

and

- (4) the income earned by the fund.

(c) The state chair may, with the consent of the secretary of state and the county chair or county executive committee, if one exists for the county, accept money into the state primary fund on behalf of a county party. The state chair must keep records to track the money that is attributable to a county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 159, eff. Sept. 1, 1997; H.B. 1735, 85th Leg., R.S., Sec. 51, eff. Sept. 1, 2017; H.B. 2640, 86<sup>th</sup> Leg., Sec. 33, eff. Sept. 1, 2019.

**Sec. 173.033. USE OF PRIMARY FUND.** (a) The county primary fund shall be used to pay expenses incurred by the county chair in connection with a primary election.

(b) The state primary fund shall be used to pay expenses incurred by the state chair in connection with a primary election.

(c) A primary fund may not be used for any other purpose, except as provided by Section 173.032(c).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 160, eff. Sept. 1, 1997; H.B. 1735, 85th Leg., R.S., Sec. 52, eff. Sept. 1, 2017.

**Sec. 173.034. MANAGING PRIMARY FUND.** (a) The county chair shall manage the county primary fund.

(b) The state chair shall manage the state primary fund.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by H.B. 1735, 85th Leg., R.S., Sec. 53, eff. Sept. 1, 2017.

**Sec. 173.0341. STATE CHAIR AS FISCAL AGENT FOR COUNTY PARTY.** (a) A state chair, or the designee of a state chair, may enter into an agreement with a county chair under which the state chair will act as a fiscal agent for the county party.

(b) The secretary of state shall prescribe the form of an agreement under this section.

(c) If the state chair acts as the fiscal agent for a county party in accordance with an agreement under this section:

- (1) the state chair shall deliver the completed agreement to the secretary of state;

(2) any filing fee received by the county party under Subchapter C must be made payable to the state party for deposit in the state primary fund not later than five days after receipt of the filing fee;

(3) the county chair or county executive committee shall make a request in accordance with Section 31.093 to enter into a contract with the county elections administrator to conduct primary elections in the county; and

- (4) Section 173.031 does not apply to the county party.

Added by H.B. 2640, 86<sup>th</sup> Leg., Sec. 34, eff. Sept. 1, 2019.

**Sec. 173.035. AUDIT BY SECRETARY OF STATE.** (a) The secretary of state may have a primary fund audited at any time.

(b) The expenses of an audit under this section shall be paid from funds appropriated for the administration of primary elections.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Renumbered from Election Code Sec. 173.036 and amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(d), eff. Sept. 1, 1987.

**Sec. 173.036. STATE FUNDS FOR AUDIT REQUESTED BY PARTY.** (a) The secretary of state may approve an expenditure of state funds for an audit of:

- (1) the state primary fund or a county primary fund on request of the state chair; or
- (2) a county primary fund on request of a county chair.

(b) On receipt of written certification of the amount approved by the secretary of state for an audit, the comptroller of public accounts shall issue a warrant for that amount payable to the state or county chair making the request.

(c) An audit conducted with state funds approved under this section is subject to the conditions imposed by the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.



## SUBCHAPTER C. DISPOSITION OF FILING FEES

**Sec. 173.061. FEE PAID TO COUNTY CHAIR.** Except as provided by Section 173.0341(c)(2), the county chair shall deposit in the county primary fund each filing fee accompanying an application for a place on the ballot filed with the county chair.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 162, eff. Sept. 1, 1997; H.B. 2640, 86<sup>th</sup> Leg., Sec. 35, eff. Sept. 1, 2019.

**Sec. 173.062. FEE PAID TO STATE CHAIR FOR DISTRICT OFFICES REMITTED TO SECRETARY OF STATE.**

(a) The filing fee for a district office accompanying an application for a place on the ballot filed with the state chair during the regular filing period shall be remitted to the secretary of state and deposited in the state treasury for the financing of primary election expenses.

(b) Repealed by H.B. 1735, 85th Leg., R.S., Sec. 64, eff. Sept. 1, 2017.

(c) Repealed by H.B. 1735, 85th Leg., R.S., Sec. 64, eff. Sept. 1, 2017.

(d) Repealed by H.B. 1735, 85th Leg., R.S., Sec. 64, eff. Sept. 1, 2017.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 163, eff. Sept. 1, 1997; H.B. 1735, 85th Leg., R.S., Secs. 55 & 64, eff. Sept. 1, 2017.

**Sec. 173.063. FEE RETAINED BY STATE CHAIR.** The state chair shall deposit in the state primary fund each filing fee accompanying an application for a place on the ballot filed with the state chair:

(1) for a statewide office; or

(2) for a district office if the application is filed after the regular filing deadline.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 164, eff. Sept. 1, 1997.

## SUBCHAPTER D. STATE FINANCING

**Sec. 173.081. STATEMENT OF ESTIMATED PRIMARY EXPENSES.** (a) Regardless of whether state funds are requested for paying primary expenses, a state or county chair shall remit to the secretary of state a written statement of estimated expenses to be incurred by the chair in connection with a primary election.

(b) The statement must:

(1) contain an itemized estimate, prepared by the authority submitting the statement, of the primary expenses to be incurred and a statement by the authority of whether state funds are requested; and

(2) be sworn to by the authority submitting the statement.

(c) A statement for a general primary election must also:

(1) state the amount of:

(A) the primary candidates' filing fees required to be deposited in the county primary fund if the statement is submitted by a county chair, or in the state primary fund if the statement is submitted by the state chair, that have been received by the authority submitting the statement; and

(B) the contributions to the county chair or executive committee if the statement is submitted by a county chair, or to the state chair or executive committee if the statement is submitted by the state chair, that:

(i) are for the purpose of defraying primary election expenses; and

(ii) have not been included in a report filed under Section 173.084 for a previous primary election year; and

(2) be submitted not later than the 45th day before general primary election day.

(d) The information required by Subsection (c)(1) must be current as of the 10th day after the date of the regular filing deadline for a candidate's application for a place on the primary ballot.

(e) A statement for a runoff primary election must be submitted not later than the 10th day after general primary election day.

(f) A statement submitted by a county chair must also include a notice of the county election precincts to be consolidated for the election, if any.

(g) The state chair of a party, or the state chair's designee, may submit a statement under this section on behalf of a

county chair if the county chair:

- (1) requests the state chair to submit the statement on the county chair's behalf; or
- (2) fails to submit the statement by the deadline.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(e), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 114, Sec. 14, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 166, eff. Sept. 1, 1997; H.B. 1735, 85th Leg., R.S., Sec. 57, eff. Sept. 1, 2017.

**Sec. 173.082. REVIEW OF STATEMENT; APPROVAL; NOTICE.** (a) On receipt of a statement of estimated primary election expenses, the secretary of state shall review the statement to determine which items of estimated expense and the amounts of those items to approve.

(b) The secretary of state shall approve an item of estimated expense if the secretary determines that it is reasonably necessary for the proper holding of the primary election. If the secretary determines that the entire estimated amount of the item is not reasonably necessary, the secretary shall approve the item in the reduced amount that the secretary determines is appropriate.

(c) The secretary of state shall promptly notify the authority submitting the statement of each item of estimated expense not approved or approved in a reduced amount.

(d) An item or part of an item of estimated primary election expense that is not approved by the secretary of state may not be paid with primary funds.

(e) Expenses incurred in connection with an application for a place on the ballot for the office of precinct chair filed before the 30th day before the date of the regular filing deadline may not be paid with state funds.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(e), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 167, eff. Sept. 1, 1997.

**Sec. 173.083. STATE PAYMENT OF ESTIMATED PRIMARY EXPENSES.** (a) The amount of estimated primary election expenses payable with state funds under this section is equal to:

(1) for a general primary election, the difference obtained by subtracting the sum of the filing fees and contributions reported in the statement of estimated primary election expenses from the total amount of estimated general primary expenses approved by the secretary of state under Section 173.082; and

(2) for a runoff primary election, the total amount of estimated runoff primary expenses approved by the secretary.

(b) State payment of the estimated primary election expenses shall be made in installments as follows:

(1) the initial installment for the expenses of a general primary is equal to three-fourths, or three-fifths if the secretary of state determines that figure to be more efficient, of the amount of estimated general primary expenses payable with state funds;

(2) the initial installment for the expenses of a runoff primary is equal to three-fourths, or three-fifths if the secretary of state determines that figure to be more efficient, of the amount of estimated runoff primary expenses payable with state funds; and

(3) the final installment is equal to the difference obtained by subtracting the total of the installments paid under Subdivisions (1) and (2) from the total of the actual general and runoff primary election expenses payable with state funds.

(c) After determining the amount of estimated primary expenses to approve under Section 173.082 for a general or runoff primary, the secretary of state shall calculate the amount of the installment payable under Subsection (b)(1) or (2), as applicable. The secretary shall then prepare and deliver to the comptroller of public accounts a certified statement indicating the amount of the installment, the total amount of estimated general or runoff primary expenses payable with state funds, and the name of the county or state chair who submitted the statement of estimated primary election expenses.

(d) The final installment may not be paid until a report is filed in compliance with Section 173.084 and, in the case of a county chair, a report is also filed in compliance with Section 172.124. On the filing of the report, the secretary of state shall calculate the amount of the final installment and prepare and deliver to the comptroller of public accounts a certified statement indicating that amount and the appropriate county or state chair's name.

(e) On receipt of a certified statement under Subsection (c) or (d), the comptroller of public accounts shall issue a warrant in the certified amount of the installment payable to the county or state chair identified by the statement.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(f), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 114, Sec. 15, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 168, eff. Sept. 1, 1997.

**Sec. 173.0831. STATE PAYMENT OF START-UP PRIMARY FUNDS.** (a) Not later than the 30th day before the beginning date of the regular filing period for public offices in the general primary election, a county chair may submit to the

secretary of state a written statement of estimated primary election expenses.

(b) Not later than the 10th day after the date the statement is received, the secretary of state shall have disbursed to the county chair start-up funds in an amount equal to 10 percent of the amount approved for and expended by the county chair and executive committee in the preceding general primary election.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 68, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 169, eff. Sept. 1, 1997.

**Sec. 173.0832. DIRECT REPAYMENT TO AUTHORITY CONDUCTING PRIMARY ELECTION UNDER CONTRACT IN CERTAIN COUNTIES.** On request of a county election officer of a county who conducts a primary election under an election services contract authorized under Subchapter D, Chapter 31, the secretary of state shall provide payment of primary expenses directly to the officer who incurs the expense rather than to the county chair under this subchapter. The secretary of state shall prescribe procedures to implement this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 154 (H.B. 1789), Sec. 1, eff. September 1, 2011.

Amended by H.B. 1735, 85<sup>th</sup> Leg. R.S., Sec. 58, eff. Sept. 1, 2017.

**Sec. 173.0833. DIRECT BILLING OF CERTAIN PRIMARY EXPENSES.** (a) This section applies to election services and materials provided by a vendor for use in a primary election or primary runoff election, including:

- (1) the printing of paper ballot material containing candidates' names used in a polling place;
- (2) the programming and testing of voting system equipment, including ballot layout, programming of equipment, and audio production;
- (3) site support or technical support other than the programming or testing of voting system equipment;
- (4) nonballot election materials used in a precinct on election day, including election kits, required party stamps, distance signs, and required forms; and
- (5) the rental of non-county-owned electronic voting system equipment, including media components.

(b) A vendor providing election services or materials to a county chair or a county election officer contracting with a county chair for a primary or runoff primary election shall directly bill the secretary of state for the cost of the services or materials used on election day for which state funding is available under this chapter.

(c) The county chair or the county election officer contracting with the county chair for whom a vendor provides election services or materials to be directly billed to the secretary of state under this section:

- (1) shall direct the vendor to remit final invoices to the secretary of state for payment; and
- (2) may examine an invoice for accuracy after the invoice is submitted to the secretary of state for payment.

(d) If after a review under Subsection (c)(2) an adjustment is required, the county chair or county election officer shall notify the vendor and the secretary of state. The vendor shall submit a corrected invoice and the secretary of state shall adjust the payment accordingly.

(e) An invoice submitted to the secretary of state by a vendor for payment under this section must be in an electronic spreadsheet format prescribed by the secretary of state and list each county to which the vendor provides election services or materials. For each county to which a vendor provides election services or materials a submission must include:

- (1) the name of the political party;
- (2) the invoice number;
- (3) the date of submission;
- (4) the number of ballots printed, if any;
- (5) whether an order for ballot printing or programming of voting system equipment was placed by the county chair or an entity contracting with the county chair to hold the primary; and
- (6) the specific type of election services or materials provided.

(f) A vendor may not submit an invoice directly billing the secretary of state for a primary election expense required to be paid by the county under Section 173.003.

(g) The direct payment by the secretary of state of an invoice under this section does not affect the payments calculated for county chairs under Section 173.004 or compensation of a county election officer under Section 31.100.

(h) The secretary of state may adopt rules as necessary to implement this section.

Added by H.B. 1735, 85<sup>th</sup> Leg. R.S., Sec. 59, eff. Sept. 1, 2017.

**Sec. 173.084. EXPENSE REPORT BY PARTY.** (a) Regardless of whether state funds are requested for paying primary expenses, each county chair and state chair shall prepare a report that includes:

- (1) an itemized list of the actual expenses incurred in connection with the general and runoff primaries by the authority preparing the report and by the executive committee over which the authority presides;

- (2) the amount of the primary candidates' filing fees required to be deposited in the county primary fund if the report is by a county chair, or in the state primary fund if the report is by the state chair;
- (3) the amount of filing fees that have been refunded;
- (4) the amount of the contributions to the executive committee over which the authority preparing the report presides that:

- (A) are for the purpose of defraying primary election expenses; and

- (B) have not been included in a report filed under this section for a previous primary election year;

and

- (5) the balance in the county primary fund if the report is by a county chair, or in the state primary fund if the report is by the state chair, that remains after deducting the primary election expenses actually incurred and the refunded filing fees.

(b) The authority preparing the report shall file it with the secretary of state not later than August 31 following the applicable primary election, in the case of the county chair's report, or if no runoff primary is held for a statewide or district office, in the case of the state chair's report.

(b-1) The secretary for good cause, including failure of a vendor or a county election officer contracted to conduct the election to provide complete invoices in a timely fashion, may extend the filing deadline.

(c) The report must be sworn to by the authority preparing it.

(d) Any compensation claimed under Section 173.004 shall be forfeited on the failure of a county chair to file a timely report.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(g), eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 69, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 170, eff. Sept. 1, 1997; H.B. 1735, 85<sup>th</sup> Leg. R.S., Sec. 60, eff. Sept. 1, 2017.

**Sec. 173.085. STATE PAYMENT OF EXCESS PRIMARY EXPENSES.** (a) If the actual expenditure for an item of primary election expense exceeds the amount estimated for the item in the statement of estimated primary election expenses, the excess expense is payable with state funds as provided by this section.

(b) To obtain state compensation for an excess expense, the county chair or state chair, as applicable, must include in the report required by Section 173.084:

- (1) an identification of the item for which the excess expense was incurred;

- (2) the amount of the excess; and

- (3) an explanation of the reason for exceeding the estimate.

(c) The secretary of state shall approve the payment of the excess expense with state funds if the secretary determines that payment is justified by good cause. If the secretary determines that payment of the entire excess expense is not justified by good cause, the secretary shall approve the excess expense in the reduced amount that the secretary determines is appropriate.

(d) The secretary of state shall promptly notify the authority filing the report of each item of excess expense not approved or approved in a reduced amount.

(e) An item of excess primary election expense that is not approved by the secretary of state, or that part of an item that is not approved, may not be paid with state funds.

(f) If the secretary of state approves an excess expense, the secretary shall include the approved amount in the certified statement prepared under Section 173.083(d).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(h), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 171, eff. Sept. 1, 1997.

**Sec. 173.0851. DISPOSITION OF SURPLUS IN PRIMARY FUND.** (a) Any surplus remaining in a primary fund shall be remitted to the secretary of state immediately after the final payment from the fund of the necessary expenses for holding the primary elections for that year, upon request of the secretary of state. The surplus in a primary fund shall be remitted regardless of whether state funds were requested by the chair.

(b) Any surplus primary funds received by the secretary of state under this section shall be deposited in the state treasury and may be used only for the financing of primary elections.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 12(i), eff. Sept. 1, 1987.

Amended by Acts 1987, 70th Leg., ch. 472, Sec. 46, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 172, eff. Sept. 1, 1997; H.B. 1735, 85<sup>th</sup> Leg. R.S., Sec. 61, eff. Sept. 1, 2017.

**Sec. 173.086. CHALLENGE OF DISBURSEMENT OF STATE FUNDS.** (a) The authority who submitted a statement of estimated primary election expenses under this subchapter may challenge in a district court in Travis County the amount of state funds approved by the secretary of state for disbursement.

(b) A petition stating the ground of the challenge must be filed with the court not later than the 20th day after the earlier of:

(1) the date of receipt of the secretary of state's notice of disapproval or approval in a reduced amount of a primary election expense involved in the challenge; or

(2) the date of receipt of the comptroller's warrant for payment of a primary election expense involved in the challenge.

(c) If the court determines the challenged amount is less than the amount to which the petitioner is entitled by law, the court shall order payment in the proper amount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(j), eff. Sept. 1, 1987.

**Sec. 173.087. LIABILITY OF COUNTY CHAIR AND COUNTY EXECUTIVE COMMITTEE.** The county executive committee is not liable for the debts incurred by the committee or the county chair in connection with a primary election that are unpaid because the legislative appropriation is insufficient. The county chair or any other member of the county executive committee is not personally liable for those debts.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 173, eff. Sept. 1, 1997.

## CHAPTER 174. CONVENTIONS

### SUBCHAPTER A. GENERAL PROVISIONS

**Sec. 174.001. APPLICABILITY OF CHAPTER.** This chapter applies to a political party holding a primary election.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 174.002. MEDIA ACCESS.** Representatives of the broadcast and print news media are entitled to attend a convention held under this chapter for the purpose of reporting its proceedings.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 174.003. DELEGATE TO BE QUALIFIED VOTER.** In addition to the requirement of party affiliation, to be eligible to serve as a delegate to a county, senatorial district, or state convention held under this chapter, a person must be a qualified voter of the territory that the person is selected to represent or a resident of that territory who is eligible to vote a limited ballot.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1997, 75th Leg., ch. 864, Sec. 175, eff. Sept. 1, 1997.

**Sec. 174.004. ELIGIBILITY REQUIREMENTS EXCLUSIVE.** A political party may not impose eligibility requirements in addition to those prescribed by this title for serving as a delegate to a county, senatorial district, or state convention held under this code.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

### SUBCHAPTER B. PRECINCT CONVENTIONS

**Sec. 174.021. SELECTION OF DELEGATES TO COUNTY AND SENATORIAL DISTRICT CONVENTIONS.** (a) The delegates to a political party's county and senatorial district conventions held under this chapter shall be selected in accordance with party rules at precinct conventions held as provided by this subchapter.

(b) A political party may by rule allow a county to hold precinct conventions before or during the county convention on the same day and at the same place as the county convention. The rule may modify other provisions of this subchapter as necessary for the county to hold precinct conventions as provided by this subsection.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 12, eff. June 14, 2013; H.B. 2640, 86<sup>th</sup> Leg., Sec. 36, eff. Sept. 1, 2019.

**Sec. 174.022. TIME AND PLACE OF CONVENTION.** (a) The precinct conventions may be held at a time and place as determined by rules adopted by the state executive committee of a political party.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1054, Sec. 33, eff. June 14, 2013.

(c) If conventions are held on general primary election day, the hour set for convening the conventions may not be earlier than 7 p.m. or later than 9 p.m., but a convention may not convene until the last voter has voted at the precinct polling place. If conventions are held on a day other than general primary election day, the county executive committee shall set the hour for convening or a time frame in which the conventions must convene.

(d) The place selected for a convention must meet the same requirements for access by the elderly and persons with physical disabilities as a polling place under Section 43.034(a).  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 21, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 622, Sec. 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 176, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 5.14, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 809, Sec. 3, eff. Sept. 1, 1999; Acts 2009, 81st Leg., R.S., Ch. 567 (S.B. 2067), Sec. 1, eff. September 1, 2009. Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 35, eff. September 1, 2011. Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 13, eff. June 14, 2013. Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 33, eff. June 14, 2013.

**Sec. 174.023. NOTICE OF DATE, HOUR, AND PLACE.** (a) The county chair shall post a notice of the date, hour, and place for convening each convention on the county or state party's Internet website or other Internet location easily found through a search engine. If the county party does not maintain an Internet website, the chair shall post the notice on the county commissioner's bulletin board. The notice must remain posted continuously for the 10 days immediately preceding the date of the convention.

(b) Repealed by H.B. 2640, 86th Leg., Sec. 42, eff. Sept. 1, 2019.

(c) If the county chair fails to post or deliver notice in accordance with this section, another member of the county executive committee may post or deliver the notice.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 177, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 36, eff. September 1, 2011. Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 14, eff. June 14, 2013; H.B. 2640, 86<sup>th</sup> Leg., Sec. 42, eff. Sept. 1, 2019.

**Sec. 174.024. PARTICIPANT TO BE REGISTERED VOTER.** In addition to the requirement of party affiliation, to be eligible to participate in a precinct convention held under this subchapter, a person must be a registered voter of the precinct or a precinct resident who is eligible to vote a limited ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 174.025. ORGANIZING THE CONVENTION.** (a) The state executive committee of a political party may adopt a rule requiring the precinct chair to be the permanent chair of the precinct convention unless the precinct chair is absent or declines the position. If a rule is not adopted under this subsection, the precinct chair is the temporary chair of the precinct convention held under this subchapter.

(b) If the precinct chair is absent, a person who is eligible to participate in the convention may act as temporary chair.

(c) Before conducting business, the precinct chair shall prepare a list containing the name and residence address of each person who is admitted to participate in the convention. The state executive committee by rule may adopt an alternate process in place of the requirement under this subsection.

(d) The precinct chair shall call the convention to order.

(e) The convention shall select a convention chair, if the precinct chair is not the permanent chair, and a convention secretary. The convention may select any other officers considered necessary to conduct the convention's business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 178, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 15, eff. June 14, 2013; H.B. 2640, 86<sup>th</sup> Leg., Sec. 37, eff. Sept. 1, 2019.

**Sec. 174.026. CONVENTION BUSINESS.** After the convention is organized, the convention shall select its delegates to the subsequent convention and conduct any other convention business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 16, eff. June 14, 2013.

**Sec. 174.027. RECORDS OF CONVENTION.** (a) The convention chair shall prepare, sign, and make a copy of a list of the names and residence addresses of the delegates and any alternates selected by the convention.

(b) The convention chair shall sign and make a copy of the list of precinct convention participants required by Section 174.025(c).

(c) The convention chair shall deliver the originals and copies of the lists to the county chair not later than the third day after the date of the precinct convention, except that if delivered by mail, they shall be deposited in the mail not later than the second day after the date of the precinct convention.

(d) The county chair shall retain the copies of the lists stored in paper or electronic files until the end of the voting year in which they are received.

(e) If senatorial district conventions will be held in the county, the county chair shall deliver the originals of the lists to the temporary chairs of the senatorial district conventions before the conventions convene.

(f) The original lists are not public information.

(g) An electronic submission to the county chair through a system created by party rule constitutes a complete delivery under Subsection (c).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 472, Sec. 47, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 499, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 179, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 17, eff. June 14, 2013.

## **SUBCHAPTER C. COUNTY AND SENATORIAL DISTRICT CONVENTIONS**

**Sec. 174.061. SELECTION OF DELEGATES TO STATE CONVENTIONS.** The delegates to a political party's state conventions held under this code shall be selected in accordance with party rules at county and senatorial district conventions held as provided by this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 174.062. TYPE OF CONVENTION HELD.** (a) A party may adopt rules for holding conventions at any level before and including the state convention. If a state executive committee has not adopted other rules, conventions shall be held as follows:

(1) except as provided by Subdivision (3), a county convention shall be held in a county if the county is not situated in more than one state senatorial district;

(2) if a county is situated in more than one state senatorial district, instead of a county convention a senatorial district convention shall be held in each part of the county that is situated in a different senatorial district, unless otherwise provided by party rule; or

(3) if the county executive committee for a political party determines that no suitable location for the county convention is available in the county, the county executive committee may apply to the state executive committee of that political party to issue an order permitting the county convention to be held at a location outside the county.

(b) An order under Subsection (a)(3) must be entered in the minutes of the state executive committee not later than the 30th day before the date the county convention is to be held.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 366, Sec. 1, eff. Aug. 31, 1987; Acts 2009, 81st Leg., R.S., Ch. 76 (H.B. 2101), Sec. 1, eff. September 1, 2009. Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 18, eff. June 14, 2013.

**Sec. 174.063. TIME AND PLACE OF CONVENTION.** (a) Conventions shall be held on a day set by the state executive committee by rule. These rules shall allow the committees at each level of convention to set the hour and place for convening their conventions.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1054, Sec. 33, eff. June 14, 2013.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1054, Sec. 33, eff. June 14, 2013.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 333, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 29, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 864, Sec. 180, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 19, eff. June 14, 2013. Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 33, eff. June 14, 2013.

**Sec. 174.0631. CONSIDERATION FOR USE OF PUBLIC BUILDING FOR CONVENTION.** (a) No charge may be made for the use of a public building for a precinct, county, or senatorial district convention except for reimbursement for the actual expenses resulting from use of the building for the convention.

(b) The reimbursing authority is entitled to an itemized statement of expenses before making remittance.

(c) A person commits an offense if the person assesses a charge for the use of a public building for a precinct, county, or senatorial district convention in violation of Subsection (a). An offense under this subsection is a Class C misdemeanor.

Added by Acts 1989, 71st Leg., ch. 333, Sec. 2, eff. Sept. 1, 1989.

**Sec. 174.064. NOTICE OF HOUR AND PLACE.** (a) A notice of the hour and place for convening each county and senatorial district convention shall be posted electronically on the county or state party's Internet website or on the bulletin board used for posting notice of meetings of the commissioners court. The notice must remain posted continuously for the 10 days immediately preceding the date of the convention.

(b) Repealed by H.B. 2640, 86th Leg., Sec. 42, eff. Sept. 1, 2019.

(c) The county chair shall post the notice of a county convention. The temporary chair of a senatorial district convention shall post the notice of the senatorial district convention.

(d) If the county chair fails to post or notice in accordance with this section, another member of the county executive committee may post the notice. If the temporary chair of a senatorial district convention fails to post or deliver notice in accordance with this section, another member of the county executive committee who may participate in setting the convention's hour and place may post the notice.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 181, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 20, eff. June 14, 2013; H.B. 2640, 86<sup>th</sup> Leg., Secs. 38, 42, eff. Sept. 1, 2019.

**Sec. 174.065. ORGANIZING THE CONVENTION.** (a) The state executive committee of a political party may adopt a rule requiring the county chair to be the permanent chair of the county convention or requiring the senatorial district executive committee member or chair of the district executive committee, as applicable, to be the permanent chair of the senatorial district convention, unless the person is absent or declines the position. If a rule is not adopted under this subsection, the county chair is the temporary chair of a county convention held under this subchapter. If a senatorial district is situated in more than one county, the senatorial district executive committee member from each county is the temporary chair of the senatorial district convention held in the territory that the committee member represents unless the state executive committee has adopted a rule



under this subsection. If a senatorial district is not situated in more than one county, the chair of the district executive committee is the temporary chair of the senatorial district convention unless the state executive committee has adopted a rule under this subsection.

(b) If the person designated as chair by Subsection (a) is absent or declines the position, a delegate to the convention may act as temporary chair.

(c) The chair shall call the convention to order and deliver the lists of delegates prepared under Section 174.027 to the convention.

(d) The convention shall select a convention chair, if the person listed in Subsection (a) is not the permanent chair, is not present, or has declined the position, and a convention secretary from among the delegates present. The convention may select any other officers considered necessary to conduct the convention's business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 182, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 21, eff. June 14, 2013.

**Sec. 174.066. CONVENTION BUSINESS.** After the convention is organized, the convention shall select its delegates to the state convention and conduct any other convention business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 174.067. STATE CONVENTION DELEGATES SERVE UNTIL NEXT PRIMARY ELECTION.** State convention delegates selected under this subchapter serve as the delegates for all state conventions held until the next general primary election date.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 22, eff. June 14, 2013.

**Sec. 174.068. VOTING AT CONVENTION.** The state executive committee may adopt rules concerning voting procedures for any party convention. If the state executive committee fails to adopt rules:

(1) the delegates selected by a particular precinct convention who attend the county or senatorial district convention are entitled to cast a number of votes equal to as many delegates as that precinct convention was entitled to select; and

(2) a person may not vote a proxy at a county or senatorial district convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 23, eff. June 14, 2013.

**Sec. 174.069. RECORD OF DELEGATES.** (a) The chair of a county or senatorial district convention shall prepare and sign a list of the names and residence addresses of the delegates and any alternate delegates to the state convention selected by the convention.

(b) The convention chair shall deliver the list to the state chair not later than the fifth day after the date the convention adjourns.

(c) An electronic submission to the county chair through a system created by party rule constitutes a complete delivery under Subsection (b).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 183, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 24, eff. June 14, 2013.

## **SUBCHAPTER D. BIENNIAL STATE CONVENTION**

**Sec. 174.091. BIENNIAL STATE CONVENTION.** Each political party shall hold a state convention in each even-numbered year as provided by this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 174.092. TIME AND PLACE OF CONVENTION.** (a) The biennial state convention shall be convened on a date selected by the state executive committee.

(b) Not later than the date the state chair delivers to the county chairs the certification of names for placement on the general primary election ballot, the state executive committee shall set the date, hour, and place for convening the state convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 22, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 184, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 13, eff. September 1, 2011. Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 25, eff. June 14, 2013.

**Sec. 174.093. NOTICE OF TIME AND PLACE.** Before the date of the party's precinct conventions held under this chapter,

the state chair shall post on the party's Internet website the date, hour, and place for convening the biennial state convention.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1997, 75th Leg., ch. 864, Sec. 185, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 26, eff. June 14, 2013.

**Sec. 174.094. ORGANIZING THE CONVENTION.** (a) The state executive committee may adopt a rule requiring the state chair to be the permanent chair of the convention unless the state chair is absent or declines the position. If a rule is not adopted under this subsection, the state chair is the temporary chair of the biennial state convention.

(b) The chair shall call the convention to order.

(c) The chair shall prepare a list of the names and residence addresses of the delegates and any alternate delegates to the convention and shall deliver the list to the convention.

(d) The convention shall select a convention chair, if the state chair is not the permanent chair, and a convention secretary. The convention may select any other officers considered necessary to conduct the convention's business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 186, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 27, eff. June 14, 2013.

**Sec. 174.095. CONVENTION BUSINESS.** After the convention is organized, the convention shall conduct its business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 174.096. VOTING AT CONVENTION.** The state executive committee shall adopt rules concerning the voting procedures for the convention. If the state executive committee fails to adopt rules:

(1) the delegates selected by a particular county or senatorial district convention who attend the biennial state convention are entitled to cast a number of votes equal to as many delegates as that county or senatorial district convention was entitled to select;

(2) a person may not vote a proxy for delegates from more than one county or senatorial district; and

(3) a person who votes a proxy for a delegate from a county may not do so for a delegate from a senatorial district and vice versa.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 28, eff. June 14, 2013.

**Sec. 174.097. ATTENDANCE BY PUBLIC OFFICERS.** A nominee for or holder of an office of the state or federal government is entitled to attend a state convention of the nominee's or officeholder's party but may not vote in the convention unless serving as a delegate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 187, eff. Sept. 1, 1997.

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## SUBTITLE C. PARTIES NOMINATING BY CONVENTION

### CHAPTER 181. PARTY WITH STATE ORGANIZATION

#### SUBCHAPTER A. NOMINATING BY CONVENTION GENERALLY

**Sec. 181.001. APPLICABILITY OF CHAPTER.** This chapter applies to a political party making nominations by convention except a party making nominations only for county and precinct offices under Chapter 182.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 181.002. NOMINATING BY CONVENTION AUTHORIZED.** A political party may make nominations for the general election for state and county officers by convention, as provided by this chapter, if the party is authorized by Section 172.002 to make nominations by primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 181.003. NOMINATING BY CONVENTION REQUIRED.** A political party must make nominations for the general election for state and county officers by convention, as provided by this chapter, if the party is not required or authorized to nominate by primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 181.004. PARTY ORGANIZATION.** (a) A political party making nominations under this chapter shall:

(1) establish a state executive committee;

(2) establish a county executive committee for each county in which the party will hold a county convention;

and

(3) select a precinct chair for each election precinct in which the party will hold a precinct convention.

(b) The party shall provide by rule for the selection of a chair of the state executive committee and each county executive committee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 188, eff. Sept. 1, 1997.

**Sec. 181.0041. REGISTRATION OF PARTY REQUIRED.** A political party that intends to make nominations under this chapter for the general election for state and county officers must register with the secretary of state, in the manner prescribed by the secretary, not later than January 2 of the election year.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 70, eff. Sept. 1, 1993.

**Sec. 181.005. QUALIFYING FOR PLACEMENT ON BALLOT BY PARTY REQUIRED TO NOMINATE BY CONVENTION.** (a) To be entitled to have the names of its nominees placed on the general election ballot, a political party required to make nominations by convention must file with the secretary of state, not later than the 75th day after the date of the precinct conventions held under this chapter, lists of precinct convention participants indicating that the number of participants equals at least one percent of the total number of votes received by all candidates for governor in the most recent gubernatorial general election. The lists must include each participant's residence address and voter registration number.

(b) A political party is entitled to have the names of its nominees placed on the ballot, without qualifying under Subsection (a), in each subsequent general election following a general election in which the party had a nominee for a statewide office who received a number of votes equal to at least five percent of the total number of votes received by all candidates for that office.

(c) A political party is entitled to have the names of its nominees placed on the general election ballot, without qualifying under Subsection (a) or (b), if the party had a nominee for a statewide office who received a number of votes equal to at least two percent of the total number of votes received by all candidates for that office at least once in the five previous general elections.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 48, eff. Sept. 1, 1987; H.B. 2504, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019.

**Sec. 181.006. PETITION SUPPLEMENTING PRECINCT CONVENTION LISTS.** (a) If the number of precinct convention participants indicated on the lists filed under Section 181.005 is fewer than the number required for the political party to qualify to have the names of its nominees placed on the ballot, the party may qualify by filing a petition as provided by this section.

(b) A petition must:

(1) satisfy the requirements prescribed by Section 141.062 for a candidate's petition;

(2) contain signatures in a number that, when added to the number of convention participants indicated on the lists, equals at least one percent of the total number of votes received by all candidates for governor in the most recent gubernatorial general election; and

(3) be filed with the secretary of state by the state chair before the deadline for filing the lists of precinct convention participants.

(c) Except as provided by this section, the petition is subject to the applicable provisions of Subchapter C, Chapter 141.

(d) A signer's voter registration is not required to be in any particular territory.

(e) A copy of a request for the withdrawal of a signature must be delivered to the state chair at the time the withdrawal request is filed.

(f) The following statement must appear at the top of each page of the petition: "I know that the purpose of this petition is to entitle the \_\_\_\_\_ Party to have its nominees placed on the ballot in the general election for state and county officers. I have not voted in a primary election or participated in a convention of another party during this voting year, and I understand that I become ineligible to do so by signing this petition. I understand that signing more than one petition to entitle a party to have its nominees placed on the general election ballot in the same election is prohibited."

(g) A person who has voted in a primary election or participated in a convention of another party during the voting year in which the petition is circulated is ineligible to sign the petition, and the signature of such a person is invalid.

(h) A signature is invalid if the person signed the petition subsequent to signing a petition to qualify another political party to have the names of its nominees placed on the ballot for the same election, whether the other party is circulating the petition under this chapter or under Chapter 182.

(i) On signing the petition, the person becomes ineligible to affiliate with another party during the voting year in which the petition is signed.

(j) The petition may not be circulated until after the date of the party's precinct conventions held under this chapter. A signature obtained on or before that date is invalid.

(k) The secretary of state shall post a notice of the receipt of a petition secretary of state's Internet website and may post the notice on a on the bulletin board used for posting notice of meetings of state governmental bodies. Any person may challenge the validity of the petition by filing a written statement of the challenge with the secretary of state not later than the fifth day after the date notice is posted. The secretary of state may verify the petition signatures regardless of whether the petition is timely challenged.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 189, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 64, eff. Sept. 1, 1997; H.B. 933, 86<sup>th</sup> Leg., Sec. 13, eff. Sept. 1, 2019.

**Sec. 181.007. NOTICE OF QUALIFYING PARTIES.** (a) The secretary of state shall deliver to the authority responsible for having the official general election ballot prepared in each county written notice of the name of each party required to nominate by convention that qualifies to have the names of its nominees placed on the general election ballot.

(b) The notice shall be delivered at the same time as the secretary of state's certification of nominees for statewide and district offices for placement on the general election ballot.

(c) The names of the nominees of a party required to nominate by convention may not be placed on the ballot without the notice.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER B. APPLICATION FOR NOMINATION**

**Sec. 181.031. APPLICATION REQUIRED.** (a) To be entitled to be considered for nomination by a convention held under this chapter, a person must make an application for nomination.

(b) An application must comply with the requirements prescribed by Section 141.031 for an application for a place on the ballot, with changes appropriate to indicate that the application is for nomination by a convention instead of for a place on the ballot.

(c) This section does not apply to a nomination for an unexpired term if the vacancy occurs after the 10th day before the date of the regular deadline for filing an application for convention nomination.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 181.0311. FILING FEE OR PETITION REQUIRED.** (a) In addition to any other requirements, to be considered for nomination by convention, a candidate must:

(1) pay a filing fee to the secretary of state for a statewide or district office or the county judge for a county or precinct office; or

(2) submit to the secretary of state for a statewide or district office or the county judge for a county or precinct office a petition in lieu of a filing fee that satisfies the requirements prescribed by Subsection (c) and Section 141.062.

(b) The amount of the filing fee is the amount prescribed by Section 172.024 for a candidate for nomination for the same office in a general primary election.

(c) A filing fee received by the secretary of state shall be deposited in the state treasury to the credit of the general revenue fund.

(d) A filing fee received by the county judge shall be deposited in the county treasury to the credit of the county general fund.

(e) The minimum number of signatures that must appear on the petition authorized by Subsection (a) is the number prescribed by Section 172.025 to appear on a petition of a candidate for nomination for the same office in a general primary election.

(f) The secretary of state shall adopt rules as necessary to implement this section.

Added by H.B. 2504, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019; Redesignated and amended from Section 141.041, by S.B. 2093, 87<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2021.

**Sec. 181.032. AUTHORITY WITH WHOM APPLICATION FILED.** (a) An application for nomination by a convention must be filed with:

(1) the state chair, for a statewide or district office; or

(2) the county chair, for a county or precinct office.

(b) Not later than the 10th day after the date of the filing deadline prescribed by Section 181.033, the authority with whom an application is filed shall deliver to the secretary of state a list containing:

(1) each candidate's name;

(2) each candidate's residence address;

(3) the office sought by the candidate;

(4) the date on which the candidate filed the application; and

(5) any additional information required by the secretary of state.

(c) A list delivered under Subsection (b) must be in a format prescribed by the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 190, eff. Sept. 1, 1997; Acts 2009, 81st Leg., R.S., Ch. 360 (H.B. 1265), Sec. 2, eff. June 19, 2009; H.B. 2628, 86<sup>th</sup> Leg., Sec. 4, eff. Sept. 1, 2019.

**Sec. 181.033. FILING DEADLINE.** (a) Except as provided by Subsection (b), an application for nomination by a convention must be filed not later than the regular deadline for candidates to file applications for a place on the general primary ballot.

(b) A political party by rule may extend the filing deadline for applications for nomination for an office for which a candidate who has made an application withdraws, dies, or is declared ineligible.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 23, eff. Sept. 1, 1987; Acts 2013, 83rd Leg., R.S., Ch. 1055 (H.B. 3103), Sec. 11, eff. June 14, 2013.

**Sec. 181.034. DISPOSITION OF APPLICATIONS.** (a) A political party shall provide by rule for transmitting information regarding applications for nomination to the chair of the appropriate convention.

(b) If an application is delivered to a convention, it shall be returned to the authority with whom it was filed not later than the 10th day after the date of the convention.

(c) The authority with whom an application is filed shall preserve each application for two years after the date of the appropriate convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 191, eff. Sept. 1, 1997.

## SUBCHAPTER C. CONVENTIONS

**Sec. 181.061. CONVENTIONS AT WHICH NOMINATIONS MADE.** (a) A political party nominating by convention must make its nominations for statewide offices at a state convention held on the second Saturday in April of the election year, except that if the Sunday after the second Saturday in April in an election year is the date of the Easter holiday, the state convention must be held on the third Saturday in April of that year. The state convention consists of delegates selected at the county conventions held under Subsection (c).

(b) A party nominating by convention must make its nominations for offices of districts situated in more than one county at district conventions held on the second Saturday after the second Tuesday in March. A district convention consists of delegates selected at the county conventions held under Subsection (c).

(c) A party nominating by convention must make its nominations for county and precinct offices and for offices of districts not situated in more than one county at county conventions held on the first Saturday after the second Tuesday in March. A county convention consists of delegates selected at precinct conventions held on the second Tuesday in March in the regular county election precincts.

(d) A party by rule may limit the delegates making nominations to those from the territory from which the office sought is elected.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 24, eff. Sept. 1, 1987; Acts 2013, 83rd Leg., R.S., Ch. 576 (S.B. 817), Sec. 3, eff. June 14, 2013.

**Sec. 181.062. NUMBER OF DELEGATES SELECTED.** A political party shall provide by rule for the number of delegates to be selected at the precinct conventions for the county conventions and the number of delegates to be selected at the county conventions for the district conventions and the state convention held under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 181.063. HOUR AND PLACE OF PRECINCT AND COUNTY CONVENTIONS.** The hours and places for convening the county convention and precinct conventions held under this chapter shall be set as provided by Section 174.022 for setting the hours and places of precinct conventions of a party holding a primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 29, eff. June 14, 2013.

**Sec. 181.064. NOTICE OF HOUR AND PLACE.** Notice of the hour and place for convening the county convention and precinct conventions held under this chapter shall be posted and delivered as provided by Section 174.023 for posting and delivering notice of the hour and place for convening precinct conventions for a party holding a primary election, except that notice of a county convention shall:

- (1) be posted for the 10 days immediately preceding the date of the county convention; and
- (2) be delivered to the county clerk not later than the 10th day before the date of the county convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 181.065. PARTICIPANT TO BE REGISTERED VOTER.** To be eligible to participate in a precinct convention held under this chapter, a person must be a registered voter of the precinct or a precinct resident who is eligible to vote a limited ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 181.066. ORGANIZING PRECINCT CONVENTION.** (a) Unless the state executive committee has adopted rules providing that the precinct chair is the permanent chair, the precinct chair is the temporary chair of a precinct convention held under this chapter. If the precinct chair is absent or declines the position, a participant may act as a temporary chair.

(b) Before conducting business, the precinct chair or temporary chair shall prepare a list containing the name and residence address of each person who is admitted to participate in the convention. In preparing the list, the chair shall use information from preregistration if the party has adopted a preregistration process under Section 162.017.

(c) The precinct chair or temporary chair shall call the convention to order.

(d) The convention shall select a convention chair if a temporary chair is acting as chair. The convention may select any other officers considered necessary to conduct the convention's business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 192, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 30, eff. June 14, 2013.

**Sec. 181.067. DELIVERY OF LIST OF PRECINCT CONVENTION PARTICIPANTS.** (a) The chair of a precinct

convention shall sign and make a copy of the list of precinct convention participants required by Section 181.066(b).

(b) The convention chair shall deliver the original and copy to the county chair not later than the third day after the date of the precinct convention, except that if delivered by mail they shall be deposited in the mail not later than the second day after the date of the precinct convention.

(c) If the party is required to nominate by convention, the convention chair shall make an additional copy of the list and deliver it to the state chair not later than the third day after the date of the precinct convention.

(d) An electronic submission to the county chair through a system created by party rule constitutes a complete delivery under Subsection (b).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 193, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 31, eff. June 14, 2013.

**Sec. 181.068. PARTY'S CERTIFICATION OF NOMINEES.** (a) The presiding officer of each convention held under this chapter shall certify, in a format prescribed by the secretary of state, for placement on the general election ballot the name and address of each candidate nominated by the convention.

(b) Not later than the 20th day after the date of the convention making the nomination, the presiding officer shall deliver the certification to:

(1) the authority responsible for having the official general election ballot prepared in the county, for certification of a county or precinct office; or

(2) the secretary of state, for certification of a statewide or district office.

(c) A presiding officer may not certify a candidate's name if, before delivering the certification, the presiding officer learns that the name is to be omitted from the ballot under Section 145.035.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by H.B. 2628, 86<sup>th</sup> Leg., Sec. 4, eff. Sept. 1, 2019.



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## **CHAPTER 182. PARTY WITHOUT STATE ORGANIZATION**

**Sec. 182.001. NOMINATING BY CONVENTION AUTHORIZED.** A political party that does not have a state executive committee may make nominations for county or precinct offices by convention as provided by this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 182.002. PARTY ORGANIZATION.** A political party making nominations under this chapter shall:

- (1) establish a county executive committee for each county in which the party will hold a county convention;
- (2) select a chair for each county executive committee; and
- (3) select a precinct chair for each election precinct in which the party will hold a precinct convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 194, eff. Sept. 1, 1997.

**Sec. 182.003. QUALIFYING FOR PLACEMENT ON BALLOT.** To be entitled to have the names of its nominees placed on the general election ballot, a political party making nominations under this chapter must file with the county clerk, not later than the 75th day after the date of the precinct conventions held under this chapter, lists of precinct convention participants indicating that the number of participants equals at least three percent of the total number of votes received in the county by all candidates for governor in the most recent gubernatorial general election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 182.004. PETITION SUPPLEMENTING PRECINCT CONVENTION LISTS.** (a) If the number of precinct convention participants indicated on the lists filed under Section 182.003 is fewer than the number required for the political party to qualify to have the names of its nominees placed on the ballot, the party may qualify by filing a petition as provided by this section.

(b) A petition must:

- (1) satisfy the requirements prescribed by Section 141.062 for a candidate's petition;
- (2) contain signatures in a number that, when added to the number of convention participants indicated on the lists, equals at least three percent of the total number of votes received in the county by all candidates for governor in the most recent gubernatorial general election; and
- (3) be filed with the county clerk by the county chair before the deadline for filing the lists of precinct convention participants.

(c) Except as provided by this section, the petition is subject to the applicable provisions of Subchapter C, Chapter 141.

(d) A signer's voter registration must be in the county in which the party seeks to be qualified but is not required to be in any other particular territory.

(e) A copy of a request for the withdrawal of a signature must be delivered to the county chair when the withdrawal request is filed.

(f) Sections 181.006(f)-(j) apply to a petition circulated under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 195, eff. Sept. 1, 1997.

**Sec. 182.0041. APPLICATION FOR NOMINATION.** (a) To be entitled to be considered for nomination by a convention held under this chapter, a person must make an application for nomination.

(b) Subchapter B, Chapter 181, applies to an application for nomination under this chapter.

Added by Acts 1987, 70th Leg., ch. 472, Sec. 49, eff. Sept. 1, 1987.

**Sec. 182.005. NOMINATIONS MADE BY COUNTY CONVENTION.** A political party must make its nominations under this chapter at a county convention held on the first Saturday after the second Tuesday in March of the election year. The convention consists of delegates selected at precinct conventions held on the second Tuesday in March in the regular county election precincts.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S. ch. 14, Sec. 25, eff. Sept. 1, 1987.

**Sec. 182.006. ORGANIZING PRECINCT CONVENTION.** A precinct convention held under this chapter shall be organized as provided by Section 181.066.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 182.007. PARTY'S CERTIFICATION OF NOMINEES.** (a) The county chair shall certify in writing for placement on the general election ballot the name and address of each of the political party's nominees.

(b) Not later than the 20th day after the date of the county convention, the county chair shall deliver the certification to the authority responsible for having the official general election ballot prepared in the county.

(c) The county chair may not certify a candidate's name if, before delivering the certification, the county chair learns that the name is to be omitted from the ballot under Section 145.035.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 196, eff. Sept. 1, 1997.

# TITLE 11. PRESIDENTIAL ELECTIONS

## CHAPTER 191. SELECTION OF DELEGATES TO NATIONAL NOMINATING CONVENTION

### SUBCHAPTER A. PRESIDENTIAL PRIMARY ELECTION

**Sec. 191.001. PARTIES REQUIRED TO HOLD PRESIDENTIAL PRIMARY ELECTION.** To be entitled to have its nominees for president and vice-president of the United States placed on the general election ballot in a particular presidential election year, a political party must hold a presidential primary election in this state if:

(1) in the presidential election year, the party is required by this code to nominate its candidates for state and county offices by primary election;

(2) a presidential primary election is authorized under national party rules; and

(3) before January 1 of the presidential election year, the national party has determined that it will hold a national presidential nominating convention that year.

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 26, eff. Sept. 1, 1987.

**Sec. 191.002. QUALIFYING FOR PLACE ON BALLOT.** (a) Candidates qualify to have their names placed on the presidential primary election ballot in the manner provided by party rule, subject to this section.

(b) If party rules provide for the filing of applications or signature petitions to qualify candidates for a place on the ballot, the filing deadline may not be later than the regular filing deadline for candidates in the general primary election. A signature on a candidate's petition is not valid unless it is that of a registered voter and is accompanied by the signer's residence address, including county, and voter registration number.

(c) A person may not sign petitions supporting more than one presidential candidate in the same primary, and, if a person does so, the person's signature is void as to all petitions the person signs.

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 26, eff. Sept. 1, 1987.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 197, eff. Sept. 1, 1997.

**Sec. 191.003. NOTICE OF CANDIDATES TO SECRETARY OF STATE.** (a) The state chair of each political party holding a presidential primary election shall submit the information to the secretary of state for posting on the secretary of state's Internet website and certify the name of each presidential candidate who qualifies for a place on the presidential primary election ballot in the same manner as a candidate filing for statewide, district, and county offices not later than the ninth day after the date of the regular filing deadline for the general primary election.

(b) The secretary of state shall create a system for submitting the information to the secretary of state for posting on the secretary of state's Internet website under Subsection (a).

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 26, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 198, eff. Sept. 1, 1997; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 23, eff. September 1, 2015; H.B. 2640, 86<sup>th</sup> Leg., Sec. 39, eff. Sept. 1, 2019.

**Sec. 191.004. PRESIDENTIAL PRIMARY BALLOT.** (a) A single ballot shall be used for the presidential primary election and general primary election. The secretary of state shall prescribe the form of the ballot, which must accommodate the regular form for the general primary election to the extent practicable.

(b) The names of the presidential candidates shall be printed as the first race on the ballot under the heading "Preference For Presidential Nominee" followed by the instruction, "You may vote for one presidential candidate whose name appears on the ballot by making a mark in the shape beside the candidate's name." If party rules provide for voting for an uncommitted status, the instruction shall read, "You may vote for one presidential candidate whose name appears on the ballot by making a mark in the space beside the candidate's name or you may vote as uncommitted by making a mark in the shape beside 'Uncommitted.' Make only one choice." The instruction shall be changed as appropriate to accommodate the form of a voting system ballot.

(c) A drawing to determine the order in which the presidential candidates' names are printed on the ballot in the county shall be conducted in conjunction with the regular drawing for position on the general primary election ballot. "Uncommitted" shall be printed on the ballot following the candidates' names, if applicable.

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 26, eff. Sept. 1, 1987. Amended by H.B. 2640, 86<sup>th</sup> Leg., Sec. 40, eff. Sept. 1, 2019.

**Sec. 191.005. PROCEDURES FOR CONDUCT OF PRESIDENTIAL PRIMARY GENERALLY.** (a) The presidential primary election shall be held in conjunction with the party's general primary election.

(b) Except as otherwise provided by this subchapter, the presidential primary election shall be conducted and the results canvassed, tabulated, and reported in accordance with the procedures prescribed by this code in relation to the general primary election to the extent those procedures can be made applicable.

(c) The secretary of state shall prescribe any additional procedures necessary for the orderly and proper administration of the presidential primary election.

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 26, eff. Sept. 1, 1987.

**Sec. 191.006. FINANCING PRESIDENTIAL PRIMARY.** (a) Subject to legislative appropriation, state funds may be spent to pay expenses incurred by the secretary of state or by a political party in connection with a presidential primary election.

(b) The provisions of this code relating to state financing of a general primary election govern a presidential primary election to the extent those provisions can be made applicable.

(c) The secretary of state shall adopt rules, consistent with this subchapter, that are necessary for the fair and efficient financing of presidential primary elections with state funds.

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 26, eff. Sept. 1, 1987.

**Sec. 191.007. ALLOCATION OF DELEGATES.** (a) Each political party holding a presidential primary election shall adopt a rule for allocating delegates.

(b) A rule adopted under this section may utilize either a proportional or winner-take-all method, based on the results of the presidential primary election, which may be based on:

(1) a direct tie to statewide popular vote totals;

(2) a direct tie to congressional or state senatorial district popular vote totals; or

(3) an alternative disproportionate method that is based on statewide, congressional district, or state senatorial district popular vote totals.

(c) Subsection (b) does not apply to delegates allocated:

(1) among party and elected officials; or

(2) through an allocation based on participants registering for or attending a caucus or similar process, provided that at least 75 percent of the total number of delegates who are to represent this state at the party's national presidential nominating convention, excluding delegates allocated among party and elected officials, shall be allocated in accordance with the rule adopted under this section based on the results of the presidential primary election.

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 26, eff. Sept. 1, 1987.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1209 (S.B. 1398), Sec. 1, eff. June 14, 2013.

**Sec. 191.008. IMPLEMENTATION BY PARTY.** (a) The state executive committee of each political party holding a presidential primary election shall adopt the rules necessary to implement this subchapter unless the rules already exist.

(b) The rules may not be inconsistent with this subchapter or with rules adopted by the secretary of state under this subchapter.

(c) A rule is enforceable by writ of mandamus in the same manner as if the rule were a statute.

(d) For a political party to be entitled to have its nominees for president and vice-president of the United States placed on the general election ballot in an election year in which the party is holding a presidential primary election, the rules adopted under this section or the rules already in existence must be posted on the party's Internet website and filed with the secretary of state not later than January 5 of the presidential election year. The secretary of state may extend this deadline for good cause.

(e) Before presidential primary election day, the secretary of state shall notify the authority responsible for having the official general election ballot prepared in each county of each political party that failed to file a rule as provided by Subsection (d) and shall order those authorities to omit the party's nominees for president and vice-president of the United States from the general election ballot.

(f) The rules may be amended at any time by the state executive committee, but an amendment adopted in a presidential election year after the rules are filed with the secretary of state under Subsection (d) may not take effect until after the presidential election year if the rule affects the selection of delegates to the national presidential nominating convention.

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 26, eff. Sept. 1, 1987; H.B. 2640, 86<sup>th</sup> Leg., Sec. 41, eff. Sept. 1, 2019.

## **SUBCHAPTER B. STATE CONVENTION**

**Sec. 191.031. PARTY HOLDING PRIMARY ELECTION.** (a) If a political party holding a primary election in a presidential election year desires to send delegates to a national presidential nominating convention of the party, the party shall select the delegates at a state convention convened on a date adopted by the state executive committee occurring in the presidential election year. Before the date of the party's precinct conventions held under Chapter 174, the party's state executive committee shall choose the date, hour, and place for the state convention.

(b) The state convention shall consist of delegates selected at the party's county and senatorial district conventions held under Chapter 174.

(c) Before the date of the party's precinct conventions, the party's state chair shall post on the party's Internet website notice of the date, hour, and place for the state convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Renumbered from Election Code Sec. 191.001 by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 26, eff. Sept. 1, 1987.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 199, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., R.S., Ch. 1054 (H.B. 3102), Sec. 32, eff. June 14, 2013.

**Sec. 191.032. PARTY NOT HOLDING PRIMARY ELECTION.** If a political party not holding a primary election in a presidential election year desires to send delegates to a national presidential nominating convention of the party, the party shall select the delegates at the state convention at which the party is authorized by this code to make nominations for state offices.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Renumbered from Election Code Sec. 191.002 by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 26, eff. Sept. 1, 1987.

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## CHAPTER 192. PRESIDENTIAL ELECTORS AND CANDIDATES

### SUBCHAPTER A. PRESIDENTIAL ELECTORS

**Sec. 192.001. TIME OF ELECTION.** Electors for president and vice-president of the United States shall be elected at the general election for state and county officers held in a presidential election year.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 192.002. ELIGIBILITY.** (a) To be eligible to serve as a presidential elector, a person must:

(1) be a qualified voter of this state; and

(2) not hold the office of United States senator, United States representative, or any other federal office of profit or trust.

(b) To be eligible to serve as a presidential elector for a political party, a person must be affiliated with the party.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 192.003. METHOD OF BECOMING ELECTOR CANDIDATE.** To become a presidential elector candidate, a person must be nominated as a political party's elector candidate in accordance with party rules or named as an elector candidate by an independent or write-in candidate for president.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 192.004. ELECTOR CANDIDATE WITHDRAWAL.** An elector candidate may withdraw from the presidential election before presidential election day, by delivering written notice of the withdrawal to:

(1) the secretary of state; and

(2) the state chair of the party that nominated the elector candidate or to the independent or write-in candidate for president who named the elector candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 200, eff. Sept. 1, 1997; H.B. 87, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. June 18, 2023.

**Sec. 192.005. VOTE REQUIRED FOR ELECTION.** The set of elector candidates that is elected is the one that corresponds to the candidates for president and vice-president receiving the most votes.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 192.006. MEETING OF ELECTORS.** (a) The electors shall convene at the State Capitol at 2 p.m. on the first Monday after the second Wednesday in December following their election and shall perform their duties as prescribed by federal law.

(b) The secretary of state shall arrange for the meeting place, notify the electors, and call the meeting to order.

(c) If an elector is absent at the time for convening the meeting, the electors may declare the elector position vacant by a majority vote of those present at the meeting.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 201, eff. Sept. 1, 1997; H.B. 87, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. June 18, 2023.

**Sec. 192.008. ELECTOR EXPENSES.** (a) In performing their official duties, presidential electors are entitled to the same allowances for travel expenses as those granted to state employees.

(b) The secretary of state shall provide assistance to the electors in submitting vouchers for travel expenses.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 192.009. REPLACEMENT NOMINEE.** An elector shall consider a replacement candidate certified under Subchapter C to be the presidential or vice-presidential candidate for whom the elector is the corresponding presidential elector candidate.

H.B. 87, 88<sup>th</sup> Leg., R.S., Sec. 3, eff. June 18, 2023.



## SUBCHAPTER B. PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES

**Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT.** (a) A political party is entitled to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election if:

- (1) the nominees possess the qualifications for those offices prescribed by federal law;
- (2) the party's state chair signs a written certification of:
  - (A) the names of the party's nominees for president and vice-president; and
  - (B) the names and residence addresses of presidential elector candidates nominated by the party, in a number equal to the number of presidential electors that federal law allocates to this state;
- (3) the party's state chair delivers the written certification to the secretary of state before the later of:
  - (A) 5 p.m. of the 71st day before presidential election day; or
  - (B) 5 p.m. of the first business day after the date of final adjournment of the party's national presidential nominating convention; and
- (4) the party is:
  - (A) required or authorized by Subchapter A of Chapter 172 to make its nominations by primary election; or
  - (B) entitled to have the names of its nominees placed on the general election ballot under Chapter 181.

(b) If the state chair's certification of the party's nominees is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 203, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 21, eff. September 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 355 (H.B. 1193), Sec. 1, eff. September 1, 2009; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 17, eff. September 1, 2009; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 24, eff. September 1, 2015.

**Sec. 192.032. INDEPENDENT CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT.** (a) To be entitled to a place on the general election ballot, an independent candidate for president of the United States must make an application for a place on the ballot.

(b) An application must:

- (1) comply with Section 141.031, except that:
  - (A) the application is not required to include a candidate's occupation, length of residence, or statement that the candidate is aware of the nepotism law; and
  - (B) the application must contain the applicable information required by Section 141.031(a)(4) with respect to both the presidential candidate and the running mate;
- (2) state the names and residence addresses of presidential elector candidates in a number equal to the number of presidential electors that federal law allocates to the state; and
- (3) be accompanied by:
  - (A) a petition that satisfies the requirements prescribed by Section 141.062; and
  - (B) written statements signed by the vice-presidential candidate and each of the presidential elector candidates indicating that each of them consents to be a candidate.

(c) The application must be filed with the secretary of state not later than the second Monday in May of the presidential election year.

(d) The minimum number of signatures that must appear on the petition is one percent of the total vote received in the state by all candidates for president in the most recent presidential general election.

(e) A petition signer's voter registration is not required to be in any particular territory.

(f) The following statement must appear at the top of each page of the petition: "I did not vote this year in a presidential primary election."

(g) A signature on the petition is invalid if the signer:

- (1) signs the petition on or before the date of the presidential primary election in the presidential election year; or
- (2) voted in a presidential primary election during the presidential election year.

(h) A candidate in a presidential primary election is ineligible to be an independent candidate for president or vice-president of the United States in the succeeding general election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 27, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 427, Sec. 7, eff. Sept. 1, 1987; Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 32, eff. September 1, 2007.

**Sec. 192.033. CERTIFICATION OF CANDIDATES FOR PLACEMENT ON BALLOT.** (a) Except as provided by Subsection (c), the secretary of state shall certify in writing for placement on the general election ballot the names of the candidates for president and vice-president who are entitled to have their names placed on the ballot.

(b) The secretary of state shall deliver the certification to the authority responsible for having the official ballot prepared in each county before the later of the 68th day before presidential election day or the second business day after the date of final adjournment of the party's national presidential nominating convention.

(c) A candidate's name may not be certified if, before delivering the certification, the secretary of state learns that the name is to be omitted from the ballot under Subchapter C.

(d) In conjunction with the certification required under Subsection (a), the secretary of state shall include appropriate ballot translation language, as applicable, for each language certified statewide or in a specific county by the director of the census under the federal Voting Rights Act (52 U.S.C. Section 10503).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 22, eff. September 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 355 (H.B. 1193), Sec. 2, eff. September 1, 2009; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 18, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1014 (H.B. 2477), Sec. 3, eff. September 1, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 38, eff. September 1, 2011; H.B. 3107, 87th Leg., R.S., Sec. 86, eff. Sept. 1, 2021.

**Sec. 192.034. LISTING CANDIDATES ON BALLOT.** (a) The names of a presidential candidate and the candidate's running mate shall be placed on the ballot as one race.

(b) The names of presidential elector candidates may not be placed on the ballot.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 192.035. VOTE FOR CANDIDATE COUNTS FOR CORRESPONDING ELECTORS.** A vote for a presidential candidate and the candidate's running mate shall be counted as a vote for the corresponding presidential elector candidates.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 192.036. WRITE-IN CANDIDATE.** (a) With respect to a write-in candidacy for the office of president of the United States, this section supersedes Subchapter B, Chapter 146, to the extent of any conflict.

(b) A declaration of write-in candidacy for president must satisfy the requirements prescribed by Section 192.032(b) for an independent presidential candidate's application for a place on the ballot, except that a petition is not required.

(c) The certification for placement on the list of write-in candidates must include the names of both the presidential candidate and the vice-presidential candidate.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 192.037. RULES FOR COUNTING VOTES NOT CAST FOR BOTH CANDIDATES.** (a) If a voter writes in the name of a write-in candidate for president or vice-president but does not write in a name for a running mate, the vote shall be counted as a vote for the candidate and the candidate's running mate.

(b) A vote shall be counted for both candidates of a set of candidates for president and vice-president if:

- (1) the ballot is marked to indicate that the voter is voting for one of the two candidates;
- (2) the ballot is marked to indicate that the voter is not voting for the other candidate in the set; and
- (3) the voter has not:

(A) indicated a vote for a presidential or vice-presidential candidate of another set; or

(B) written in the name of a person for whom the voter desires to vote instead of the candidate for whom the voter is not voting under Subdivision (2).

(c) The secretary of state shall prescribe guidelines consistent with this code to assist counting officers in counting ballots in which the presidential race is irregularly marked.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 204, eff. Sept. 1, 1997.

## **SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES; CERTIFICATION OF INABILITY TO SERVE**

**Sec. 192.061. WITHDRAWAL, DEATH, OR INELIGIBILITY GENERALLY.** With respect to withdrawal, death, or ineligibility of a presidential or vice-presidential candidate in a general election, this subchapter supersedes Subchapter A, Chapter 145, to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 192.062. PRESIDENTIAL OR VICE-PRESIDENTIAL PARTY NOMINEE.** (a) The secretary of state shall certify in writing the name of a political party's replacement nominee for president or vice-president of the United States as follows:

(1) for placement on the ballot for an original nominee who withdraws, dies, or is declared ineligible on or before the 74th day before presidential election day if the party's state chair delivers certification of the replacement nominee's name, signed by the state chair, to the secretary of state not later than 5 p.m. of the 71st day before presidential election day; or

(2) to the nominating party's presidential elector candidates for an original nominee who withdraws, dies, or is declared ineligible after the 74th day before presidential election day if the party's state chair delivers certification of the replacement nominee's name, signed by the state chair, to the secretary of state not later than 2 p.m. on the Monday after the second Wednesday in December of a presidential election year.

(b) If the state chair's certification of a replacement nominee is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

(c) The name of a nominee who has withdrawn, died, or been declared ineligible shall be omitted from the ballot and the name of the replacement nominee placed on the ballot if a replacement nominee is certified for placement on the ballot as provided by this section. Otherwise, the withdrawn, deceased, or ineligible nominee's name shall be placed on the ballot.

(d) A vote for a withdrawn, deceased, or ineligible nominee whose name appears on the ballot shall be counted as a vote for the nominating political party's presidential elector candidates.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 205, eff. Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 23, eff. September 1, 2005; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 25, eff. September 1, 2015; H.B. 87, 88<sup>th</sup> Leg., R.S., Sec. 5, eff. June 18, 2023.

**Sec. 192.063. INDEPENDENT PRESIDENTIAL CANDIDATE.** (a) The name of an independent presidential candidate and the name of the candidate's running mate shall be omitted from the ballot if the presidential candidate withdraws, dies, or is declared ineligible on or before the 74th day before presidential election day.

(b) A vote for an independent presidential candidate who has withdrawn, died, or been declared ineligible may not be counted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 24, eff. September 1, 2005.

**Sec. 192.064. INDEPENDENT VICE-PRESIDENTIAL CANDIDATE.** (a) The secretary of state shall certify in writing the name of a replacement vice-presidential running mate for an independent candidate for president of the United States as follows:

(1) for placement in the ballot for an original running mate who withdraws, dies, or is declared ineligible on or before the 74th day before presidential election day if the independent presidential candidate delivers certification of the replacement running mate's name, signed by the presidential candidate, to the secretary of state not later than 5 p.m. of the 71st day before presidential election day; or

(2) to the presidential candidate's corresponding presidential elector candidates for an original running mate who withdraws, dies, or is declared ineligible after the 74th day before presidential election day if the independent presidential candidate delivers certification of the replacement running mate's name, signed by the presidential candidate, to the secretary of state not later than 2 p.m. on the Monday after the second Wednesday in December of a presidential election year.

(b) If the presidential candidate's certification of a replacement running mate is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

(c) The name of a vice-presidential candidate who has withdrawn, died, or been declared ineligible shall be omitted from the ballot and the name of the replacement candidate placed on the ballot if a replacement candidate is certified for placement on the ballot as provided by this section. Otherwise, the withdrawn, deceased, or ineligible candidate's name shall be placed on the ballot.

(d) The fact that the name of an independent vice-presidential candidate who has withdrawn, died, or been declared ineligible is placed on the ballot does not affect the counting of votes for the candidate's running mate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 25, eff. September 1, 2005; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 26, eff. September 1, 2015; H.B. 87, 88<sup>th</sup> Leg., R.S., Sec. 6, eff. June 18, 2023.

**Sec. 192.065. CERTIFICATION OF WINNING CANDIDATE'S INABILITY TO SERVE; AFFIRMATION OR DENIAL BY ELECTORS.** (a) The secretary of state shall certify on the seventh day before the meeting of electors that a candidate for president or vice president who received the most votes in this state in the general presidential election is willing and able to serve in the position for which the candidate was elected, unless the secretary of state has received a written

certification from one of the following individuals, in order of precedence, that the candidate is unable or unwilling to serve:

- (1) the candidate;
- (2) the executive director of the candidate's campaign; or
- (3) the candidate's spouse or, if the candidate does not have a surviving spouse, the person to whom the candidate's estate would descend under Section 201.001, Estates Code.

(b) Upon receipt of a certification under Subsection (a), the secretary of state shall notify the party of the candidate who submitted the certification and post the certification on the secretary of state's Internet website.

(c) The secretary of state may promulgate a form for a certification under this section of inability or unwillingness to serve.

(d) If before the meeting of electors the secretary of state receives a certification under Subsection (a) that a candidate is unwilling or unable to serve, the electors shall first vote on the issue of whether that candidate is willing and able to serve in the position for which the candidate was elected. If a majority of electors vote that the candidate is not willing or able to serve in the position for which the candidate was elected, Sections 192.102, 192.103(b), 192.103(d), and 192.104(d) and (e) do not apply to that meeting of electors with respect to that candidate.

H.B. 87, 88<sup>th</sup> Leg., R.S., Sec. 6, eff. June 18, 2023.

## **SUBCHAPTER D. REQUIRED ACTION BY PRESIDENTIAL ELECTORS; REPLACEMENT OF ELECTOR**

**Sec. 192.101. DESIGNATION OF STATE'S ELECTORS.** Each elector position in this state must be nominated in accordance with political party rules or by an independent or write-in presidential candidate, as applicable. Except as otherwise provided in Sections 192.006, 192.103, and 192.104, this state's electors are the winning elector nominees under the laws of this state.

H.B. 87, 88<sup>th</sup> Leg., R.S., Sec. 8, eff. June 18, 2023.

**Sec. 192.102. OATH.** (a) Not later than the seventh day before the meeting of electors, each elector nominee and alternate elector nominee of a political party shall execute the following oath: "If selected for the position of elector, I swear to serve and to mark my ballots for president and vice president for the nominees for those offices of the party that nominated me."

(b) Not later than the sixth day before the meeting of electors, each elector nominee and alternate elector nominee of an independent presidential candidate shall execute the following oath: "If selected for the position of elector as a nominee of an independent presidential candidate, I swear to serve and to mark my ballots for that candidate and for that candidate's vice-presidential running mate."

(c) The executed oaths must accompany the submission of the corresponding names to the secretary of state.

H.B. 87, 88<sup>th</sup> Leg., R.S., Sec. 8, eff. June 18, 2023.

**Sec. 192.103. PRESIDING OFFICER; ELECTOR VACANCY.** (a) The secretary of state shall preside at the meeting of electors described in Section 192.104.

(b) The position of an elector is vacant if the elector has failed to execute the oath under Section 192.102.

(c) The secretary of state shall fill a vacancy with a substitute elector nominated in accordance with political party rules or named by an independent or write-in candidate for president, as applicable. A substitute elector who is filling the position of an elector is considered an elector for purposes of this chapter. If a person's position as elector is determined to be vacant, the person may not serve as a substitute elector with respect to that meeting of electors.

(d) To qualify as a substitute elector under Subsection (c), an individual who has not executed the oath required under Section 192.102 shall execute the following oath: "I swear to serve and to mark my ballots for president and vice president consistent with the oath of the individual to whose elector position I have succeeded."

H.B. 87, 88<sup>th</sup> Leg., R.S., Sec. 8, eff. June 18, 2023.

**Sec. 192.104. ELECTOR VOTING.** (a) At the time designated for elector voting and after all vacant positions have been filled, the secretary of state shall provide each elector with a presidential and a vice-presidential ballot. The elector shall mark the elector's presidential and vice-presidential ballots with the elector's votes for the offices of president and vice president, respectively, along with the elector's signature and the elector's legibly printed name.

(b) Except as otherwise provided by law of this state other than this subchapter, each elector shall present both completed ballots to the secretary of state. The secretary of state shall examine the ballots and read each vote publicly.

(c) The secretary of state shall accept as cast all ballots of electors whose votes are consistent with their oaths executed under Section 192.102 or 192.103(d). Except as otherwise provided by law, the secretary of state may not accept and may not

count either an elector's presidential or vice-presidential ballot if the elector has not marked both ballots or has marked a ballot in violation of the elector's oath.

(d) An elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of the elector's oath executed under Section 192.102 or 192.103(d) vacates the office of elector, creating a vacant position to be filled under Section 192.103.

(e) The secretary of state shall distribute ballots to and collect ballots from each elector and repeat the process under this section of examining ballots, publicly reading the votes, declaring and filling vacant positions as required, and recording appropriately completed ballots from the substituted electors, until all of this state's electoral votes have been cast and recorded.  
H.B. 87, 88<sup>th</sup> Leg., R.S., Sec. 8, eff. June 18, 2023.

## TITLE 12. ELECTIONS TO FILL VACANCY IN OFFICE

### CHAPTER 201. DETERMINATION OF AND ELECTION TO FILL VACANCY

#### SUBCHAPTER A. RESIGNING OR DECLINING OFFICE

**Sec. 201.001. RESIGNING OR DECLINING OFFICE.** (a) To be effective, a public officer's resignation or an officer-elect's declination must be in writing and signed by the officer or officer-elect and delivered to the appropriate authority for acting on the resignation or declination. The authority may not refuse to accept a resignation.

(b) If the authority to act on a resignation or declination is a body, the resignation or declination may be delivered to the presiding officer of the body or to its clerk or secretary.

(c) An officer-elect who intends to qualify for the office but desires to resign at a subsequent date may submit a resignation in the same manner as an officer who has assumed office, and the vacancy may be filled in the same manner as if the resignation had been submitted after the officer-elect assumed office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1989.

**Sec. 201.002. AUTHORITY TO ACT ON RESIGNATION OR DECLINATION.** Unless otherwise provided by law, the authority to act on a public officer's resignation or an officer-elect's declination is the officer or body authorized to make an appointment or order a special election to fill a vacancy in the office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

#### SUBCHAPTER B. TIME VACANCY OCCURS

**Sec. 201.021. TIME VACANCY OCCURS GENERALLY.** For purposes of this title, a vacancy in office occurs at the time prescribed by this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 201.022. DEATH.** If an officer or officer-elect dies, a vacancy occurs on the date of death.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 201.023. RESIGNATION.** If an officer submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the appropriate authority or on the eighth day after the date of its receipt by the authority, whichever is earlier.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 1187, Sec. 2, eff. Sept. 1, 1989.

**Sec. 201.024. REMOVAL.** If an officer is removed from office by a court or other tribunal, a vacancy occurs on the date the judgment becomes final.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 201.025. ACCEPTANCE OF ANOTHER OFFICE.** If an officer accepts another office and the two offices may not lawfully be held simultaneously, a vacancy in the first office occurs on the date the person qualifies for the other office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 201.026. DECLARATION OF INELIGIBILITY.** (a) If an officer or officer-elect is declared ineligible to hold the office by a judgment of a court or other tribunal, a vacancy occurs on the date the judgment becomes final.

(b) If an officer or officer-elect is declared ineligible to hold the office by an administrative authority, a vacancy occurs on the date the declaration is made.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 201.027. NEW OFFICE.** If a new office is created, a vacancy occurs on the effective date of the Act of the legislature creating the office or on the date the order creating the office is adopted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 71, eff. Sept. 1, 1993.

**Sec. 201.028. DECEASED OR INELIGIBLE CANDIDATE RECEIVING VOTE REQUIRED FOR ELECTION.** If a deceased or ineligible candidate receives the vote required for election to an office, a vacancy occurs on the date the final canvass of the election is completed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 201.029. DECLINATION OF OFFICER-ELECT.** If an officer-elect declines to qualify for the office before assuming office for the term for which elected, a vacancy in the term occurs on the date the declination is delivered to the appropriate authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 201.030. VACANCY RESULTING FROM RECALL ELECTION.** For cities conducting recall elections, a vacancy in the officer's office occurs on the date of the final canvass of a successful recall election.

H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 87, eff. Sept. 1, 2021.

## SUBCHAPTER C. SPECIAL ELECTION TO FILL VACANCY GENERALLY

**Sec. 201.051. TIME FOR ORDERING ELECTION.** (a) If a vacancy in office is to be filled by special election, the election shall be ordered as soon as practicable after the vacancy occurs, subject to Subsection (b).

(b) For a vacancy to be filled by a special election to be held on the date of the general election for state and county officers, the election shall be ordered not later than the 78th day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 26, eff. September 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 39, eff. September 1, 2011.

**Sec. 201.052. DATE OF ELECTION.** (a) Except as otherwise provided by this code, a special election to fill a vacancy shall be held on the first authorized uniform election date occurring on or after the 46th day after the date the election is ordered.

(b) If a law outside this code authorizes the holding of the election on a date earlier than the 46th day after the date of the order, the election shall be held on the first authorized uniform election date occurring on or after the earliest date that the election could be held under that law.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 18, eff. September 1, 2013; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 27, eff. September 1, 2015.

**Sec. 201.053. UNEXPIRED TERM AND FULL TERM FILLED SIMULTANEOUSLY.** (a) If, after the general election for an office for which a vacancy is filled by special election but before the succeeding full term begins, a vacancy occurs in both the unexpired portion of the current term and in the succeeding full term that was filled at the general election, the special election shall be ordered to fill only the full term.

(b) If any portion of the unexpired current term remains after the date the final canvass of the special election for the full term is completed, the person elected to the full term, if eligible to hold the unexpired current term, is considered to be elected to the remainder of the unexpired current term also and is entitled to qualify and assume office for the unexpired current term and the succeeding full term immediately on receiving a certificate of election. The certificate must recite that it is for both the unexpired current term and the full term.

(c) After qualifying for the unexpired current term, the person is not required to qualify again for the full term. If a bond is required, the amount of the bond for the unexpired current term and the full term is the same as for the full term.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Renumbered from Election Code Sec. 201.054 by Acts 1991, 72nd Leg., ch. 389, Sec. 4, eff. Sept. 1, 1991.

**Sec. 201.054. FILING PERIOD FOR APPLICATION FOR PLACE ON BALLOT.** (a) Except as provided by Subsection (f), a candidate's application for a place on a special election ballot must be filed not later than:

(1) 5 p.m. of the 62nd day before election day, if election day is on or after the 70th day after the date the election is ordered; or

(2) 5 p.m. of the 40th day before election day, if election day is on or after the 46th day and before the 70th day after the date the election is ordered.

(b) If a special election is to be held as an emergency election and a law outside this code prescribes a filing deadline, that deadline applies.

(c) The election order must state the filing deadline.

(d) An application may not be filed before the election is ordered.

(e) An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(f) For a special election to be held on the date of the general election for state and county officers, the filing deadline is 6 p.m. of the 75th day before election day.

(g) A declaration of write-in candidacy for a special election must be filed not later than the filing deadline prescribed by this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Renumbered from Election Code Sec. 201.055 by Acts 1991, 72nd Leg., ch. 389, Sec. 4, eff. Sept. 1, 1991.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 27, eff. September 1, 2005; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 19, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 40, eff. September 1, 2011; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 19, eff. September 1, 2013; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 28, eff. September 1, 2015; H. B. 2323, 85<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2017.



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## **CHAPTER 202. VACANCY IN OFFICE OF STATE OR COUNTY GOVERNMENT**

**Sec. 202.001. APPLICABILITY OF CHAPTER.** This chapter applies to elective offices of the state and county governments except the offices of state senator and state representative.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 202.002. VACANCY FILLED AT GENERAL ELECTION.** (a) If a vacancy occurs on or before the 74th day before the general election for state and county officers held in the next-to-last even-numbered year of a term of office, the remainder of the unexpired term shall be filled at the next general election for state and county officers, as provided by this chapter.

(b) If a vacancy occurs after the 74th day before a general election day, an election for the unexpired term may not be held at that general election. The appointment to fill the vacancy continues until the next succeeding general election and until a successor has been elected and has qualified for the office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 28, eff. September 1, 2005.

**Sec. 202.003. NEW OFFICE.** (a) Subject to Subsection (b), an election for the first full term of an office for which no previous election has been held is governed by the same provisions as an election for the remainder of an unexpired term, and for that purpose, references in this chapter to an unexpired term include a full term in the case of those offices.

(b) If an Act of the legislature creating an office prescribes a date of creation that is later than the effective date of the Act, and if an authority authorized to create the office at an earlier date has not done so, the office shall appear on the ballot as follows:

(1) if the date of creation occurs in an even-numbered year, the office appears on the ballot in that even-numbered year;

(2) if the date of creation occurs on or before March 1 of an odd-numbered year, the office appears on the ballot in the preceding even-numbered year; and

(3) if the date of creation occurs after March 1 of an odd-numbered year, the office appears on the ballot in the subsequent even-numbered year.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 72, eff. Sept. 1, 1993.

**Sec. 202.004. NOMINATION BY PRIMARY ELECTION.** (a) A political party's nominee for an unexpired term must be nominated by primary election if:

(1) the political party is making nominations by primary election for the general election in which the vacancy is to be filled; and

(2) the vacancy occurs on or before the fifth day before the date of the regular deadline for candidates to file applications for a place on the general primary ballot.

(b) If the vacancy occurs on or before the 10th day before the date of the regular deadline for candidates to file applications for a place on the general primary ballot, an application for the unexpired term must be filed by the regular filing deadline.

(c) If the vacancy occurs after the 10th day before the date of the regular filing deadline, an application for the unexpired term must be filed not later than 6 p.m. of the fifth day after the date of the regular filing deadline.

(d) The filing fee or petition requirements for a candidate for an unexpired term are the same as for a candidate for a full term.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 28, eff. Sept. 1, 1987; Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. 904), Sec. 7, eff. September 1, 2013; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 20, eff. September 1, 2013.

**Sec. 202.005. NOMINATION BY CONVENTION.** A political party's nominee for an unexpired term must be nominated by the appropriate party convention if:

(1) the political party is making nominations by convention for the general election in which the vacancy is to be filled; and

(2) the vacancy occurs on or before the fourth day before the date the convention convenes.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 202.006. NOMINATION BY EXECUTIVE COMMITTEE.** (a) A political party's state, district, county, or precinct executive committee, as appropriate for the particular office, may nominate a candidate for the unexpired term if:

(1) in the case of a party holding a primary election, the vacancy occurs after the fifth day before the date of the regular deadline for candidates to file applications for a place on the ballot for the general primary election; or

(2) in the case of a party nominating by convention, the vacancy occurs after the fourth day before the date the convention having the power to make a nomination for the office convenes.

(b) The nominating procedure for an unexpired term under this section is the same as that provided by Subchapter B, Chapter 145, for filling a vacancy in a party's nomination, to the extent that it can be made applicable.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 29, eff. Sept. 1, 1987; Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 29, eff. September 1, 2015.

**Sec. 202.007. FILING DEADLINE FOR APPLICATION OF INDEPENDENT CANDIDATE.** (a) If a vacancy occurs after runoff primary election day, an independent candidate for the unexpired term must file the application for a place on the ballot not later than 5 p.m. of the 30th day after the date the vacancy occurs or 5 p.m. of the 70th day before general election day, whichever is earlier.

(b) An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 29, eff. September 1, 2005.

## CHAPTER 203. VACANCY IN LEGISLATURE

**Sec. 203.001. APPLICABILITY OF CHAPTER.** This chapter applies to the offices of state senator and state representative.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 203.002. VACANCY FILLED AT SPECIAL ELECTION.** An unexpired term in office may be filled only by a special election in accordance with this chapter.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 203.003. MAJORITY VOTE REQUIRED.** To be elected in a special election for an unexpired term, a candidate must receive a majority of the total number of votes received by all candidates for the unexpired term.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 203.004. DATE OF ELECTION.** (a) Except as provided by Subsection (b), a special election shall be held on the first uniform election date occurring on or after the 36th day after the date the election is ordered.

(b) If the election is to be held as an emergency election, it shall be held on a Tuesday or Saturday occurring on or after the 36th day and on or before the 64th day after the date the election is ordered.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 389, Sec. 5, eff. Sept. 1, 1991; H.B. 3107, 87th Leg., R.S., Sec. 88, eff. Sept. 1, 2021..

**Sec. 203.005. APPLICATION REQUIRED.** (a) To be entitled to a place on a special election ballot, a candidate must make an application for a place on the ballot.

(b) An application must, in addition to complying with Section 141.031:

(1) state the political party with which the candidate is aligned or, if the candidate is not aligned with a party, state that fact; and

(2) be accompanied by:

(A) a filing fee in the amount prescribed by Section 172.024 for a candidate for nomination for the same office in a general primary election; or

(B) a petition that satisfies the requirements prescribed by Section 141.062.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 203.006. APPLICATION FILED WITH SECRETARY OF STATE.** An application for a place on a special election ballot must be filed with the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 203.007. NUMBER OF PETITION SIGNATURES REQUIRED.** The minimum number of signatures that must appear on the petition authorized by Section 203.005(b)(2)(B) is 500.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 203.008. CIRCULATION OF PETITION.** A petition authorized by Section 203.005(b)(2)(B) may not be circulated before the day after the date the vacancy occurs.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 203.009. CERTIFICATION OF CANDIDATES FOR PLACEMENT ON BALLOT.** (a) Except as provided by Subsection (c), the secretary of state shall certify in writing for placement on the special election ballot the name of each candidate who files with the secretary an application that complies with Section 203.005(b).

(b) As soon as practicable after the deadline for filing applications, the secretary of state shall deliver the certification to the authority responsible for having the official special election ballot prepared in each county in which the special election is to be held.

(c) A candidate's name may not be certified if, before delivering the certification, the secretary of state learns that the name is to be omitted from the ballot under Section 145.094.

(d) This section does not apply to the certification of candidates for a runoff election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 203.010. TIME FOR CERTIFICATION OF RUNOFF CANDIDATES.** The certification of the names of the runoff candidates for placement on a runoff ballot shall be delivered not later than the fifth day after the date the final canvass is

completed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 203.011. PARTY ALIGNMENT ON BALLOT.** The party alignment of each candidate shall be printed on the official ballot next to the candidate's name.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 203.012. TIME OF CANVASS.** (a) The commissioners court shall convene to conduct the local canvass not later than the 10th day after election day.

(b) The governor shall conduct the state canvass not later than the 14th day after election day.

(c) The secretary of state shall post, on the secretary of state's internet website, a notice of the date, hour, and place of the canvass at least 24 hours before the canvass is conducted.

(d) Section 1.006 does not apply to this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 50, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 163, Sec. 5, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 728, Sec. 73, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1315, Sec. 53, eff. Jan. 1, 2004; H.B. 933, 86th Leg., Sec. 14, eff. Sept. 1, 2019.

**Sec. 203.013. EXPEDITED ELECTION.** (a) This section applies to a special election to fill an unexpired term if a vacancy occurs:

(1) during a regular session of the legislature and more than 25 days before the last possible day of the session; or

(2) during the 60 days immediately prior to the date of convening any session of the legislature.

(b) This section supersedes other provisions of this title to the extent of any conflict.

(c) The election must be held on a Tuesday or Saturday occurring not earlier than the 21st day or later than the 45th day after the date the election is ordered.

(d) If the election is to be held before the 36th day after the date the election is ordered, the governor shall set the deadline for filing candidates' applications for a place on the ballot, which must be 5 p.m. of a day not earlier than the fifth day after the date of the order and not later than the 16th day before election day.

(e) If a runoff election is necessary, it must be held on a Tuesday or Saturday occurring not earlier than the 12th day or later than the 25th day after the date the election is ordered.

(f) If a runoff election is to be held before the 21st day after the date the election is ordered, an election notice given by posting shall be posted not later than the seventh day after the date of the order.

(g) If a runoff election is to be held before the 16th day after the date the election is ordered, an election notice given by publication shall be published not later than the third day before election day.

(h) The order of the candidates' names on the runoff election ballot shall be the relative order of names on the original expedited election ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 266 (S.B. 1779), Sec. 1, eff. September 1, 2015.

**Sec. 203.014. DISPOSITION OF FILING FEES.** The secretary of state shall deposit the filing fees received under Section 203.005 in a suspense account with the comptroller until after election day. The funds remaining in the account after any refunds are made shall be deposited to the credit of the General Revenue Fund.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 6.02, eff. Sept. 1, 1997.

## **CHAPTER 204. VACANCY IN CONGRESS**

### **SUBCHAPTER A. VACANCY IN SENATE**

**Sec. 204.001. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to the office of United States senator.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 204.002. TEMPORARY APPOINTMENT TO FILL VACANCY.** The governor shall appoint a person to fill a vacancy in office if the vacancy exists or will exist when congress is in session. The appointee serves until a successor has been elected and has qualified.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 204.003. VACANCY FILLED AT GENERAL ELECTION.** If a vacancy occurs on or after January 1 of an even-numbered year and on or before the 62nd day before general primary election day, the remainder of the unexpired term shall be filled at the next general election for state and county officers.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 30, eff. Sept. 1, 1987.

**Sec. 204.004. NOMINATION FOR VACANCY FILLED AT GENERAL ELECTION.** A nomination by a political party for an unexpired term to be filled at the general election for state and county officers is made in the manner prescribed by Section 202.004 or 202.005, as applicable.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 204.005. VACANCY FILLED AT SPECIAL ELECTION.** If a vacancy occurs during an odd-numbered year or after the 62nd day before general primary election day in an even-numbered year, the remainder of the unexpired term shall be filled by a special election in the same manner as provided by Chapter 203 for the legislature, except that:

(1) the minimum number of signatures that must appear on a petition accompanying a candidate's application for a place on the ballot is 5,000; and

(2) Section 203.013 does not apply.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 30, eff. Sept. 1, 1987.

### **SUBCHAPTER B. VACANCY IN HOUSE OF REPRESENTATIVES**

**Sec. 204.021. VACANCY FILLED AT SPECIAL ELECTION.** An unexpired term in the office of United States representative may be filled only by a special election in the same manner as provided by Chapter 203 for the legislature, except that Section 203.013 does not apply.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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# TITLE 13. RECOUNTS

## CHAPTER 211. GENERAL PROVISIONS

**Sec. 211.001. ELECTIONS IN WHICH RECOUNT MAY BE OBTAINED.** A recount may be obtained as provided by this title in any election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 211.002. DEFINITIONS.** In this title:

(1) "Recount" means the process conducted under this title for verifying the vote count in an election.  
(2) "Initial recount" means a recount obtained under Subchapter B, Chapter 212.  
(3) "Partial recount" means a recount in fewer than the total number of election precincts involved in an election.  
(4) "Supplementary recount" means a recount obtained under Subchapter C, Chapter 212, following a partial initial recount.

(5) "Expedited recount" means a recount obtained under Subchapter D, Chapter 212.

(6) "Recount coordinator" means the authority to whom a petition for an initial recount or an expedited recount is submitted under Section 212.026 or 212.082.

(7) "Recount supervisor" means the authority designated by Section 213.001 to manage and supervise a recount in election precincts in the jurisdiction of a local canvassing authority.

(8) "Recount document" means a petition for an initial recount, a petition for an expedited recount, an application for a supplementary recount, or an application for including remaining paper ballot precincts.

(9) "Recount deposit" means the deposit required by Section 212.111.

(10) "Voting system vote" means a vote cast in a voting system that is not a write-in vote.

(11) "Automatic recount" means a recount conducted under Chapter 216.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 2001, 77th Leg., ch. 851, Sec. 2, eff. Sept. 1, 2001.

**Sec. 211.003. CHANGE IN OUTCOME OF ELECTION.** In this title, a change in the outcome of an election occurs if, as a result of a recount in the precincts included in a recount document:

(1) a candidate who was shown by the previous vote count to be nominated, elected, or entitled to a place on a runoff ballot or to be tied for nomination, election, or entitlement to a place on a runoff ballot loses that status;

(2) in a presidential general election, the presidential candidate who was shown by the previous vote count to have received the most votes in this state loses that status;

(3) in an election on a measure, the winning side becomes the losing side; or

(4) in a presidential primary election, entitlement to delegate representation at the political party's national presidential nominating convention on behalf of a candidate or an uncommitted delegation is changed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 32, eff. Sept. 1, 1987.

**Sec. 211.004. PRESIDING OFFICER OF CANVASSING AUTHORITY INELIGIBLE OR UNABLE TO SERVE.** (a) The presiding officer of a local canvassing authority who is a candidate in a race for which a recount is to be made is ineligible to serve as the recount coordinator or recount supervisor.

(b) The presiding officer of a local canvassing authority may designate the following authority as the recount coordinator or recount supervisor, and if the presiding officer is ineligible or unable to serve as recount coordinator or recount supervisor, the following authority shall serve in that capacity:

(1) the county clerk, if a commissioners court is the canvassing authority;

(2) the city secretary, if a city's governing body is the canvassing authority;

(3) the secretary of the governing body, or the authority performing the duties of a secretary under this code, if the governing body of a political subdivision other than a county or city is the canvassing authority; or

(4) the secretary of the county executive committee, if a political party's county executive committee is the canvassing authority and the committee has a secretary who is a member of the committee, or the county clerk if the committee does not have a member-secretary.

(c) A substitute recount coordinator does not replace the presiding officer of the local canvassing authority in a canvass



following a recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 211.005. METHOD OF GIVING NOTICE; RECORD OF NOTICE.** (a) The authority responsible for giving a notice required by this title shall use the most expeditious means available for giving the notice. If the authority cannot give personal notice when required, the authority shall give notice by another method.

(b) The authority giving notice shall make a written record of the time at which each notice is given to a person and the method by which the notice is given. The record shall be preserved with the recount document to which the notice pertains.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 211.006. PROMPT PERFORMANCE OF RECOUNT FUNCTIONS.** (a) Each authority responsible for performing a function in a recount shall perform the function diligently and shall take prompt action at every stage of the proceeding.

(b) This section is enforceable by writ of mandamus.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 211.007. PRESERVATION OF RECOUNT PAPERS.** (a) In this section, "recount papers" means the documents requesting a recount, amendments to those documents, records of notices given, records of costs of the recount, and file copies of statements of costs.

(b) A recount coordinator shall retain the recount papers in the coordinator's possession for the longest of the following periods:

- (1) the period for preserving the precinct election records;
- (2) 60 days after the date the canvass of the recount is completed;
- (3) 30 days after the date assessed costs are finally settled; or
- (4) 30 days after the date an amount owed by a person against whom costs are assessed is referred for collection.

(c) If a recount supervisor is also the recount coordinator for a recount, the papers accumulated in the officer's capacity as supervisor shall be retained for the same period as those accumulated in the officer's capacity as coordinator.

(d) A recount supervisor who is not the recount coordinator shall retain the recount papers in the supervisor's possession for the longest of the following periods:

- (1) the period for preserving the precinct election records;
- (2) 60 days after the date recount costs for payment of claimants are certified; or
- (3) if costs in the supervisor's jurisdiction are assessed against a person, six months after the date a statement of costs incurred in the supervisor's jurisdiction is delivered to the recount coordinator.

(e) Subsections (b), (c), and (d) do not apply to recount papers delivered to the authority to whom an amount owed by a person against whom costs are assessed is referred for collection.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 206, eff. Sept. 1, 1997.

## CHAPTER 212. REQUESTING RECOUNT

### SUBCHAPTER A. REQUESTING RECOUNT GENERALLY

**Sec. 212.001. GENERAL REQUIREMENTS FOR RECOUNT DOCUMENT.** A recount document submitted under this title must:

- (1) be in writing;
- (2) identify the office or measure for which a recount is desired;
- (3) state the grounds for the recount;
- (4) state the side of the measure that the person requesting the recount represents, if applicable;
- (5) identify the election precincts, grouped by county or other appropriate territorial unit if the election involves more than one local canvassing authority, for which a recount is desired and must indicate the method of voting used in each precinct;
- (6) be signed by:
  - (A) the person requesting the recount or, if there is more than one, any one or more of them; or
  - (B) an agent of the person requesting the recount;
- (7) state each requesting person's name, residence address, and, if authorization to obtain the recount is based on eligibility to vote in the election, voter registration number, and county of registration if the election covers territory in more than one county;
- (8) designate an agent who is a resident of this state to receive notice under this title on behalf of the person requesting the recount if:
  - (A) the person requesting the recount is not a resident of this state; or
  - (B) there is more than one person requesting the recount;
- (9) state the mailing address, e-mail address, if any, and at least one telephone number, if any, at which the person requesting the recount or an agent, identified by name, may receive notice given under this title;
- (10) state the mailing address and at least one telephone number, if any, at which the opposing candidates for the office or their agents, identified by name, may receive notice given under this title; and
- (11) be accompanied by a deposit as provided by Subchapter E.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 1, eff. Oct. 20, 1987; Acts 2003, 78th Leg., ch. 1316, Sec. 40, eff. Sept. 1, 2003; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 89, eff. Sept. 1, 2021.

**Sec. 212.002. DESIGNATION OF AGENT TO RECEIVE NOTICE.** (a) If a recount involves votes canvassed by more than one local canvassing authority, the document requesting the recount may designate, for any one or more of the counties served by the local canvassing authorities, a person residing in the county to receive notice of the time and place of the recount on behalf of the person requesting the recount.

(b) The designation is not effective unless the document states the designee's name, address, e-mail address, if any, and telephone number, if any.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 90, eff. Sept. 1, 2021.

**Sec. 212.003. SUBMISSION OF RECOUNT DOCUMENT.** (a) A recount document or a document amending a recount document is considered to be submitted at the time of its receipt by the recount coordinator.

(b) On submission of a document, the recount coordinator shall enter on the document the date and hour of submission and the form and amount of the deposit accompanying the document.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.004. FURNISHING COPIES OF DOCUMENTS TO CERTAIN INTERESTED PERSONS.** The recount coordinator shall furnish without charge a copy of a recount document or a document amending a recount document to each person, other than the person submitting the document, who is entitled to notice of its approval.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.005. MULTIPLE RECOUNTS ON SAME OFFICE OR MEASURE.** (a) The approval of a petition for a recount does not preclude the submission and approval of another petition on the same office or measure. A petition with respect to a particular office or measure may not be submitted after an initial recount or an expedited recount on the office or measure is

completed.

(b) If more than one recount petition, application for a supplementary recount, or application for including remaining paper ballot precincts is submitted, the recount coordinator shall promptly inform each petitioner or applicant of the submission by the other person.

(c) Except as provided by Subsection (d), if more than one petition or application is approved, the recount requested by each person shall be conducted at the same time.

(d) If different counting methods are chosen under Section 214.042(a) among multiple requests for a recount of electronic voting system results, only one method may be used in the recount. A manual recount shall be conducted in preference to an electronic recount and an electronic recount using a corrected program shall be conducted in preference to an electronic recount using the same program as the original count.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 65, eff. Sept. 1, 1997.

**Sec. 212.006. WITHDRAWAL OF RECOUNT PETITION.** (a) A recount petitioner may withdraw the petition for the recount by submitting a request to withdraw the petition to the recount coordinator. On receipt of the request, the recount coordinator shall immediately inform, by the most expeditious means possible, all parties who are entitled to receive notice of the recount under Section 212.032 that the request has been submitted and the recount canceled.

(b) After a recount petition has been withdrawn, the petitioner may not petition again for a recount of that election.

(c) The request for the withdrawal of a recount petition must be sworn to by the person requesting the withdrawal.

The request must contain:

- (1) the identity of the office or measure for which the recount was requested;
- (2) the reason for the withdrawal;
- (3) a statement acknowledging that once the petition is withdrawn, the petitioner may not petition again for a recount of that election;
- (4) a statement acknowledging that the results of the canvass are official;
- (5) a statement acknowledging that money properly expended toward the holding of the recount before the request was submitted will be subtracted from the amount of the deposit that is refunded;
- (6) the signature of:
  - (A) the person requesting the withdrawal; or
  - (B) an agent of the person requesting the withdrawal; and
- (7) the printed name, address, and telephone number of the person requesting the withdrawal.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 2, eff. Oct. 20, 1987.

## **SUBCHAPTER B. INITIAL RECOUNT**

**Sec. 212.021. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to all elections except an election to which an expedited recount under Subchapter D applies.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.022. OBTAINING INITIAL RECOUNT IN ELECTION ON OFFICE.** Except as provided by Section 212.0241, a candidate for nomination or election to an office may obtain an initial recount in an election in which the person was a candidate if:

(1) the difference in the number of votes received by the candidate and any candidate for the office who is shown by the election returns to be nominated, elected, or entitled to a place on a runoff ballot or tied for nomination, election, or entitlement to a place on a runoff ballot is less than 10 percent of that candidate's number of votes;

(2) the candidate is shown by the election returns to be entitled to a place on a runoff ballot or tied for nomination, election, or entitlement to a place on a runoff ballot;

(3) the secretary of state certifies that counting errors affecting the election occurred in one or more election precincts in which paper ballots were used, as provided by Section 212.034; or

(4) the total number of votes received by all candidates for the office is less than 1,000 as shown by the election returns.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 10(a), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 207, eff. Sept. 1, 1997.

**Sec. 212.023. OBTAINING INITIAL RECOUNT IN ELECTION FOR PRESIDENTIAL ELECTORS.** (a) Except as

provided by Section 212.0241, an initial recount in a presidential general election may be obtained if one of the grounds prescribed by Section 212.022 is satisfied.

(b) The following persons may obtain an initial recount in a presidential general election:

(1) a presidential candidate whose name appeared on the ballot in this state or who had qualified as a write-in candidate in this state;

(2) one or more presidential elector candidates corresponding to a presidential candidate described by Subdivision (1), acting jointly; or

(3) a presidential candidate described by Subdivision (1) and one or more corresponding elector candidates, acting jointly.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 484, Sec. 10(a), eff. Sept. 1, 1987.

**Sec. 212.0231. OBTAINING INITIAL RECOUNT IN PRESIDENTIAL PRIMARY ELECTION.** Except as provided by Section 212.0241, in a presidential primary election, a candidate in the election, or any 25 or more persons who were eligible to vote in the election acting jointly on behalf of an uncommitted delegation, may obtain an initial recount in the election if:

(1) the difference in the number of votes received by the candidate or uncommitted status and any candidate or uncommitted status shown by the election returns to be entitled to delegate representation at the political party's national presidential nominating convention is less than 10 percent of the number of votes received by the latter candidate or the uncommitted status; or

(2) the secretary of state certifies that counting errors affecting the election occurred in one or more election precincts in which paper ballots were used, as provided by Section 212.034.

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 31, eff. Sept. 1, 1987.

Amended by Acts 1987, 70th Leg., ch. 484, Sec. 10(a), (b) eff. Sept. 1, 1987.

**Sec. 212.024. OBTAINING INITIAL RECOUNT IN ELECTION ON MEASURE.** (a) Except as provided by Section 212.0241, an initial recount in an election on a measure may be obtained if:

(1) the difference in the number of votes received for the measure and against the measure is less than 10 percent of the total number of votes received on the measure as shown by the election returns;

(2) the secretary of state certifies that counting errors affecting the election occurred in one or more election precincts in which paper ballots were used, as provided by Section 212.034; or

(3) the total number of votes received for and against the measure is less than 1,000 as shown by the election returns.

(b) The following persons may obtain an initial recount in an election on a measure:

(1) the campaign treasurer of a specific-purpose political committee that was involved in the election; or

(2) any 25 or more persons, acting jointly, who were eligible to vote in the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 484, Sec. 10(a), eff. Sept. 1, 1987.

**Sec. 212.0241. NO GROUND REQUIRED FOR ELECTRONIC VOTING SYSTEM RECOUNT.** (a) A ground for obtaining an initial recount as prescribed by this subchapter is not required to obtain an initial recount of electronic voting system results, subject to Subsection (b).

(b) A candidate for nomination or election to an office may obtain an initial recount of electronic voting system results in an election in which the person was a candidate only if the candidate is shown by the election returns not to be nominated or elected. However, a candidate shown to be nominated or elected may obtain an initial recount if an opposing candidate's initial recount petition is approved for a recount that is covered by Section 212.131(c) and that does not include all of the voting system precincts in the election.

(c) The secretary of state shall prescribe any procedures necessary to accommodate the authorization to obtain a recount of electronic voting system results without a specific ground.

(d) This section does not affect the scope of a recount as governed by Subchapter F.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 10(a), eff. Sept. 1, 1987.

Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 66, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 851, Sec. 5, eff. Sept. 1, 2001.

**Sec. 212.025. PETITION FOR INITIAL RECOUNT REQUIRED.** An initial recount may not be conducted unless a person authorized to obtain the recount submits, as provided by this subchapter, a petition for the recount that complies with the applicable requirements prescribed by this title.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.026. AUTHORITY TO WHOM PETITION SUBMITTED.** (a) In an election for which there is only one canvassing authority, a petition for an initial recount must be submitted to the presiding officer of the canvassing authority.

(b) In an election for which there is only one canvassing authority and which is canvassed jointly with another election, a recount petition must be submitted to the presiding officer of the authority designated by law as the canvassing authority for the election rather than the presiding officer of the canvassing authority designated by the joint election agreement.

(c) In an election for which a final canvass is made by a canvassing authority at the state level, a recount petition must be submitted to the presiding officer of the final canvassing authority.

(d) In an election for which there is more than one local canvassing authority and no final canvass at the state level, a recount petition must be submitted to the presiding officer of each local canvassing authority within whose jurisdiction a recount is desired.

(e) In a general election for governor or lieutenant governor, a recount petition must be submitted to the secretary of state.

(f) If the presiding officer of a local canvassing authority is ineligible or unable to serve as recount coordinator, the timely submission of a recount petition to that officer instead of the person substituting as the recount coordinator does not make the petition invalid. In that case, the presiding officer shall promptly deliver the petition to the substitute coordinator.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.027. NOTICE OF PETITION SUBMISSION TO OTHER CANVASSING AUTHORITIES.** (a) On submission of a recount petition under Section 212.026(b), the recount coordinator, if the coordinator is not the same person as the presiding officer of the canvassing authority designated by the joint election agreement, shall notify that presiding officer of the submission.

(b) On submission of a recount petition under Section 212.026(d), the recount coordinator shall notify the presiding officer of each of the other canvassing authorities of the submission of the petition.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 208, eff. Sept. 1, 1997.

**Sec. 212.028. TIME FOR SUBMITTING PETITION.** (a) Except as provided by Subsection (b), a petition for an initial recount must be submitted by 5 p.m. of third business day after the date the canvassing authority to whose presiding officer the petition must be submitted completes its canvass of the original election returns.

(b) A petition for a winning candidate in response to an opposing candidate's petition as described by Section 212.0241(b) must be submitted not later than 48 hours after receipt of the notice of approval under Section 212.032.

(c) If the deadline for submitting a petition for an initial recount falls on a Saturday, Sunday, or legal state holiday, the deadline is extended to 10 a.m. of the next regular business day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.12, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 851, Sec. 6, eff. Sept. 1, 2001; H.B. 3107, 87th Leg., R.S., Sec. 91, eff. Sept. 1, 2021; S.B. 825, 88th Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 212.029. INITIAL REVIEW OF PETITION.** (a) The recount coordinator shall review the petition for compliance with the applicable requirements not later than 48 hours after receipt of the petition.

(b) If the recount petition does not comply with the applicable requirements, the recount coordinator shall promptly notify the petitioner of each defect in the petition and shall enter on the petition a description of each defect and the date of the notice. A deposit in an improper form or amount is a defect for purposes of this subsection.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 3, eff. Oct. 20, 1987.

**Sec. 212.030. AMENDMENT OF PETITION.** (a) A petitioner may amend a recount petition to correct a defect.

(b) An amendment must be submitted to the recount coordinator not later than the deadline for submitting the petition or 5 p.m. of the second day after the date notice of the defect under Section 212.029 is received by the petitioner, whichever is later.

(c) On submission of an amendment, the recount coordinator shall enter on the amendment the date and hour it is submitted.

(d) If an amendment is timely, the recount coordinator shall promptly review the petition as amended.

(e) For purposes of this section, a correction of an improper deposit is considered an amendment of the petition.

(f) If the amendment does not correct each defect in the petition of which the petitioner was notified, the recount coordinator shall reject the amended petition. The recount coordinator shall promptly notify the petitioner of each remaining defect and shall enter on the amended petition a description of each defect and the date of notice. A petition may not be amended more than once under this section.

**Sec. 212.031. FINAL ACTION ON PETITION.** (a) If a recount petition complies with the applicable requirements, the recount coordinator shall approve the petition and note on the petition its approved status and the date of the approval. The recount coordinator shall immediately notify the recount supervisor of the approval. The recount supervisor shall, with the written approval of the recount coordinator, order the recount to be held on the later of the seventh day after the date the petition is determined to comply with the applicable requirements or the day after all ballots have been delivered to the general custodian of election records.

(b) If the petition does not comply with the applicable requirements, the recount coordinator shall determine whether it is correctable by amendment. If the petition is not correctable, the coordinator shall reject the petition. If the petition is correctable, the coordinator shall delay acting on the petition until the deadline for amending it. If at that time the petition is not corrected, the coordinator shall reject the petition.

(c) On rejecting a petition, the recount coordinator shall note on the petition its rejected status and the reason for and date of the rejection.

(d) After approving or rejecting a petition, the recount coordinator shall promptly notify the petitioner of the action taken.

(e) After approving or rejecting a petition submitted under Section 212.026(b), the recount coordinator, if the coordinator is not the same person as the presiding officer of the canvassing authority designated by the joint election agreement, shall promptly notify that presiding officer of the action taken.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 4, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 288, Sec. 2, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 209, eff. Sept. 1, 1997; H.B. 3107, 87th Leg., R.S., Sec. 92, eff. Sept. 1, 2021.

**Sec. 212.032. NOTICE OF APPROVAL TO OTHERS INVOLVED IN ELECTION.** After approving a recount petition, the recount coordinator shall promptly notify the following persons of the petition's approval:

(1) if the recount involves an election for nomination or election to an office, each opposing candidate;  
(2) if the recount involves an election for presidential electors, the presidential candidate who is shown by the election returns to have received the most votes;

(3) if the recount involves a measure:

(A) the campaign treasurer of each specific-purpose political committee involved in the election on the side opposite the side that the petitioner represents; or

(B) a person eligible to vote in the election, selected by the recount coordinator as an appropriate representative of the interests of the opposite side, if no specific-purpose committee was involved in the election; or

(4) if the recount involves a presidential primary election:

(A) each opposing candidate; and

(B) a registered voter selected by the recount coordinator as an appropriate representative of the interests of the uncommitted delegation, if an uncommitted delegation is entitled to delegate representation.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 32, eff. Sept. 1, 1987.

**Sec. 212.033. EFFECT OF PETITION SUBMISSION ON CANVASS.** (a) The submission of a recount petition before the canvassing authority completes its canvass does not delay the canvass for the office or measure involved in the recount.

(b) The canvassing authority shall make a notation on the tabulation of any office or measure involved in a recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 5, eff. Oct. 20, 1987.

**Sec. 212.0331. EFFECT OF PETITION SUBMISSION ON QUALIFYING FOR OFFICE.** (a) The submission of a recount petition delays the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount.

(b) A candidate may not qualify for an office involved in a recount before completion of the recount.

(c) This section does not affect a candidate who has received a certificate of election and qualified for an office before the submission of a recount petition involving the office.

(d) The secretary of state shall prescribe any procedures necessary to implement this section.

Added by Acts 2001, 77th Leg., ch. 1144, Sec. 2, eff. Sept. 1, 2001.

**Sec. 212.034. COUNTING ERRORS AS GROUND FOR RECOUNT IN PAPER BALLOT PRECINCTS.** (a) To obtain a recount on the ground of counting errors in election precincts in which paper ballots were used, a person must attach to the recount petition an affidavit or affidavits from one or more presiding judges of the election stating that certain votes cast for the office or measure, as applicable, were either counted or not counted, as appropriate, with a brief description of the

circumstances involved. At the same time the recount petition is submitted to the recount coordinator, the petitioner must deliver a copy of the recount petition and each affidavit to each opposing candidate or to the campaign treasurer of each specific-purpose political committee that was involved in the election on the measure, as appropriate, and to the secretary of state. The copies must be delivered personally or by registered or certified mail, return receipt requested.

(b) The recount coordinator shall delay final action on a recount petition submitted with an attached affidavit under Subsection (a) pending receipt of the secretary of state's certification.

(c) Any opposing candidate or any person listed in Section 212.023(b), 212.0231, or 212.024(b), as appropriate, is entitled to submit to the secretary of state an affidavit contradicting statements made in an affidavit submitted by the petitioner. A contradicting affidavit must be received by the secretary of state not later than the third day after the date the copy of the recount petition and each affidavit is received by the secretary.

(d) A recount on the ground of counting errors may be obtained if the secretary of state determines from uncontradicted statements, based on undisputed facts, in an affidavit submitted by the petitioner and from the election returns that certain votes cast for the office or measure, as applicable, clearly were erroneously counted or not counted, as appropriate, and that without the errors the petitioner possibly would have received the vote necessary to gain or tie for nomination, election, or entitlement to a place on a runoff ballot or the petitioner's side on a measure possibly would have received the most votes, as applicable. The secretary may not make the determination if the facts are disputed or raise unresolved legal questions as to whether counting errors occurred.

(e) Not earlier than the fourth or later than the fifth day after the date the copy of the recount petition and each affidavit is received by the secretary of state, the secretary shall deliver written certification of whether grounds exist for obtaining a recount on the basis of counting errors to the recount coordinator and shall deliver a copy of the certification to the petitioner and to each opposing candidate or to the campaign treasurer of each specific-purpose political committee that was involved in the election on the measure, as appropriate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 33, eff. Sept. 1, 1987.

**Sec. 212.035. APPLICATION FOR INCLUDING REMAINING PAPER BALLOT PRECINCTS.** (a) If a petition is approved for a partial recount in election precincts in which paper ballots were used, any opposing candidate or any person listed in Section 212.023(b), 212.0231, or 212.024(b), as appropriate, may have the remaining election precincts in which paper ballots were used included in the initial recount by submitting an application for including the precincts to the recount coordinator.

(b) The application must be submitted not later than 2 p.m. of the second day after the date the applicant receives notice of the petition's approval.

(c) The application is subject to review, amendment, and action by the recount coordinator in the same manner as a petition submitted under this subchapter.

(d) After approving an application for including remaining precincts, the recount coordinator shall promptly give notice of the approval to the applicant, the petitioner, and any other person entitled to notice under Section 212.032.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 34, eff. Sept. 1, 1987.

## **SUBCHAPTER C. SUPPLEMENTARY RECOUNT FOLLOWING PARTIAL RECOUNT IN PAPER BALLOT PRECINCTS**

**Sec. 212.051. APPLICABILITY OF SUBCHAPTER.** This subchapter does not apply to an election to which an expedited recount under Subchapter D applies.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.052. SUPPLEMENTARY RECOUNT AUTHORIZED.** If a partial recount is conducted in election precincts in which paper ballots were used, a recount of votes cast in the remaining precincts in which paper ballots were used may be obtained as provided by this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.053. OBTAINING SUPPLEMENTARY RECOUNT.** (a) A person who was not entitled to obtain an initial recount on the grounds prescribed by Section 212.022(1) or (2), 212.0231(1), or 212.024(a)(1) may obtain a supplementary recount if the partial recount included less than 50 percent of the total vote received by all candidates in the race or for the measure, as applicable, as shown by the original election returns, and as a result of the partial recount those grounds are satisfied.

(b) A person who was not entitled to obtain an initial recount on the grounds prescribed by Section 212.022(1) or (2), 212.0231(1), or 212.024(a)(1) may obtain a supplementary recount if the partial recount included 50 percent or more but less than 75 percent of the total vote received by all candidates in the race or for the measure, as applicable, as shown by the original election returns, and as a result of the partial recount those grounds are satisfied, except that the percentage factor is two percent rather than 10 percent.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 35, eff. Sept. 1, 1987.

**Sec. 212.054. APPLICATION FOR SUPPLEMENTARY RECOUNT REQUIRED.** A supplementary recount may not be conducted unless a person authorized to obtain the recount submits, as provided by this subchapter, an application for the recount that complies with the applicable requirements prescribed by this title.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.055. AUTHORITY TO WHOM APPLICATION SUBMITTED.** A supplementary recount application must be submitted to the recount coordinator.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.056. TIME FOR SUBMITTING APPLICATION.** (a) Except as provided by Subsection (b), a supplementary recount application must be submitted not later than 5 p.m. of the second day after the date the applicant receives notice of the initial recount result under Section 213.032 or 213.056.

(b) An application for a supplementary recount on a measure must be submitted not later than 5 p.m. of the second day after the date notice of the initial recount result under Section 213.032 or 213.056 was given to the person selected to receive notice of the petition's approval under Section 212.032 if the applicant is:

(1) the campaign treasurer of a specific-purpose political committee who did not receive the notice of the initial recount result; or

(2) a group of persons, none of whom received the notice of the initial recount result.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.057. PROCESSING APPLICATION.** (a) An application for a supplementary recount is subject to review, amendment, and action by the recount coordinator in the same manner as prescribed by Sections 212.029, 212.030, and 212.031 for a petition for an initial recount.

(b) After approving an application, the recount coordinator shall promptly give notice of the approval of the application to the petitioner for the initial recount and to each person entitled to notice of an approved petition under Section 212.032.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER D. EXPEDITED RECOUNT**

**Sec. 212.081. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to a recount in an election on an office in which:

(1) a majority vote is required for nomination or election; and

(2) votes were cast for more than two candidates.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 67, eff. Sept. 1, 1997.

**Sec. 212.082. RECOUNT PETITION.** Except as otherwise provided by this subchapter, a recount under this subchapter is initiated by a petition submitted and processed in accordance with Subchapter B.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.083. DEADLINE FOR SUBMITTING PETITION.** The deadline for submitting a recount petition under this subchapter is 2 p.m. of the second day after the date of the local canvass.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 67, eff. Sept. 1, 1997; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 93, eff. Sept. 1, 2021; S.B. 825, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

**Sec. 212.084. NOTICE OF PETITION SUBMISSION.** If the recount coordinator determines that a recount petition does not comply with the applicable requirements but is correctable by amendment, the coordinator shall promptly give notice of



the submission to each opposing candidate. The notice required by this section is in addition to the notice of approval of a petition required by Section 212.032.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.085. DEADLINE FOR AMENDING PETITION.** The deadline for amending a petition under this subchapter is:

(1) 10 a.m. of the day after the date notice of defect is received, if received at or after 12 midnight and before 12 noon;

or

(2) 4 p.m. of the day after the date notice of defect is received, if received at or after 12 noon and before 12 midnight.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 67, eff. Sept. 1, 1997.

**Sec. 212.086. APPLICATION FOR INCLUDING REMAINING PAPER BALLOT PRECINCTS.** Except as otherwise provided by this subchapter, the provisions of Subchapter B governing an application for including remaining paper ballot precincts govern the application in an expedited recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.087. PROCESSING APPLICATION.** An application for including remaining paper ballot precincts is subject to review, amendment, and action by the recount coordinator in the same manner as a petition submitted under this subchapter, except that Section 212.084 does not apply.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.088. DEADLINE ON SATURDAY, SUNDAY, OR HOLIDAY.** (a) If the deadline for submitting an expedited recount petition falls on a Saturday, Sunday, or legal state holiday, the deadline is extended to 10 a.m. of the next regular business day.

(b) Except as provided by Subsection (a), a deadline prescribed by this subchapter is not affected by its falling on a Saturday, Sunday, or holiday.

(c) If the deadline for submitting an application for including remaining paper ballot precincts or an amendment to a petition or application falls on a Saturday, Sunday, or legal state holiday, the recount coordinator shall be accessible or have an agent accessible at the coordinator's office for at least one hour immediately preceding the deadline unless the document subject to the deadline has already been submitted. Failure of the coordinator to comply with this subsection excuses performance until 9 a.m. of the next day that is not a Saturday, Sunday, or legal state holiday.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 41, eff. Sept. 1, 2003.

**Sec. 212.089. DAYS AND HOURS FOR PERFORMING DUTIES.** The recount coordinator, each recount supervisor, and each recount committee involved in an expedited recount shall continue performing their duties on days that are not regular working days and during hours that are not regular working hours if necessary to complete the recount in time to avoid interfering with the orderly conduct of the scheduled runoff election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER E. DEPOSIT FOR COSTS OF RECOUNT**

**Sec. 212.111. DEPOSIT REQUIRED.** (a) A deposit to cover the costs of a recount must accompany the submission of a recount document.

(b) The deposit must be in the form of cash or a cashier's check or money order made payable to the recount coordinator.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 42, 44, eff. Sept. 1, 2003.

**Sec. 212.112. AMOUNT OF DEPOSIT.** The amount of the recount deposit is:

(1) \$60 for each election day polling location or precinct, whichever results in a smaller amount, in which regular paper ballots were used; and

(2) \$100 for each election day polling location or precinct, whichever results in a smaller amount, in which an electronic voting system was used.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 6, eff. Oct. 20, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.66; Acts 1991, 72nd Leg., ch. 554, Sec. 37, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 583, Sec. 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.15, eff. January 1, 2006; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 20, eff. September 1, 2009; H.B. 3107,

**Sec. 212.113. RETURN OF DEPOSIT.** (a) On rejection of a recount document, the recount coordinator shall return the recount deposit to the person who submitted the document.

(b) On the timely withdrawal of a recount document, the recount coordinator shall return to the person who submitted the document the recount deposit less any necessary expenditures made toward the conduct of the recount before the request for withdrawal was received.

(c) The recount coordinator shall return to each person requesting a recount whose chosen counting method is not used under Section 212.005(d) the recount deposit less any necessary expenditures made toward the conduct of the recount before the other counting method was determined to be the preferential method.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70<sup>th</sup> Leg., 2<sup>nd</sup> C.S., ch. 59, Sec. 7, eff. Oct. 20, 1987; Acts 1997, 75<sup>th</sup> Leg., ch. 1349, Sec. 68, eff. Sept. 1, 1997.

## SUBCHAPTER F. SCOPE OF RECOUNT

**Sec. 212.131. SCOPE OF INITIAL RECOUNT.** (a) Except as provided by Subsection (d), an initial recount in an election for which there is no canvass at the state level must include each election precinct in the election.

(b) In an election for which there is a final canvass at the state level, an initial recount of votes cast on paper ballots must include each election precinct in which paper ballots were used in the election, except as provided by Subsection (d).

(c) In an election for which there is a final canvass at the state level, an initial recount of votes cast in a particular voting system may include any one or more counties covered by the election, but must include all the election precincts in which a particular voting system is used in each county recounted.

(d) An initial recount may include any one or more election precincts in which counting errors occurred as certified by the secretary of state under Section 212.034.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77<sup>th</sup> Leg., ch. 851, Sec. 7, eff. Sept. 1, 2001.

**Sec. 212.132. SCOPE OF SUPPLEMENTARY RECOUNT.** A supplementary recount must include each remaining election precinct in which paper ballots were used in the election.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.133. SCOPE OF EXPEDITED RECOUNT.** An expedited recount is governed by Section 212.131.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.134. EARLY VOTING VOTES TREATED AS PRECINCT.** (a) Except as provided by Subsection (b), for the purpose of specifying which election precincts are to be included in a recount, all the early voting votes canvassed by a local canvassing authority shall be treated as constituting one election precinct.

(b) Each early voting polling place in which voting machines were used shall be treated as constituting one election precinct.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72<sup>nd</sup> Leg., ch. 203, Sec. 2.67; Acts 1991, 72<sup>nd</sup> Leg., ch. 554, Sec. 38, eff. Sept. 1, 1991.

**Sec. 212.135. VOTES TO BE RECOUNTED.** Except as provided by Section 212.136, all votes cast in the election precincts included in a recount on the office or measure specified by the recount document are subject to the recount.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.136. EXCLUSION OF CERTAIN VOTES FROM RECOUNT IN PRECINCTS USING VOTING SYSTEM.**

(a) Except as provided by Subsection (c), write-in votes cast in connection with a voting system shall be excluded from a recount of an election in which a plurality vote is sufficient.

(b) Except as provided by Subsection (c), in a recount of an election in which a majority vote is required, if the candidate who first requests a recount in one or more precincts in which a voting system was used specifies in the recount document that only a recount of the write-in votes or only a recount of the voting system votes is requested, the votes for which the recount is not requested shall be excluded from the recount unless an objection to the exclusion is made under Section 212.137. A request for a recount of only write-in votes or only voting system votes must apply to all precincts included in the recount in which a voting system was used.

(c) Write-in votes may not be excluded from a recount in which a write-in candidate is the petitioner or a person entitled to notice of an approved petition under Section 212.032.

(d) The treatment given to the votes in the recount obtained under the recount document in which a recount in a voting system precinct is first requested must be given to the votes in all voting system precincts for which a recount is obtained under a subsequently submitted recount document pertaining to the same election.

(e) In a precinct in which voting system votes are excluded from a recount, the vote count entered on the original precinct election returns for the excluded votes shall be treated as the count for those votes for the purposes of the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 212.137. OBJECTION TO EXCLUSION OF VOTES.** (a) The notice of approval of a recount document in which an exclusion of votes is requested under Section 212.136 must include notice that the exclusion has been requested.

(b) The votes subject to the requested exclusion may not be excluded if a candidate entitled to notice under Subsection (a) notifies the recount coordinator not later than 18 hours after receiving the notice that the candidate objects to the exclusion.

(c) The sufficiency of the deposit accompanying a recount document requesting an exclusion is not affected by a timely objection to the exclusion, but the candidate is liable for the full costs of the recount, including the costs attributable to the recount of the votes requested to be excluded, if the costs are assessed against the candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 210, eff. Sept. 1, 1997.

## CHAPTER 213. CONDUCT OF RECOUNT

### SUBCHAPTER A. CONDUCT OF RECOUNT GENERALLY

**Sec. 213.001. GENERAL SUPERVISION OF RECOUNT.** (a) The presiding officer of each local canvassing authority having jurisdiction of election precincts included in a recount shall manage and supervise the recount for the precincts in that authority's jurisdiction.

(b) In a recount of an election canvassed jointly with another election, the presiding officer of the authority designated by law as the canvassing authority for the election, rather than the presiding officer of the joint canvassing authority, shall manage and supervise the recount.

(c) The custodian of voted ballots in the election, or the custodian's designee, is entitled to be present at each phase of the recounting process.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.002. RECOUNT COMMITTEE.** (a) Before beginning a recount, each recount supervisor shall appoint a recount committee composed of as many members as the supervisor determines are necessary for a speedy recount. The committee must be composed of at least four members. The recount coordinator may appoint one member.

(b) The recount supervisor shall appoint a chair from the membership.

(c) The recount committee shall count the votes in a recount under the direct management and supervision of the chair. The recount supervisor or the supervisor's designee may exercise the chair's authority when present during the counting process.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 8, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 288, Sec. 3, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 211, eff. Sept. 1, 1997.

**Sec. 213.003. ELIGIBILITY FOR COMMITTEE MEMBERSHIP.** (a) Except as provided by Subsections (b) and (c), to be eligible for appointment as a member of a recount committee, a person must be a qualified voter of the political subdivision served by the recount supervisor and must otherwise meet the eligibility requirements prescribed by this code for precinct election judges and clerks. A person who served as an election judge or as judge of the early voting ballot board in the election is ineligible to serve as a member of the recount committee. An officer of a political party is eligible to serve as a member of the committee.

(b) A tabulation supervisor, assistant tabulation supervisor, or manager of a central counting station appointed in a recount using automatic tabulating equipment to recount ballots originally counted at a central counting station is not subject to Subsection (a).

(c) A person who is appointed as a member of a recount committee by the secretary of state or a state party chair and who otherwise meets the eligibility requirements prescribed by this code for precinct election judges and clerks is eligible for appointment regardless of whether the person is a qualified voter of the political subdivision served by the recount supervisor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 9, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 288, Sec. 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.68; Acts 1991, 72nd Leg., ch. 554, Sec. 39, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 212, eff. Sept. 1, 1997.

**Sec. 213.004. COMPENSATION OF COMMITTEE MEMBERS.** (a) Except as provided by Subsection (b), a member of a recount committee is entitled to compensation for time spent in making a recount at an hourly rate set by the recount supervisor, not to exceed the maximum hourly rate for election judges.

(b) A tabulator assisting in a recount using automatic tabulating equipment to recount ballots originally counted at a central counting station is entitled to compensation in an amount set by the recount supervisor, not to exceed the rate of compensation for the tabulation supervisor of the central counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.005. COUNTING TEAMS.** (a) A recount committee in a recount other than a recount on automatic tabulating equipment shall function as one or more counting teams composed of three members each. The recount coordinator may appoint one member of each team.

(b) Subject to the authority of the recount supervisor or the supervisor's designee, the recount committee chair shall designate the members to serve on each team and the duties to be performed by each member.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 10, eff. Oct. 20, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 74, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 213, eff. Sept. 1, 1997.

**Sec. 213.006. DETERMINATION OF COUNTING QUESTIONS.** (a) The recount committee chair has the same authority as a presiding election judge to determine whether a particular ballot may be lawfully counted and how a voter's marking of a ballot should be interpreted.

(b) After consulting the recount coordinator's appointee, the recount committee chair shall prepare a written statement of the specific reasons for not counting a particular ballot. Any uncounted ballots shall be kept separately in the appropriate container.

(c) Early voting ballots rejected by the early voting ballot board may not be counted in the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 11, eff. Oct. 20, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.69; Acts 1991, 72nd Leg., ch. 554, Sec. 40, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 214, eff. Sept. 1, 1997.

**Sec. 213.007. ACCESS TO BALLOTS, EQUIPMENT, AND OTHER MATERIALS.** (a) On presentation by a recount committee chair of a written order signed by the recount supervisor, the custodian of voted ballots, voting machines or test materials or programs used in counting electronic voting system ballots shall make the ballots, machines, or materials or programs, including the records from which the operation of the voting system may be audited, available to the committee.

(b) The custodian of keys to secured materials or equipment shall make the keys available to the committee in the same manner as provided by Subsection (a).

(c) The recount committee chair shall have the materials and equipment restored to their secured condition and returned to the appropriate custodian.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 215, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 54, eff. Jan. 1, 2004.

**Sec. 213.008. ARRANGEMENTS FOR RECOUNT; SETTING TIME AND PLACE.** The recount supervisor shall make the arrangements necessary for conducting the recount and shall set the time and place for beginning the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.009. NOTICE OF RECOUNT.** (a) The recount supervisor shall give personal notice of an initial recount to the petitioner, personal notice of a supplementary recount to both the petitioner and applicant, and personal notice of an expedited recount to the petitioner and to any applicant.

(b) Notice required by Subsection (a) shall also be given to each person entitled to notice under Section 212.032.

(c) The notice must include the time and place at which the recount is scheduled to begin and the number of counting teams designated for the recount, if applicable.

(d) Except as provided by Section 213.010, the notice shall be given at least 18 hours before the recount begins.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.010. EARLY RECOUNT.** A recount may begin earlier than 18 hours after notice is given under Section 213.009 if each person entitled to the notice agrees to begin at a specified earlier time.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.011. VOTES COUNTED BY PRECINCT.** The recount committee shall count the votes separately by precinct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.0111. RECOUNT OF DISPUTED BALLOTS.** (a) On receipt of an affidavit executed by any recount committee member alleging that legal votes were not counted or illegal votes were counted during the initial recount, the recount coordinator may order a new recount of the disputed ballots. For a county or precinct office in a primary election, the county chair may order the new recount only on the approval of the state chair.

(b) The affidavit must be received by the recount coordinator within 48 hours after the determination of the results of the initial recount.

(c) Notice of the new recount shall be given in the manner prescribed by Section 213.009 for an initial recount.

(d) The new recount must begin not later than the seventh day after the date the notice is given.

(e) The recount coordinator shall appoint a recount committee to conduct the new recount.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 12, eff. Oct. 20, 1987.

Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 216, eff. Sept. 1, 1997.

**Sec. 213.012. COMMITTEE REPORT OF RECOUNT.** (a) After the recount is completed, the recount committee chair shall prepare a report of the committee's vote count and sign the report. Votes shall be reported separately by precinct.

(b) The chair shall deliver one copy of the report to the recount supervisor and one copy to the general custodian of election records.

(c) The copies of the report shall be preserved for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 217, eff. Sept. 1, 1997.

**Sec. 213.013. REPRESENTATION OF PARTIES AND POLITICAL PARTIES AT RECOUNT.** (a) Each person entitled to notice of the recount under Section 213.009 is entitled to be present at a recount.

(b) In a recount of an election on an office, each candidate for the office is entitled to be present at the recount and have watchers present in the number corresponding to the number of counting teams designated for the recount. If only one counting team is designated or the recount is conducted on automatic tabulating equipment, each candidate is entitled to two watchers.

(c) In a recount of an election on an office for which a political party has a nominee or for which a candidate is aligned with a political party, the party is entitled to have watchers present in the same number prescribed for candidates under Subsection (b).

(d) In a recount of an election on a measure, watchers may be appointed by the campaign treasurer or assistant campaign treasurer of a specific-purpose political committee that supports or opposes the measure in the number corresponding to the number of counting teams designated for the recount. If only one counting team is designated or the recount is conducted on automatic tabulating equipment, each eligible specific-purpose political committee is entitled to two watchers.

(e) A watcher appointed to serve at a recount must deliver a certificate of appointment to the recount committee chair at the time the watcher reports for service. A watcher who presents himself or herself for service at any time immediately before or during the recount and submits a proper certificate of appointment must be accepted for service unless the number of appointees to which the appointing authority is entitled have already been accepted.

(f) The certificate must be in writing and must include:

- (1) the printed name and the signature of the watcher;
- (2) the election subject to the recount;
- (3) the time and place of the recount;
- (4) the measure, candidate, or political party being represented;
- (5) the signature and the printed name of the person making the appointment; and
- (6) an indication of the capacity in which the appointing authority is acting.

(g) If the watcher is accepted for service, the recount committee chair shall keep the certificate and deliver it to the recount coordinator after the recount for preservation under Section 211.007. If the watcher is not accepted for service, the recount committee chair shall return the certificate to the watcher with a signed statement of the reason for the rejection.

(h) Each person entitled to be present at a recount is entitled to observe any activity conducted in connection with the recount. The person is entitled to sit or stand conveniently near the officers conducting the observed activity and near enough to an officer who is announcing the votes or examining or processing the ballots to verify that the ballots are counted or processed correctly or to an officer who is tallying the votes to verify that they are tallied correctly. Rules concerning a watcher's rights, duties, and privileges are otherwise the same as those prescribed by this code for poll watchers to the extent they can be made applicable.

(i) No device capable of recording images or sound is allowed inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress unless the person entitled to be present at the recount agrees to disable or deactivate the device. However, on request of a person entitled to appoint watchers to serve at the recount, the recount committee chair shall permit the person to photocopy under the chair's supervision any ballot, including any supporting materials, challenged by the person or person's watcher. The person must pay a reasonable charge for making the copies and, if no photocopying equipment is available, may supply that equipment at the person's expense. The person shall provide a copy on request to another person entitled to appoint watchers to serve at the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 13, eff. Oct. 20, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 75, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 218, eff. Sept. 1, 1997; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 21, eff. September 1, 2009; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 37, eff. September 1, 2011.

**Sec. 213.014. CANVASS BY COMMITTEE FOLLOWING RECOUNT.** If a canvassing authority that normally makes

the canvass following a recount consists of more than five members, the presiding officer of the authority may require the canvass to be made by a committee composed of the presiding officer and four other members of the canvassing authority designated by the presiding officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.015. BYSTANDERS EXCLUDED.** (a) Only persons that are specifically permitted by law to attend a recount may be inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress.

(b) A recount committee chair has the same authority as that of a presiding judge at a polling place to preserve order during the recount.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 14, eff. Oct. 20, 1987.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 219, eff. Sept. 1, 1997.

**Sec. 213.016. PRINTING IMAGES OF BALLOTS CAST USING DIRECT RECORDING ELECTRONIC VOTING MACHINES.** During any printing of images of ballots cast using direct recording electronic voting machines for the purpose of a recount, the full recount committee is not required to be present. The recount committee chair shall determine how many committee members must be present during the printing of the images. Each candidate is entitled to be present and to have representatives present during the printing of the images in the same number as Section 213.013(b) prescribes for watchers for a recount.

Added by Acts 2003, 78th Leg., ch. 583, Sec. 2, eff. Sept. 1, 2003.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 22, eff. September 1, 2009.

## **SUBCHAPTER B. ELECTIONS WITHOUT STATE LEVEL CANVASS**

**Sec. 213.031. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to recounts in elections for which there is no canvass at the state level.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.032. NOTICE OF PARTIAL INITIAL RECOUNT.** After receiving the recount committee's report of a partial initial recount, the recount supervisor shall promptly give notice of the result of the recount to each person entitled to notice of the recount under Section 213.009.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.033. CANVASS FOLLOWING RECOUNT.** (a) As soon as practicable after completion of a recount that changes the number of votes received for a particular candidate or for or against a measure, the canvassing authority shall conduct a canvass for the office or measure involved using the recount committee's report in the recount supervisor's possession, instead of the original precinct election returns, for each precinct in which a recount was conducted. An original canvass for the office or measure is void, and the new canvass is the official canvass for the election on that office or measure. If no change occurs in the recount in the number of votes received for a candidate or for or against a measure, the official result of the election is determined from the original canvass.

(b) In a recount of an election in which there is more than one local canvassing authority, the result of the canvass conducted under this section shall be reported to the other canvassing authorities in the same manner as the result of an original canvass.

(c) The appropriate authority shall take any further action that may be necessary in the same manner as for an original canvass.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 15, eff. Oct. 20, 1987; Acts 1993, 73rd Leg., ch. 759, Sec. 2, eff. Sept. 1, 1993.

## **SUBCHAPTER C. ELECTIONS WITH STATE LEVEL CANVASS**

**Sec. 213.051. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to recounts in elections for which there is a final canvass at the state level.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.052. AGENT FOR RECEIVING NOTICE OF RECOUNT.** (a) If a recount includes election precincts in the

jurisdiction of more than one local canvassing authority, a person entitled to notice under Section 212.032 may designate an agent for any one or more of the jurisdictions to receive the notice required by Section 213.009(b).

(b) The recount coordinator shall ascertain whether a person notified under Section 212.032 desires to appoint agents under Subsection (a) and, if so, each agent's name, address, and telephone number.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.053. NOTICE OF RECOUNT TO SUPERVISOR.** The recount coordinator shall give each recount supervisor involved in a recount notice of:

(1) the precincts in the supervisor's jurisdiction included in the recount and any other pertinent information concerning the recount; and

(2) the name, address, and telephone number of each person to be notified of the recount under Section 213.009.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.054. NOTICE OF RECOUNT RESULT TO COORDINATOR.** After receiving the recount committee's report, the recount supervisor shall promptly notify the recount coordinator of the result of the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.055. SUPERVISOR'S REPORT.** (a) As soon as practicable after receiving the recount committee's report, the recount supervisor shall prepare and sign a report of the vote count by precinct in the supervisor's jurisdiction, using the recount committee's report for the precincts recounted and the original precinct election returns for the precincts not recounted.

(b) The report prepared under this section is the official statement of the vote count in the local canvassing authority's jurisdiction.

(c) On completion of the report required by this section, the recount supervisor shall deliver one copy to the recount coordinator and one copy to the general custodian of election records. The copies shall be preserved for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.056. DETERMINATION OF RESULT OF RECOUNT; NOTICE.** (a) After receiving the notices of the results of a recount from all the recount supervisors, the recount coordinator shall promptly determine the result of the recount.

(b) The recount coordinator shall give notice of the result of the recount to:

(1) the petitioner and each person entitled to notice under Section 212.032, for an initial recount or an expedited recount; and

(2) the petitioner, the applicant, and any other person entitled to notice under Section 212.032, for a supplementary recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 213.057. CANVASS FOLLOWING RECOUNT.** As soon as practicable after completion of a recount that changes the number of votes received for a particular candidate or for or against a measure, the final canvassing authority shall conduct a canvass for the office or measure involved using the recount supervisor's report, instead of the original county election returns, for each county in which a recount was conducted. An original final canvass for the office or measure is void, and the new final canvass is the official final canvass for the election on that office or measure. If no change occurs in the recount in the number of votes received for a candidate or for or against a measure, the official result of the election is determined from the original final canvass.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 16, eff. Oct. 20, 1987; Acts 1993, 73rd Leg., ch. 759, Sec. 3, eff. Sept. 1, 1993.

**Sec. 213.058. CANVASS FOLLOWING EXPEDITED RECOUNT.** (a) Unless a person entitled to notice under Section 213.056 makes an objection to the recount coordinator before the canvass resulting from a recount, the final canvassing authority may use results reported to the recount coordinator by telephone or telegraph under Section 213.054 as the basis for its canvass following an expedited recount if the orderly conduct of a runoff election would be disrupted by delaying the canvass until the recount supervisors' written reports are received.

(b) If an objection is made under Subsection (a), the recount coordinator shall ascertain the grounds for the objection and shall verify with the appropriate recount supervisor each result to which objection is made. If the verification changes the overall result as originally determined by the coordinator, the coordinator shall give notice of the change to the persons entitled to receive the original notice of the result and shall continue the verification process until no objection exists. The canvass may then be conducted on the basis of telephone or telegraph reports as verified.



(c) If a canvass is conducted on the basis of results reported by telephone or telegraph, on receiving a recount supervisor's written report, the recount coordinator shall compare the report with the result used in the canvass. If a discrepancy exists, the coordinator shall ascertain the correct vote count from the supervisor. The supervisor shall deliver a corrected written report to the coordinator if the original written report is incorrect.

(d) If a discrepancy that affects the outcome of the election is discovered in the comparison made under Subsection (c), the recount coordinator shall immediately call a meeting of the canvassing authority or notify the governor, as applicable, to conduct another canvass and shall take the necessary action for correction of the ballots for the runoff election. If discovered discrepancies do not affect the outcome, the coordinator shall correct the canvassing authority's vote tabulation to conform to the written reports.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 17, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 163, Sec. 6, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 759, Sec. 4, eff. Sept. 1, 1993.

**Sec. 213.059. GENERAL ELECTION FOR GOVERNOR OR LIEUTENANT GOVERNOR.** (a) A recount in a general election for the office of governor or lieutenant governor shall be conducted in the same manner as a recount of a general election for a state office in which the final canvass is made by the governor, except as provided by this section.

(b) The governor is considered to be the final canvassing authority for the election and the secretary of state's tabulation of the county election returns is considered to be the declaration of the official result.

(c) The recount supervisor shall deliver two copies of the report prepared under Section 213.055 to the secretary of state. The secretary shall use one copy for the tabulation of the votes after the recount is completed. The secretary shall deliver the other copy to the speaker of the house of representatives.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 163, Sec. 7, eff. Sept. 1, 1989.

## **CHAPTER 214. COUNTING PROCEDURES**

### **SUBCHAPTER A. MANUALLY COUNTED BALLOTS**

**Sec. 214.001. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to a recount of regular paper ballots and any other ballots not recounted under Subchapter B, C, or D.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 214.002. COUNTING PROCEDURE.** (a) One member of a counting team shall read the ballots, and the other two members shall tally the votes as the ballots are read.

(b) The count shall be made, and the correctness of the tally lists shall be certified, in the same manner as an original count of regular paper ballots, except that only two tally lists are prepared.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 76, eff. Sept. 1, 1993; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.16, eff. January 1, 2006.

**Sec. 214.003. DISPOSITION OF TALLY LISTS.** (a) On completion of the count for a precinct, a member of the counting team shall place one tally list in the ballot box containing the voted ballots and shall deliver the other tally list to the recount committee chair.

(b) The recount committee chair shall use the tally list received from the counting team in preparing the committee report of the recount. The chair shall attach the tally list to the copy of the committee report that is to be delivered to the recount supervisor. The attached tally list is part of the report.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 220, eff. Sept. 1, 1997.

### **SUBCHAPTER C. BALLOTS COUNTED BY AUTOMATIC TABULATING EQUIPMENT**

**Sec. 214.041. APPLICABILITY OF SUBCHAPTER.** (a) This subchapter applies to a recount of electronic voting system ballots on automatic tabulating equipment.

(b) In this subchapter, "electronic recount" means a recount on automatic tabulating equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 214.042. COUNTING METHOD FOR RECOUNT.** (a) A person requesting a recount of electronic voting system ballots has a choice of:

- (1) an electronic recount using the same program as the original count;
- (2) an electronic recount using a corrected program under Section 214.046(c), if obtainable; or
- (3) a manual recount as provided by Subchapter A.

(b) The same counting method must be used in all precincts included in the recount document for which the same program was used in the original count.

(c) Unless a different counting method is requested, the ballots shall be counted electronically using the same program as the original count.

(d) Except as otherwise provided by this subchapter, a request for a specific counting method must be made in the recount document, specifying the precincts to which the request applies if it does not apply to all precincts in which electronic voting system ballots are to be recounted.

(e) After a recount document is approved, the person requesting the recount may change the counting method specified in the document by filing with the appropriate recount supervisor a written request for a different method before the supervisor gives notice of the time and place for beginning the recount. If the requested change is to a manual recount, the request must be accompanied by a cashier's check payable to the recount coordinator in the amount of the difference between the amount of the deposit for a manual recount and the amount for an electronic recount.

(f) If a recount supervisor who receives a request for a change to a manual recount under Subsection (e) is not also the recount coordinator, the supervisor shall notify the coordinator of the change and shall deliver the accompanying check to the coordinator.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 18, eff. Oct. 20, 1987.

**Sec. 214.043. EQUIPMENT USED FOR RECOUNT.** (a) The recount supervisor shall designate the automatic tabulating equipment to be used for an electronic recount in precincts in the supervisor's jurisdiction.

(b) A recount of ballots originally counted on automatic tabulating equipment at a polling place must be made on the same or a similar unit of equipment unless the person requesting the recount requests that other equipment be used.

(c) A recount of ballots originally counted at a central counting station must be made on the same equipment unless:

(1) the equipment is unavailable or is not in usable condition; or

(2) the person requesting the recount requests that other equipment be used.

(d) If the equipment used for the original count is available and in usable condition, the recount supervisor is not required to grant a request that the recount be made on different equipment unless the request is contained in the recount document or in a written request filed with the supervisor before the supervisor gives notice of the time and place for beginning the recount.

(e) Equipment other than that used for the original count must:

(1) be located at a site that complies with Section 127.001(c) unless all persons entitled to notice of the recount consent to a site that does not comply; and

(2) be approved by:

(A) the programmer for the election if the ballots were counted at a polling place and the unit to be used for the recount was not used in the election; or

(B) the programmer for the election or the tabulation supervisor of the central counting station at which the ballots were counted, if counted at a central counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 214.044. CHARGE FOR USE OF EQUIPMENT.** The person having control of the automatic tabulating equipment used in the original count shall make it available for a recount for a reasonable charge at a rate not to exceed the rate charged for its use in the election being recounted. If the equipment is owned or leased by the authority responsible for the expenses of the election, a charge may not be made for its use in the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 214.045. COMPOSITION OF COMMITTEE.** (a) The recount committee chair shall designate one member of the recount committee for an electronic recount to operate the automatic tabulating equipment. In this subchapter, "recount tabulator" means the member designated to operate the equipment.

(b) In a recount of ballots originally counted at a central counting station, the recount tabulator must be the tabulation supervisor of the station, an assistant to the supervisor, or a person approved by the supervisor.

(c) In a recount of ballots originally counted at a polling place, the recount tabulator must be a person who has served as an election officer at a polling place using the type of equipment on which the recount is made and must have had experience in operating the equipment.

(d) At least one member of the recount committee other than the recount tabulator must have had experience in operating the type of equipment on which the recount is made.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 223, eff. Sept. 1, 1997.

**Sec. 214.046. TEST OF PROGRAM AND EQUIPMENT.** (a) After the time set for beginning an electronic recount but before the recount is made, the recount tabulator shall conduct a test of the program and equipment in the same manner as the test that is conducted immediately before an original count of ballots for an election. Each person entitled to notice of the recount or the person's representative at the recount is entitled to examine the program and the test materials on request.

(b) If the test is unsuccessful, the recount tabulator shall notify the recount committee chair, who shall notify the recount supervisor, and the supervisor shall investigate the cause of the test's failure. The electronic recount may not proceed until a test is successful on the equipment used for the first test or on other equipment selected by the supervisor.

(c) If the recount supervisor determines that the program is defective, the supervisor shall inform the person requesting the recount or the person's agent. The person requesting the recount may notify the supervisor:

(1) to have the ballots recounted manually; or

(2) to attempt to correct the program so that an electronic recount may be conducted with the corrected program.

(d) A recount using a corrected program may not be made unless the tabulation supervisor of the central counting station or the presiding election judge of the polling place at which the ballots were counted, as applicable, and the person who prepared the program sign a written statement indicating that the original program is defective. If the statement cannot be

obtained, the recount supervisor shall have the ballots recounted manually.

(e) If a recount using a corrected program is to be made, the original program shall be preserved without change and a complete new program shall be prepared. The original set of test materials shall also be preserved without change and a complete new set shall be prepared if the original set is unsuitable for testing the corrected program.

(f) The recount supervisor shall obtain from the person who prepares a new program a signed statement that the program was prepared by the person, with the date of preparation and the person's address shown on the statement. The new program, the preparer's statement, and the test materials used for verification shall be preserved in a sealed container in the same manner and for the same period as the original program.

(g) The costs of a recount under Subsection (c) may not be assessed against a person regardless of its outcome. If other precincts are included in the same recount document, the assessment of the costs in the other precincts shall be determined by the overall outcome in all precincts included in the document.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 224, eff. Sept. 1, 1997.

**Sec. 214.047. TEST USING UNOFFICIAL TEST MATERIALS.** (a) In addition to a test conducted under Section 214.046 using official test materials, a person requesting a recount of electronic voting system ballots but not requesting a manual recount is entitled to have each test repeated, using test materials furnished by the person, if the person offers the materials to the recount tabulator before or immediately after the official test is made.

(b) The outcome of a test using unofficial test materials has no legal effect on the conduct of the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 214.048. REQUEST FOR MANUAL RECOUNT AFTER SUCCESSFUL TEST.** (a) If a person requesting an electronic recount is dissatisfied with the program or the equipment to be used for the recount after a successful test conducted under Section 214.046, the person may change the method of counting to a manual recount as provided by this section.

(b) A person desiring a manual recount under this section must notify the recount supervisor immediately after the test is concluded that a manual recount is desired.

(c) After being notified under Subsection (b) that a manual recount is desired, the recount supervisor shall promptly deliver to the person requesting the recount a written statement of the costs incurred for use of the equipment in making the tests and for compensation of the recount committee for time spent in making the tests.

(d) To obtain a manual recount, the person requesting the recount must deliver to the recount supervisor within 24 hours after receiving the cost statement under Subsection (c):

(1) a cashier's check payable to the recount supervisor in the amount specified in the statement; and

(2) a cashier's check payable to the recount coordinator in the amount of the difference between the amount of the deposit for a manual recount and the amount for an electronic recount.

(e) On receiving checks complying with Subsection (d), the recount supervisor shall promptly arrange for a manual recount of the ballots.

(f) The recount supervisor shall place a check remitted under Subsection (d)(1) in the fund from which the costs covered by the check are payable. No part of the amount is refundable. If the recount costs are assessed against the person requesting the recount, the costs covered by the check may not be included in the assessment.

(g) If the recount supervisor is not the recount coordinator, the supervisor shall notify the coordinator of the change in the counting method and shall deliver to the coordinator the check remitted under Subsection (d)(2). The check is subject to disposition in the same manner as the check accompanying the recount document.

(h) If the person requesting the recount does not comply with Subsection (d), a recount of the precincts for which the manual recount is requested may not be made, and the person shall be assessed for the amount of the costs specified in the cost statement prepared under Subsection (c) regardless of the outcome of a recount in any other precincts.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 214.049. COUNTING PROCEDURE.** (a) All members of the recount committee in an electronic recount shall be present during the testing of the program and equipment and during the counting of the ballots. The other members of the committee may assist the recount tabulator in the handling of the test materials and the ballots, but only the tabulator may operate the equipment.

(b) After the ballots are counted, a member of the recount committee shall prepare returns for each precinct in the same manner as original election returns are prepared, except that the returns shall be prepared as an original and one copy.

(c) If it is necessary to count any of the ballots manually, other than write-in votes, the recount committee shall count the ballots, and a member shall enter the result of the count on the returns.

(d) Except as otherwise provided by this subchapter, the ballots shall be processed in the manner prescribed by Sections 127.125 and 127.126. Before the tabulation of duplicate ballots, the recount committee chair shall compare the duplicate ballot with the original to verify that the original ballot was duplicated properly. If the original ballot was duplicated improperly, the recount committee chair shall have the original ballot duplicated properly and that duplicate ballot shall be counted. The improper duplicate ballot shall be retained and the recount committee chair shall make a notation on the improper duplicate ballot of the reason for which it was not counted.

(e) If electronic voting system ballots are to be recounted manually, the original ballot, rather than the duplicate of the original ballot, shall be counted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 19, eff. Oct. 20, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 225, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 851, Sec. 8, eff. Sept. 1, 2001.

**Sec. 214.050. COUNTING AND RECORDING WRITE-IN VOTES.** (a) Write-in votes shall be counted in the manner prescribed by Section 214.002. One write-in tally list shall be placed in the ballot box with the voted ballots, and one tally list shall be retained by the recount committee. A member of the committee shall enter the write-in results on the recount returns.

(b) For a precinct in which a recount of write-in votes is excluded under Section 212.136, a member of the recount committee shall enter on the recount returns the write-in votes as recorded on the original returns.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 214.051. DISPOSITION OF RECOUNT RETURNS.** (a) After the recount committee certifies the recount returns for a precinct, a member of the committee shall place the copy of the returns in the ballot box containing the voted ballots and shall deliver the original to the recount committee chair.

(b) The recount committee chair shall use the returns received from the recount committee in preparing the committee report of the recount. The chair shall attach the recount returns to the copy of the committee report that is to be delivered to the recount supervisor. The attached returns are part of the report.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 226, eff. Sept. 1, 1997.

## **SUBCHAPTER D. OTHER VOTING SYSTEMS**

**Sec. 214.071. PROCEDURES PRESCRIBED BY SECRETARY OF STATE.** The secretary of state shall prescribe the counting procedures for a recount of votes cast by means of a voting system to which Subchapter B or C does not apply.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## CHAPTER 215. COSTS OF RECOUNT

**Sec. 215.001. PAYMENT OF COSTS.** (a) The authority responsible for paying the expenses of an election in which a recount is conducted shall pay the costs of the recount.

(b) The fund from which a payment is made for a cost that is assessed against a person shall be reimbursed from the money received from that person.

(c) Claims for compensation of members of a recount committee and other costs incurred by a recount supervisor are payable on certification of the costs by the supervisor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 215.002. ASSESSABLE COSTS.** Only the following costs of a recount are assessable against a person:

(1) compensation of members of a recount committee as provided by Section 213.004;

(2) charges for use of automatic tabulating equipment as provided by Section 214.044;

(3) a service charge of \$15 for each recount supervisor involved in the recount as a reimbursement to the fund from which the telephone, postage, and other office expenses of the recount supervisor are paid;

(4) in a recount of an election for which the final canvass is at the state level, a service charge of \$15 for each recount supervisor involved in the recount plus an additional \$50 as a reimbursement to the fund from which the telephone, postage, and other office expenses of the recount coordinator are paid; and

(5) the actual expense incurred in producing a printed ballot image from an electronic voting system record.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 20, eff. Oct. 20, 1987; Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 21, eff. September 1, 2013.

**Sec. 215.003. ASSESSMENT OF COSTS.** (a) The costs of a recount for the precincts included in an initial recount petition shall be assessed against the petitioner if the recount in those precincts does not cause a change in the outcome of the election.

(b) The costs of a recount for the precincts included in an application for a supplementary recount shall be assessed against the applicant if the recount in those precincts does not cause a change in the outcome of the election as indicated by the initial recount.

(c) The costs of a recount for the precincts included in a petition for an expedited recount shall be assessed against the petitioner if the recount in those precincts does not cause a change in the outcome of the election.

(d) The costs of a recount for the precincts included in an application for including remaining paper ballot precincts shall be assessed against the applicant if the recount in those precincts does not cause a change in the outcome of the election as indicated by the recount in the precincts included in the recount petition.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 215.004. DISPOSITION OF DEPOSIT FOR COSTS.** (a) If none of the costs of a recount are assessed against a person, the entire deposit shall be returned to the person.

(b) If any of the costs of a recount are assessed against a person, any of the deposit in excess of the amount of the assessment shall be refunded to the person.

(c) If the amount of costs assessed against a person exceeds the amount of the person's deposit, the person is liable to the authority responsible for paying the expenses of the election for the amount of the excess.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 215.005. ADMINISTRATION OF COSTS.** (a) The recount coordinator shall determine the allocation of the costs of a recount and dispose of the recount deposits. The coordinator shall make the disposition as soon as practicable after a recount is completed.

(b) In a recount of an election for which there is no canvass at the state level, other than a primary election, the recount coordinator shall place the deposit of a person against whom costs are assessed in the fund from which the expenses of the recount are payable. If the person is entitled to a refund, the authority receiving the deposit shall issue a warrant in the appropriate amount to the person.

(c) In a recount of an election for which the final canvass is at the state level, other than a primary election, the recount coordinator shall deliver the deposit of a person against whom costs are assessed to the comptroller of public accounts, who shall place the deposit in trust. The comptroller shall issue a warrant in the amount certified by the coordinator to each county in which assessed costs were incurred and to the person for any refund to which the person is entitled.

(d) The secretary of state shall prescribe procedures for the administration of costs of a recount in a primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 6.03, eff. Sept. 1, 1997.

**Sec. 215.006. MAINTAINING RECORD OF COSTS.** (a) A recount supervisor shall maintain records of the assessable recount costs incurred in the supervisor's jurisdiction.

(b) If more than one person requests a recount of precincts in a recount supervisor's jurisdiction, the records must be maintained to enable a determination of the costs attributable to each person.

(c) If more than one person requests a recount of precincts that are recounted at the same stage, the recount supervisor may record the costs attributable to each person on the basis of an estimate, taking into account the number of precincts requested by each person, the number of votes cast in each precinct, or any other relevant factor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 215.007. STATEMENT OF COSTS FOR COORDINATOR.** (a) On receiving notice of an assessment of costs against a person from the recount coordinator in a recount of an election for which the final canvass is at the state level, each recount supervisor shall prepare a statement of assessable costs incurred in the supervisor's jurisdiction and deliver the statement to the recount coordinator.

(b) The costs must be listed separately for the precincts included in each document requesting a recount if precincts in the recount supervisor's jurisdiction were included in more than one document.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 215.008. STATEMENT OF COSTS FOR PERSON ASSESSED.** (a) The recount coordinator shall prepare a statement of the amount of costs assessed against a person and deliver the statement to the person. The coordinator shall retain a copy of the statement.

(b) If the amount of the assessed costs exceeds the amount of the person's deposit, the recount coordinator shall demand payment of the amount of the excess.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 215.009. ITEMIZED STATEMENT AND INSPECTION OF RECORDS.** (a) On request of a person against whom recount costs are assessed, the recount coordinator shall furnish to the person an itemized statement of the costs. The coordinator shall retain a copy of each statement furnished under this subsection for the period for preserving the precinct election records.

(b) A person against whom recount costs are assessed is entitled to inspect the cost records of each recount supervisor in whose jurisdiction any of the costs accrued.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 215.010. COLLECTION OF COSTS.** (a) If a person is assessed costs in an amount that exceeds the amount of the person's deposit, the recount coordinator shall take appropriate action to obtain payment of the amount owed.

(b) If an amount owed is unpaid on the 90th day after the date payment is demanded, the recount coordinator shall refer the matter to the appropriate authority for legal action to collect the amount owed.

(c) On referral of an amount for collection under Subsection (b), the recount coordinator and each recount supervisor involved in the recount shall deliver to the authority to whom the referral is made the originals or copies of documents, records, or other papers in the coordinator's or supervisor's possession that may be relevant to enforcement of the claim. The coordinator may not deliver the original of a document during the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 227, eff. Sept. 1, 1997.

## **CHAPTER 216. AUTOMATIC RECOUNT**

**Sec. 216.001. APPLICABILITY OF CHAPTER.** This chapter applies only to an election that results in a tie vote as provided by Sections 2.002(i), 2.023(b) and (c), and 2.028.

Added by Acts 2001, 77th Leg., ch. 851, Sec. 3, eff. Sept. 1, 2001.

Amended by Acts 2003, 78th Leg., ch. 652, Sec. 4, eff. Sept. 1, 2003.

**Sec. 216.002. CONDUCT OF AUTOMATIC RECOUNT GENERALLY.** Except as otherwise provided by this chapter, this title, including the notice requirement of Section 213.009, applies to a recount conducted under this chapter with appropriate modifications as prescribed by the secretary of state.

Added by Acts 2001, 77th Leg., ch. 851, Sec. 3, eff. Sept. 1, 2001.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 38, eff. September 1, 2011.

**Sec. 216.003. INITIATING AUTOMATIC RECOUNT.** For purposes of initiating an automatic recount, the authority designated under Section 212.026 shall order the recount.

Added by Acts 2001, 77th Leg., ch. 851, Sec. 3, eff. Sept. 1, 2001; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 87, eff. Sept. 1, 2021.

**Sec. 216.004. COUNTING PROCEDURES.** The method of counting votes in an automatic recount is the same method of counting used in the election that resulted in the tie vote.

Added by Acts 2001, 77th Leg., ch. 851, Sec. 3, eff. Sept. 1, 2001.

**Sec. 216.005. COST OF AUTOMATIC RECOUNT.** (a) Subchapter E, Chapter 212, does not apply to an automatic recount.

(b) The costs of an automatic recount shall be paid by each political subdivision or county executive committee, as applicable, served by a presiding officer designated under Section 213.001.

Added by Acts 2001, 77th Leg., ch. 851, Sec. 3, eff. Sept. 1, 2001.



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# TITLE 14. ELECTION CONTESTS

## SUBTITLE A. INTRODUCTORY PROVISIONS

### CHAPTER 221. GENERAL PROVISIONS

**Sec. 221.001. APPLICABILITY OF TITLE.** This title does not apply to:

- (1) a general or special election for the office of United States senator or United States representative;
- (2) an election on a measure that is for advisory purposes only; or
- (3) a presidential primary election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 35, eff. Sept. 1, 1987.

**Sec. 221.002. JURISDICTION.** (a) Except as otherwise provided by this section, the district court has exclusive original jurisdiction of an election contest.

(b) The senate and the house of representatives, in joint session, have exclusive jurisdiction of a contest of a general election for governor, lieutenant governor, comptroller of public accounts, commissioner of the general land office, or attorney general.

(c) The senate has exclusive jurisdiction of a contest of a general or special election for state senator.

(d) The house of representatives has exclusive jurisdiction of a contest of a general or special election for state representative.

(e) The governor has exclusive jurisdiction of a contest of the election of presidential electors.

(f) The court of appeals has appellate jurisdiction of contests originating in the district court.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 163, Sec. 8, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 6.04, eff. Sept. 1, 1997.

**Sec. 221.003. SCOPE OF INQUIRY.** (a) The tribunal hearing an election contest shall attempt to ascertain whether the outcome of the contested election, as shown by the final canvass, is not the true outcome because:

- (1) illegal votes were counted; or
- (2) an election officer or other person officially involved in the administration of the election:
  - (A) prevented eligible voters from voting;
  - (B) failed to count legal votes; or
  - (C) engaged in other fraud or illegal conduct or made a mistake.

(b) In this title, "illegal vote" means a vote that is not legally countable.

(c) This section does not limit a provision of this code or another statute expanding the scope of inquiry in an election contest.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 221.004. DEFAULT JUDGMENT NOT ALLOWED.** A default judgment may not be rendered in an election contest.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 221.005. DATE OF DETERMINATION OF OFFICIAL RESULT OF ELECTION.** Except as provided by Section 242.003, in this title the date the official result of an election is determined is the date the final canvassing authority for the election completes its canvass for the office or measure involved in the contest. If a new canvass is conducted following a recount, the date of the official result is the date the authority completes its canvass on the basis of the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.13, eff. Aug. 28, 1989.

**Sec. 221.006. EFFECT OF CONTEST ON CANVASS.** Except as otherwise provided by this title, the filing of an election contest before the canvass of the contested election is completed does not affect the canvassing process, and the result of the election shall be determined and certified as if the contest had not been filed.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 221.007. CONTESTEE IN CONTEST FILED BEFORE FINAL CANVASS.** (a) If a contest is filed before the official result of the contested election is determined, the contestant may name as contestee the person shown by the election returns at the time of filing to be the appropriate contestee as determined under Subtitle B or C.

(b) If the final canvass reveals that a necessary contestee as determined under Subtitle B or C has not been named, the contestant must name that contestee within the time limit prescribed for filing the petition. Action taken before the necessary contestee is named shall be set aside if it denies to the contestee any right to which a contestee is entitled.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT.** A tribunal hearing an election contest may cause secured ballot boxes, voting machines, or other equipment used in the election to be unsecured to determine the correct vote count or any other fact that the tribunal considers pertinent to a fair and just disposition of the contest.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 21, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 55, eff. Jan. 1, 2004.  
Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.17, eff. January 1, 2006.

**Sec. 221.009. COMPELLING VOTER TO REVEAL VOTE.** (a) A voter who cast an illegal vote may be compelled, after the illegality has been established to the satisfaction of the tribunal hearing the contest, to disclose the name of the candidate for whom the voter voted or how the voter voted on a measure if the issue is relevant to the election contest.  
(b) If the number of illegal votes is equal to or greater than the number of votes necessary to change the outcome of an election, the tribunal may declare the election void without attempting to determine how individual voters voted.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1997, 75th Leg., ch. 864, Sec. 228, eff. Sept. 1, 1997.

**Sec. 221.010. SECONDARY EVIDENCE FOR UNAVAILABLE BALLOTS.** If an examination of ballots is needed in an election contest and the ballots are lost, destroyed, or otherwise beyond the reach of the tribunal, the voters who cast the ballots may testify as to how they voted.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 221.011. ILLEGAL VOTES SUBTRACTED.** (a) If the tribunal hearing an election contest can ascertain the candidate or side of a measure for which an illegal vote was cast, the tribunal shall subtract the vote from the official total for the candidate or side of the measure, as applicable.  
(b) If the tribunal finds that illegal votes were cast but cannot ascertain how the voters voted, the tribunal shall consider those votes in making its judgment.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 221.012. TRIBUNAL'S ACTION ON CONTEST.** (a) If the tribunal hearing an election contest can ascertain the true outcome of the election, the tribunal shall declare the outcome.  
(b) The tribunal shall declare the election void if it cannot ascertain the true outcome of the election.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 221.013. COSTS OF CONTEST WHEN ELECTION DECLARED VOID.** (a) If a contested election is declared void, the tribunal shall assess the costs of the contest equally against the contestant and the contestee unless the tribunal, for good cause stated in the order assessing the costs, determines that they should be assessed otherwise.  
(b) Subsection (a) does not authorize assessment of costs against a contestee who is exempt from payment of costs by this title.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 221.014. EXPENSES OF NEW ELECTION ORDERED IN ELECTION CONTEST.** (a) Except as provided by Subsections (b) and (c), the expenses of a new election ordered by a tribunal in an election contest are paid from the same fund and by the same authority that paid the expenses of the contested election.  
(b) The county shall pay the expenses of a new election ordered in the contest of a local option election that was financed from money deposited by the applicants for the petition requesting the election.  
(c) In any other case in which petitioners for a contested election were required to make a deposit to be used, conditionally or unconditionally, for paying the election expenses, the district court shall determine the allocation of the expenses of the contested election and new election.  
(d) The secretary of state shall prescribe procedures for payment of the expenses of a court-ordered primary election.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 23, eff. September 1, 2009.

**Sec. 221.015. RIGHT TO OCCUPY OFFICE INVOLVED IN CONTEST.** (a) If the official result of a contested election shows that the contestee won, on qualifying as provided by law the contestee is entitled to occupy the office after the beginning

of the term for which the election was held, pending the determination of the contest. If the final judgment does not change the official result, the contestee is entitled to continue in office without again qualifying for the office.

(b) If a final judgment declaring the contestant elected is rendered after the beginning of the term for which the contested election was held, on qualifying as provided by law the contestant shall assume office as soon as practicable after the judgment becomes final.

(c) A contestee occupying the office is entitled to the emoluments of the office that accrue during the period of occupancy. A contestant who gains the office is not entitled to emoluments for any period before the contestant assumes office.

(d) If the final judgment declares the election void, the vacancy is created as of the later of the date of the judgment or the first day of the term for which the contested election was held. A person who occupies the office pending the outcome of the new election, either as a constitutional holdover from the prior term or through other law, is entitled to receive the emoluments of office until the successor qualifies for the office after the new election.

(e) The person elected at the new election must qualify for the office as if no contest had occurred.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 5, eff. Sept. 1, 1993.

**Sec. 221.016. PRESERVATION OF CONTEST PAPERS.** (a) The papers of a contest in the district court shall be preserved under the rules applicable to the papers in a civil suit.

(b) The papers of a contest in a tribunal other than a court shall be preserved for 10 years after the date the contest is disposed of and shall then be transferred to the state library.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 221.017. EFFECT OF STATUTES OUTSIDE CODE.** A statute outside this code that relates to contests of a particular type of election supersedes this code to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 221.018. EXAMINATION OF CERTAIN CONFIDENTIAL INFORMATION.** (a) Notwithstanding Section 84.0021(b), the tribunal hearing an election contest may examine the information contained in an application under Section 84.0021 relating to the address at which the applicant is registered to vote.

(b) Information may be examined under this section only for the purpose of hearing an election contest.

Added by Acts 2007, 80th Leg., R.S., Ch. 1295 (S.B. 74), Sec. 9, eff. June 15, 2007.

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## **SUBTITLE B. CONTESTS IN DISTRICT COURT**

### **CHAPTER 231. CONTEST IN DISTRICT COURT GENERALLY**

**Sec. 231.001. APPLICABILITY OF SUBTITLE.** This subtitle applies to an election contest of which the district court has jurisdiction.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 231.002. APPLICABILITY OF RULES GOVERNING CIVIL SUITS.** Except as otherwise provided by this subtitle, the rules governing civil suits in the district court apply to an election contest in the district court.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 231.003. ATTENDANCE ON LEGISLATURE NOT GROUND FOR CONTINUANCE.** Intended or actual attendance on a session of the legislature by a party or an attorney for a party to an election contest is not a ground for granting a continuance in the trial of the contest.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 231.004. DISQUALIFICATION OF DISTRICT JUDGE.** (a) The judge of a judicial district that includes any territory covered by a contested election that is less than statewide is disqualified to preside in the contest.

(b) If a contest is filed in which a judge is disqualified under Subsection (a), the district clerk shall promptly call the filing to the attention of the judge. The judge shall promptly request the presiding judge of the administrative judicial region to assign a special judge to preside in the contest.

(c) A judge who resides in the territory covered by a contested election is not eligible for assignment as a special judge for the contest.

(d) Subsections (a), (b), and (c) do not apply to a contest of an election for an office of a political party.

(e) In an election contest in which the district judge is disqualified, until a special judge is assigned to preside over the contest, the presiding judge of the administrative judicial region may take any action regarding the contest that a district judge may take if the contested election is:

(1) a primary election; or

(2) an election in which a runoff in the contested race is necessary, according to the official returns, or will be necessary if the contestant prevails.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.14, eff. Aug. 28, 1989.

**Sec. 231.005. JURY TRIAL NOT ALLOWED.** The district judge shall decide the issues of fact in an election contest without a jury.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 231.006. COMPELLING PRODUCTION OF ELECTION RECORDS AND ATTENDANCE OF ELECTION OFFICERS.** The limitation on the distance within which a witness may be compelled to attend the trial of a civil suit does not apply to officers of a contested election or custodians of records, equipment, or supplies of a contested election who are subpoenaed to appear in the contest to give testimony or to produce election records, ballot boxes, or other tangible things.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 231.007. PROCEDURES FOR NEW ELECTION GENERALLY.** (a) If a judgment in an election contest orders that a new election be held, as soon as practicable after the judgment becomes final, the district court shall set the date for the new election. In the case of a general or special election, the court shall direct the appropriate authority to order the election for the date set by the court. In the case of a primary election, the court shall direct the appropriate officers of the political party to hold the election on the date set.

(b) Except as otherwise provided by this subtitle, the new election shall be held in the same manner as the contested election.

(c) The district court may set the election for a date that shortens the regular period for early voting, but the date must make it possible for early voting by personal appearance to begin not later than the 10th day before election day. In the order

setting the date for the election, the court shall also set the date for beginning early voting by personal appearance if it is not possible to begin on the regular day.

(d) In addition to public notice required by law, the district court may require the new election to be publicized in the manner prescribed by the court.

(e) If a function in the conduct of a new election for an office would normally be performed by an officer who is a party to the contest, the district court may designate another person to perform the function and may fix a reasonable compensation for the service, to be paid as other expenses of the election.

(f) The district court may shorten the normal period between election day and the date of the official canvass.

(g) The district court retains jurisdiction of the contest until the new election is completed and may make any orders the court considers necessary to ensure its proper conduct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.70; Acts 1991, 72nd Leg., ch. 554, Sec. 41, eff. Sept. 1, 1991.

**Sec. 231.008. DELIVERY OF CERTIFIED COPIES OF JUDGMENT.** (a) As soon as practicable after a judgment in an election contest becomes final or, if the judgment orders that a new election be held, after the district court sets the date for the new election, the district clerk shall deliver certified copies of the judgment as provided by this section. If the judgment orders a new election, the clerk shall attach to each copy of the judgment a certified copy of the order setting the election date and any other order relating to the conduct of the election.

(b) If the judgment in a contest for an office affects the preparation of the ballot for a succeeding election, the clerk shall deliver a copy to the authority responsible for having the official ballot prepared or, in the case of a statewide or district office, to the authority responsible for certifying the names of the candidates for placement on the ballot.

(c) If the judgment orders that a new general or special election be held, the clerk shall deliver a copy to the authority responsible for ordering the election. If the judgment orders a new primary election, the clerk shall deliver a copy to the state chair of the appropriate political party, in the case of a statewide or district office, or to the county chair, in the case of a county or precinct office.

(d) The clerk shall deliver a copy of the judgment to the custodian of the election register for the final canvassing authority in the contested election. The custodian shall record in the register the judgment or an abstract of the judgment in sufficient detail to show the outcome of the contest.

(e) The district judge may direct the clerk to furnish certified copies of the judgment to other persons as necessary to effectuate the judgment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 229, eff. Sept. 1, 1997.

**Sec. 231.009. PRECEDENCE OF CONTEST ON APPEAL.** An election contest has precedence in the appellate courts and shall be disposed of as expeditiously as practicable.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## CHAPTER 232. CONTESTS FOR OFFICE

### SUBCHAPTER A. TRIAL AND DISPOSITION OF CONTEST

**Sec. 232.001. APPLICABILITY OF CHAPTER.** This chapter applies to a contest of an election for nomination or election to a public office or an office of a political party.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.002. CONTESTANT.** Any candidate in an election may contest the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.003. CONTESTEE: GENERAL RULE.** (a) If a contested election is for nomination or election to an office for which only one person is to be nominated or elected, the contestee is:

- (1) the opposing candidate who is officially determined to be nominated or elected, or in the case of a tie for the most votes, each of the opposing tied candidates; or
- (2) if the final official canvass shows that a runoff election is necessary to decide the nomination or election:
  - (A) each of the opposing candidates shown by the canvass to be entitled to or tied for a place on the runoff ballot if the contestant is not so entitled or tied; or
  - (B) the opposing candidate or candidates shown by the canvass to be entitled to or tied for a place on the runoff ballot if the contestant is so entitled or tied.

(b) If a contested election is for election to an office for which more than one person is to be elected from the same set of candidates, any one or more of the candidates who are officially determined to be elected or to be tied with another candidate for election may be a contestee. The court may require the joinder of any of the candidates who are not named as contestees.

(c) Except as provided by Section 232.004 or 232.005, this section is exclusive as to the persons who may be named contestee in an election contest.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.004. SUBSTITUTE CONTESTEE.** (a) A contestant may name as a substitute contestee the presiding officer of the final canvassing authority for the election if:

- (1) a deceased or ineligible candidate receives a sufficient number of votes for nomination or election according to the official result of the contested election;
- (2) a candidate who could have been named as contestee under Section 232.003 dies or is declared ineligible before the contest is filed; or
- (3) a contestee dies while a contest is pending.

(b) The costs of an election contest may not be assessed against a contestee named under Subsection (a) or against the governmental or political entity the contestee represents.

(c) If in any of the circumstances described by Subsection (a) a person is appointed to a resulting vacancy in the office or in the nomination for the office, the contestant may name the appointee as a substitute contestee or the appointee may intervene on the side of the contestee.

(d) In any of the circumstances described by Subsection (a), the district court may permit one or more qualified voters who voted in the election to intervene for the purpose of representing the interests of the voters who voted for the deceased or ineligible candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.005. ADDITIONAL CONTESTEE.** The district court may require or permit any one or more candidates in a contested election to be named as contestee or may permit the candidates to intervene on the side of the contestee, as the court determines the circumstances warrant.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.006. VENUE.** (a) The venue of an election contest for a statewide office is in Travis County.

(b) The venue of a contest for an office less than statewide that is filled by voters of more than one county is:

- (1) in the county in which the contestee or any one of the contestees named under Section 232.003 resides if the residence is in the territory covered by the election; or



- (2) in any county wholly or partly in the territory covered by the election if:
  - (A) no contestee named under Section 232.003 resides in that territory; or
  - (B) none of the contestees is named under Section 232.003.

(c) The venue of a contest for an office filled by voters of only one county is in that county.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.007. RUNOFF NOT HELD UNTIL FINAL JUDGMENT.** (a) A runoff election for a contested office may not be held until the judgment in the contest becomes final.

(b) This section does not affect the conduct of a regularly scheduled runoff for another office that was voted on at the same election as the contested office or at an election held jointly with the election in which the contested office was voted on.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.008. FILING PERIOD FOR PETITION.** (a) A contestant may not file the petition in an election contest earlier than the day after election day.

(b) Except as provided by Subsection (c), a contestant must file the petition not later than the later of the 45th day after the date the election records are publicly available under Section 1.012 or the official result of the contested election is determined.

(c) A contestant must file the petition not later than the later of the 15th day after the date the election records are publicly available under Section 1.012 or the official result is determined in a contest of:

- (1) a primary or runoff primary election; or
- (2) a general or special election for which a runoff is necessary according to the official result or will be necessary if the contestant prevails.

(d) A contestant must deliver, electronically or otherwise, a copy of the petition to the secretary of state by the same deadline prescribed for the filing of the petition.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 69, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 39, eff. September 1, 2011; S.B. 902, 86<sup>th</sup> Leg., Sec. 4, eff. Sept. 1, 2019; S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 8.02, eff. Dec. 2, 2021.

**Sec. 232.009. NOTICE OF CONTEST TO CANVASSING AUTHORITY.** (a) After an election contest is filed, the district clerk shall promptly deliver written notice of the filing to the presiding officer of the final canvassing authority for the contested election if the election is:

- (1) a primary election; or
- (2) a general or special election for which a runoff is necessary in the contested race according to the official result or will be necessary if the contestant prevails.

(b) The officer receiving notice under Subsection (a) shall deliver written notice to each authority to whom the names of the candidates in the succeeding election are certified for placement on the ballot that the contest has been filed and that the certification is subject to the outcome of the contest. The officer shall deliver the notice at the same time as the certification or, if the certification is delivered before receipt of notice under Subsection (a), as soon as practicable after certification.

(c) If the contested election is a general or special election and the officer receiving notice under Subsection (a) is not the authority or presiding officer of the authority that orders the runoff election, the clerk shall deliver written notice of the filing to that authority.

(d) The contestant in an election contest in which notice under Subsection (a) is required must attach to the petition a statement informing the clerk that the notice is required and containing the name and address of each person to whom the notice is required to be delivered.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.010. FILING PERIOD FOR ANSWER.** A contestee in a contest of a general or special election must file an answer to the contestant's petition not later than 10 a.m. of the 10th day after the date of service of citation on the contestee or 10 a.m. of the fifth day after the date the official result in the contested race is determined, whichever is later. The citation must command the contestee to answer by the specified deadline.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.011. RETURN OF UNSERVED CITATION.** The citation issued in an election contest must direct the officer receiving the citation to return it unserved if it is not served within 20 days after the date of issuance.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.012. ACCELERATED PROCEDURES FOR TRIAL OF CERTAIN CONTESTS.** (a) This section applies only

to the contest of an election described by Section 232.008(c).

(b) When the contestant's petition is filed, the district clerk shall immediately notify the district judge of the filing.

(c) A contestee must file an answer to the contestant's petition not later than 10 a.m. of the fifth day after the date of service of citation on the contestee. The citation issued for the contestee must command the contestee to answer by the specified deadline and must direct the officer receiving the citation to return it unserved if it is not served within 10 days after the date of issuance.

(d) After the clerk receives the officer's return showing service of citation, the clerk shall promptly notify the district judge of that fact. The judge shall set the contest for trial for a date not later than the fifth day after the date by which the contestee must answer.

(e) The district judge may not grant a continuance in the trial except:

- (1) one time for a period not exceeding 10 days for good cause supported by the affidavit of a party; or
- (2) with the consent of the parties.

(f) The district judge may limit amendments to the pleadings of a party after the party announces ready for trial.

(g) Subsections (e) and (f) do not apply to continuances or amendments to pleadings for the purpose of bringing in a substitute contestee following the death of a contestee.

(h) This section supersedes other provisions of this subchapter to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.013. RESCHEDULING RUNOFF FOR CONTESTED RACE.** (a) If the final judgment in an election contest necessitates a runoff election in the contested race, the district judge shall set the date for the runoff if the judge determines that lack of time prevents the proper conduct of the runoff on the regularly scheduled date. The runoff must be held on the same day of the week as the regularly scheduled runoff.

(b) The date set for the runoff may not provide a longer interval between the court order and the runoff than is required or authorized by law between the main election and a regularly scheduled runoff. The date may provide a shorter interval, but the interval must make it possible for early voting by personal appearance to begin not later than the 10th day before election day.

(c) If the runoff is set for a date that shortens the regular period for early voting, the order setting the date of the election must specify the date for beginning early voting by personal appearance.

(d) If the contested election is a primary, the district clerk shall deliver a certified copy of the order setting the date of the runoff to the state chair of the political party in the case of a statewide or district office or to the county chair in the case of a county or precinct office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.71; Acts 1991, 72nd Leg., ch. 554, Sec. 42, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 230, eff. Sept. 1, 1997.

**Sec. 232.014. ACCELERATED APPEAL IN PRIMARY CONTEST.** (a) This section applies only to the contest of a primary election.

(b) To be timely, an appellant's bond, affidavit, or cash deposit for costs of appeal must be made not later than the fifth day after the date the district court's judgment in the contest is signed. If the appellant is not required to give security for the costs of appeal, the notice of appeal must be filed by the same deadline.

(c) If an appellant files an affidavit of inability to pay costs of appeal, a challenge to the affidavit must be filed not later than the fifth day after the date the affidavit is filed.

(d) As soon as practicable after an appeal in a contest is perfected, the district judge shall set the deadline for filing the trial court record in the appellate court. The judge may make any other orders to expedite an appeal that are reasonable and appropriate, including reducing the time normally allowed for filing appellate briefs, subject to review by the appellate court on motion of a party.

(e) The court of appeals may refuse to permit a motion for rehearing to be filed or may reduce the time for filing the motion.

(f) The decision of the court of appeals is not reviewable by the supreme court by certified question or any other method.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.015. ACCELERATION OF APPEAL BY COURT IN CONTEST OF GENERAL OR SPECIAL ELECTION.**

(a) The trial or appellate court may accelerate the appeal in a contest of a general or special election in a manner consistent with the procedures prescribed by Section 232.014.

(b) Section 232.014(f) does not apply to a contest of a general or special election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.016. APPEAL SUSPENDS EXECUTION OF JUDGMENT.** The perfecting of an appeal in an election contest suspends the execution of the district court's judgment pending the disposition of the appeal without the necessity for a supersedeas bond.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## **SUBCHAPTER B. COURT-ORDERED ELECTION FOLLOWING JUDGMENT OF VOID ELECTION**

**Sec. 232.041. NEW ELECTION ORDERED IF CONTESTED ELECTION VOID.** In an election contest in which the contested election is declared void, the court shall include in its judgment an order directing the appropriate authority to order a new election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.042. CANDIDATES IN NEW ELECTION.** Except as otherwise provided by this subchapter, the candidates in a new election ordered by a court in an election contest are the same candidates who were in the contested election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.043. WRITE-IN VOTES IN NEW ELECTION.** A write-in vote in a new election ordered by a court in an election contest may not be counted unless write-in votes were received by the candidate in the contested election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.044. WITHDRAWAL IN NEW ELECTION.** The provisions of this code governing withdrawal of candidates in the contested election apply to the new election ordered by a court in an election contest, except that:

(1) the district court shall set the deadline for withdrawal from the new election; and

(2) a political party's executive committee may not make a replacement nomination if the party's nominee withdraws from the new election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.045. DEATH OR INELIGIBILITY OF CANDIDATE IN NEW ELECTION.** (a) If a candidate in a new election ordered by a court in an election contest dies or is declared ineligible before the date on which the district court sets the date for the new election, the candidate's name may not be placed on the ballot for the new election.

(b) If a candidate in the new election dies or is declared ineligible on or after the date on which the district court sets the date for the new election, the candidate's name shall be placed on the ballot, and votes for the candidate shall be given the same effect as votes for a deceased or ineligible candidate whose name appears on the ballot for a regularly held election for the contested office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.046. REPLACEMENT PARTY CANDIDATES IN NEW ELECTION: GENERAL ELECTION FOR STATE AND COUNTY OFFICERS.** (a) If a candidate who was the nominee of a political party in a new election ordered by a court in an election contest in which the contested office was to have been filled at the general election for state and county officers dies or is declared ineligible before the date on which the district court sets the date for the new election, the appropriate party executive committee may name a replacement nominee in the same manner as the committee fills a vacancy in a nomination in a regularly held election, except that the district court shall set the deadline for certifying the name of the replacement nominee for placement on the ballot.

(b) The district court may not set the certification deadline for a date earlier than the fifth day after the date on which the court sets the date for the new election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.047. REPLACEMENT OF PARTISAN NOMINEE IN CITY ELECTION.** (a) If a candidate who is a nominee of a political organization in a new election ordered by a court in an election contest involving a city office for which partisan nominations are permitted dies or is declared ineligible before the date on which the district court sets the date for the new election, the candidate may be replaced only by a replacement nominee named in the manner prescribed by:

(1) a charter provision or ordinance of the city for filling a vacancy in a partisan nomination; or

(2) the district court if there is no charter provision or ordinance.

(b) The district court shall set the deadline for certifying the name of the replacement nominee for placement on the ballot. The deadline may not be earlier than the fifth day after the date the court sets the date for the new election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.048. RUNOFF FOLLOWING NEW ELECTION.** (a) If no candidate receives a majority vote in a new election ordered by a court in the contest of an election in which a majority vote is required, a runoff election shall be held:

(1) for a primary election contest, on the date set by the district court in which the contest was heard, except as provided by Subsection (c); or

(2) for a contest of a general or special election, on the date set by the authority responsible for ordering the runoff election.

(b) Sections 232.013(b), (c), and (d) apply to an election ordered under Subsection (a) of this section.

(c) The candidate receiving the most votes in a new election ordered by a court in a primary election contest is the political party's nominee, regardless of whether the candidate receives a majority vote, if the date of the final canvass of the court-ordered primary is on or after:

(1) the 85th day before the date of the succeeding general election in the case of a statewide or district office;

or

(2) the 75th day before the date of the succeeding general election in the case of a county or precinct office.

(d) The district court for an election contest has the same supervisory power over a runoff of the court-ordered election as the court has over the court-ordered election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.049. SECOND RUNOFF FOLLOWING CONTEST OF RUNOFF.** If in a new election ordered by a court in a contest of a runoff election there are more than two candidates and no candidate receives a majority vote, another runoff to determine the nomination or election to the contested office shall be ordered in accordance with Section 232.048, except as otherwise provided by that section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 232.050. BALLOT FORM AND ORDER OF NAMES ON BALLOT.** (a) Except as otherwise provided by this section, the provisions of this code regulating ballot form and preparation apply to the ballot for a new election ordered by a court in an election contest.

(b) The district court hearing an election contest shall prescribe the heading of the official ballot to be used in the new election.

(c) In a new election in which party nominees appear on the ballot, the candidates may be listed on the ballot in the regularly prescribed manner or by office title with each candidate's party alignment shown by printing the candidate's political party next to the candidate's name.

(d) Repealed by H.B. 25, 85<sup>th</sup> Leg., R.S., Sec. 8, eff. Sept. 1, 2020.

(e) The provisions of this code applicable to determining the order in which candidates' names appear on the ballot apply to the new election, except that the district court may authorize a shorter period of notice of the drawing for candidates' ballot positions.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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## CHAPTER 233. CONTEST ON MEASURE

**Sec. 233.001. APPLICABILITY OF CHAPTER.** This chapter applies to a contest of an election on a measure.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.002. CONTESTANT.** One or more qualified voters of the territory covered by an election on a measure may contest the election.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.003. CONTESTEE.** (a) The contestee must be at least one of the following:

- (1) the presiding officer of the final canvassing authority for the contested election;
- (2) the presiding officer of the authority that ordered the contested election or the ordering authority, if ordered by an individual; or
- (3) if the person specified by Subdivision (1) or (2) is incapacitated or cannot act for any other reason, another member of the specified authority.

(b) The secretary of state must be a contestee in a contest of an election on a proposed constitutional amendment or any other statewide measure submitted by the legislature.

(c) The costs of an election contest may not be assessed against a contestee specified by this section or against the governmental or political entity the contestee represents.

(d) A contestee specified by this section may not be required to give bond on appeal.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.004. INTERVENTION.** (a) The court may permit one or more qualified voters of the territory covered by the contested election to intervene as contestants or contestees.

(b) The court shall determine the extent to which each intervenor may participate in the contest as the ends of justice and orderly procedure require. However, the court must permit at least one intervention on the side of the contestee, if requested to do so, and must permit the intervening contestee to participate fully in the conduct of the contest.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.005. VENUE.** The venue of an election contest is:

- (1) in Travis County if the contested election is statewide; or
- (2) in any county wholly or partly in the territory covered by the contested election if the election is less than statewide.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.006. FILING PERIOD FOR PETITION.** (a) The contestant may not file the petition in the contest earlier than the day after election day.

(b) Except as provided by Section 233.014, the contestant must file the petition not later than the later of the 30th day after the date the election records are publicly available under Section 1.012 or the official result of the contested election is determined.

(c) The contestant must deliver a copy of the petition to the secretary of state by the same deadline prescribed for the filing of the petition.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 70, eff. Sept. 1, 1997; S.B. 902, 86<sup>th</sup> Leg., Sec. 5, eff. Sept. 1, 2019.

**Sec. 233.007. FILING PERIOD FOR ANSWER.** (a) A contestee must file an answer to the contestant's petition not later than:

- (1) 10 a.m. of the 10th day after the date of service of citation on the contestee or 10 a.m. of the fifth day after the date the official result of the contested election is determined, whichever is later, if the contested election is less than statewide; or
- (2) 10 a.m. of the 20th day after the date of service of citation, if the contested election is statewide.

(b) The citation must command the contestee to answer by the specified deadline.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.008. RETURN OF UNSERVED CITATION.** The citation issued in an election contest must direct the officer receiving the citation to return it unserved if it is not served within 20 days after the date of issuance.

**Sec. 233.009. NOTICE OF FILING AND OUTCOME OF CONTEST TO AUTHORITY RECEIVING ELECTION CERTIFICATION.** If the result of a contested election is required to be certified to an authority other than the authority that ordered the election, the authority responsible for delivering the certification shall:

(1) include with the certification written notice of the filing of the contest or, if the contest is filed after the certification is delivered, deliver the notice promptly after the contest is filed; and

(2) deliver to the authority receiving the certification written notice of the outcome of the contest promptly after the judgment becomes final.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.010. EFFECT OF CONTEST ON IMPLEMENTATION OF ADOPTED MEASURE.** (a) The filing of an election contest does not suspend implementation of a contested measure that is shown by the officially determined result to have been adopted, except that in the application of equitable principles, the court in which an election contest is filed may suspend implementation of the contested measure pending outcome of the contest.

(b) Another law that provides that implementation may or may not be suspended supersedes this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.011. NEW ELECTION ORDERED IF CONTESTED ELECTION VOID.** The court may not order a new election to be held if the contested election is declared void, except that the court shall include in its judgment an order directing the appropriate authority to order a new election if the authority that ordered the contested election was required by law to order it pursuant to a petition requesting the election or requesting other action making the holding of the election necessary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.012. EFFECT OF VOID ELECTION.** (a) The effect of a void election with respect to a restriction on the authority to order another election or on the time interval between elections of the same or similar nature is the same as if the election had not been held.

(b) If the authorization for ordering the election that was declared void was conditioned on its being ordered or held before a specified date and that condition was satisfied with respect to the void election, the condition is also satisfied if another election is ordered for a date not later than the 120th day after the date the judgment declaring the contested election void becomes final or the first day on which the election may lawfully be held, whichever is later.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.013. CONSOLIDATION OF CONTEST.** If more than one election contest involving the same measure is filed, the actions shall be consolidated.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 233.014. SPECIAL PROCEDURES FOR CONTEST OF CONSTITUTIONAL AMENDMENT ELECTION.** (a) This section applies only to a contest of an election on a proposed constitutional amendment.

(b) The contestant's petition must be filed and service of citation on the secretary of state must be obtained before the final official canvass is completed.

(c) The declaration of the official result of a contested election may not be made until the contest is finally determined. The secretary of state shall tabulate the county returns and the governor shall announce the final vote count, as ascertained from the returns, in a written document. The document announcing the final vote count must state that a contest of the election has been filed and that the declaration of the official result will not be made until the contest is finally determined.

(d) The trial date may not be earlier than the 45th day after the date of the contested election nor later than the 180th day after the date of the contested election. The trial date may be earlier than the 45th day after the date of the contested election at the request of the contestant.

(e) If an amended petition alleging additional grounds of contest is filed, the contest may not be called for trial earlier than the 20th day after the date the amended petition is filed unless the secretary of state agrees to calling the contest for trial at an earlier date.

(f) The court shall include in its judgment in a contest an order directing the governor to declare the official result of the election or to declare the election void, as appropriate, not later than the 10th day after the date the judgment becomes final.

(g) Any question relating to the validity or outcome of a constitutional amendment election may be raised in an election contest. A contest is the exclusive method for adjudicating such questions.

(h) If a contestant files an appeal of the contest, the appellate court must ensure that the action is brought to final

disposition not later than the 180th day after the date the judgment becomes final.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 9, eff. Sept. 1, 1989; S.B. 1054, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.



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## SUBTITLE C. CONTESTS IN OTHER TRIBUNALS

### CHAPTER 241. CONTEST FOR STATE SENATOR OR REPRESENTATIVE

**Sec. 241.001. APPLICABILITY OF CHAPTER.** This chapter applies to a contest of a general or special election for the office of state senator or state representative.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.002. PARTIES.** The provisions of this title relating to who may be or is required to be a party in an election contest in the district court apply to a contest under this chapter.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.003. PETITION.** (a) The contestant must state the grounds for the contest in a petition in the same manner as a petition in an election contest in the district court.

(b) The contestant must file the petition with the secretary of state not later than the later of the seventh day after the date the election records are publicly available under Section 1.012 or the official result of the contested election is determined. The contestant must deliver a copy of the petition to the contestee by the same deadline.

(c) The contestant may not file the petition with the secretary of state or deliver the copy to the contestee before the day after the date of the contested election.

(d) Section 1.006 does not apply to this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 6, eff. Sept. 1, 1993; S.B. 902, 86<sup>th</sup> Leg., Sec. 6, eff. Sept. 1, 2019..

**Sec. 241.004. ANSWER.** (a) The contestee must reply to the contestant's petition in an answer in the same manner as an answer to a petition in an election contest in the district court.

(b) The contestee must file the answer with the secretary of state not later than the seventh day after the date the contestee receives the copy of the petition. The contestee must deliver a copy of the answer to the contestant by the same deadline.

(c) Section 1.006 does not apply to this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 7, eff. Sept. 1, 1993.

**Sec. 241.005. METHOD OF DELIVERING CONTEST PAPERS TO PARTIES.** (a) The copies of the petition and answer must be delivered to the parties by:

- (1) personal delivery; or
- (2) registered or certified mail, return receipt requested.

(b) Any adult resident of the state may perform the personal delivery. If the party to whom delivery is intended cannot be found in the party's county of residence, the delivery may be completed by leaving the document at the party's usual place of abode or business with a person who is 16 years of age or older.

(c) Personal delivery of a copy of an answer is sufficient if it is delivered to the contestant's attorney of record or left at the attorney's regular office with a person who is 16 years of age or older.

(d) A copy of a petition delivered by mail must be marked for restricted delivery to the addressee only. The delivery is sufficient if the copy is mailed to the contestee's regular residence or business address.

(e) If the contestant's petition states an address to which the copy of the answer is to be delivered, a copy delivered by mail must be mailed to that address. Otherwise, delivery of a copy of an answer by mail is sufficient if the copy is mailed to the contestant at the contestant's regular residence or business address or to the contestant's attorney of record at the attorney's regular business address.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.006. DELIVERY OF CONTEST PAPERS TO PRESIDING OFFICER.** (a) On receipt of a petition or answer, the secretary of state shall enter the date of filing on the document. If the document is filed by mail, the secretary shall attach to the document the envelope in which it was mailed.

(b) The secretary of state shall deliver a petition to the president of the senate or the speaker of the house of representatives, as appropriate, as soon as possible but not later than the day after the date the petition is received. The secretary shall deliver an answer to the appropriate presiding officer as soon as possible but not later than the day after the date of its

receipt.

(c) The secretary of state shall deliver with the petition the secretary's certified statement of the total votes cast for each candidate for the office as shown by the final canvass. If the final canvass has not been completed, the statement shall be delivered as soon as practicable thereafter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 8, eff. Sept. 1, 1993.

**Sec. 241.0061. SECURITY FOR COSTS.** (a) Not later than the third day after the date the contestee's answer is received by the presiding officer of the house having jurisdiction, the contestant must file with the secretary of the senate or chief clerk of the house of representatives, as appropriate:

(1) a cost bond payable to the appropriate house and to the contestee in the amount of \$5,000, having sufficient sureties approved by the presiding officer, and conditioned that the contestant will pay all costs of the contest assessed against the contestant;

(2) a cash deposit in lieu of bond; or

(3) an affidavit of inability to pay costs.

(b) Security for costs must be filed under Subsection (a), and an affidavit of inability to pay costs may be contested, in the manner generally applicable to a civil suit in the district court, subject to any changes imposed by the master or by rules of the house having jurisdiction.

Added by Acts 1993, 73rd Leg., ch. 759, Sec. 9, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 231, eff. Sept. 1, 1997.

**Sec. 241.007. RUNOFF DELAYED.** (a) If a special election for which a runoff is necessary according to the official result is contested, the secretary of state shall promptly notify the governor in writing of the contest when the canvass is completed or the petition is received, whichever is later.

(b) The governor shall delay ordering the runoff pending the outcome of the contest.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.008. PRESIDING OFFICER AS PARTY.** If the presiding officer of the house having jurisdiction is a party to a contest, the house shall elect one of its members to perform the duties of the presiding officer with respect to the contest. The chair of the house's committee on administration shall perform those duties until the substitute is elected.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 232, eff. Sept. 1, 1997.

**Sec. 241.009. MASTER OF DISCOVERY.** (a) As soon as practicable after receiving the contestee's answer, the presiding officer of the house having jurisdiction shall appoint a master of discovery to supervise discovery proceedings and the taking of depositions, to issue any necessary process, to receive and report evidence, and to perform any other duties assigned by the presiding officer or by the committee to which the contest is referred.

(b) The master must be a member of the house in which the contest is pending.

(c) The presiding officer or the committee may limit the master's authority in the same manner as a civil court in appointing a master in chancery.

(d) The master acts under the direction of the presiding officer before the case is referred to a committee and acts under the direction of the committee after the referral.

(e) The master's rulings are subject to review by the committee to which the contest is referred unless otherwise provided by rules of the house.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 9, eff. Sept. 1, 1993.

**Sec. 241.0091. FRIVOLOUS PETITION.** (a) The master may on the master's own motion, or shall on the motion of the committee, determine whether the contestant's petition is frivolous or otherwise does not state the grounds necessary to maintain the contest.

(b) After making a determination under Subsection (a), the master shall promptly deliver to the committee a report stating the findings. The report to the committee may include any recommendation the master considers appropriate.

Added by Acts 1993, 73rd Leg., ch. 759, Sec. 9, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 233, eff. Sept. 1, 1997.

**Sec. 241.010. DISCOVERY AND DEPOSITIONS.** (a) Any party to a contest may conduct discovery and take depositions under the procedures applicable to a civil suit in the district court, subject to changes in those procedures or limitations imposed

by the master or by rules of the house in which the contest is pending.

(b) Each party is responsible for the initial payment of the party's costs of discovery and taking depositions, but the costs may be assessed as provided by Section 241.025.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.011. REFERRAL OF CONTEST TO COMMITTEE; HEARING BY COMMITTEE.** (a) As soon as practicable after receiving the contestee's answer, the presiding officer of the house in which the contest is pending shall refer the contest to a special committee, a standing committee, or a committee of the whole, as provided by rules of the house.

(b) The committee shall promptly set a time and place for hearing the contest. After notice to the parties, the committee shall investigate the issues raised by the contest, hearing all legal evidence presented by the parties, except as provided by Subsection (c).

(c) The committee may refuse to hear testimony or other evidence presented in person by the parties if the master determines under Section 241.0091 that the contestant's petition is frivolous or otherwise groundless.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 9, eff. Sept. 1, 1993.

**Sec. 241.012. HEARING PROCEDURE.** The procedure for the committee hearing of an election contest shall be prescribed by rules of the house in which the contest is pending.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.013. EVIDENCE.** Except as otherwise provided by house rules, the rules of evidence generally applicable to a civil suit in the district court apply to the hearing of an election contest.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.014. ATTENDANCE OF WITNESSES.** (a) The committee to which an election contest is referred has the same authority as other legislative committees to compel attendance of witnesses and production of evidence without the necessity for an express authorization by resolution, rule, or other action of the house creating the committee.

(b) The law generally applicable to the issuance and service of process in legislative committee hearings applies to the hearing of a contest.

(c) A summoned witness is entitled to payment for travel and subsistence expenses in accordance with the laws applicable to in-state travel for state employees.

(d) Each party is responsible for the initial payment of the costs for service of process and attendance of witnesses at the party's request, but the costs may be assessed as provided by Section 241.025.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.015. COMMITTEE REPORT.** (a) Except as provided by Section 241.019, as soon as practicable after completing its hearing on a contest, the committee shall make a written report of its findings of fact and conclusions of law with respect to the contest to the house in which the contest is pending. The report may include any recommendation the committee considers appropriate.

(b) The committee shall accompany its report with all the papers in the contest and the evidence presented to the committee.

(c) The committee chair shall file the report with the secretary of the senate or the chief clerk of the house of representatives, as appropriate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1997, 75th Leg., ch. 864, Sec. 234, eff. Sept. 1, 1997.

**Sec. 241.016. MINORITY REPORT.** Any member of the committee dissenting from the views of the majority may file a minority report.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.017. WITHDRAWAL OF CONTEST.** (a) A contestant may withdraw the election contest at any time before the filing of the committee report by filing with the committee chair and the presiding officer of the house a written statement of withdrawal signed by the contestant or the contestant's attorney.

(b) On withdrawal of the contest, the contest is dismissed and the presiding officer shall have the statement of withdrawal read into the journal of the appropriate house.

(c) Costs of the contest following a withdrawal may be assessed as provided by Section 241.025.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.  
Amended by Acts 1997, 75th Leg., ch. 864, Sec. 235, eff. Sept. 1, 1997.

**Sec. 241.018. DISPOSITION OF CONTEST BY HOUSE.** (a) Except as provided by Section 241.019, the house in which a contest is pending shall dispose of the contest as provided by this section.

(b) As soon as practicable after the committee report on the contest is filed, the house shall set a date for consideration of the report.

(c) The house shall take action on the contest as prescribed by Section 221.012.

(d) A contestee may not vote on any matter involving the contest.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.019. DISPOSITION OF CONTEST BY COMMITTEE.** The committee to which a contest of a special election is referred shall take action on the contest as prescribed by Section 221.012 if:

(1) no candidate received a majority of the votes according to the official result of the election;

(2) the legislature is not in session on the date the contestant's petition is filed with the secretary of state, or, if it is in session, the session will end before the 25th day after the date the petition is filed;

(3) no session of the legislature is scheduled to begin within 30 days after the date the petition is filed; and

(4) the legislature is not in session on the date the committee completes its hearing, and no session is scheduled to begin within 30 days after that date.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.020. NEW ELECTION ORDERED IF CONTESTED ELECTION VOID.** In an election contest in which the election is declared void, the house or committee, as appropriate, shall include in its judgment an order directing the governor to order a new election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.021. DELIVERY OF CERTIFIED COPIES OF JUDGMENT.** (a) After the judgment in a contest is rendered, the secretary of the senate or the chief clerk of the house of representatives, as appropriate, shall promptly deliver a certified copy of the judgment to the secretary of state.

(b) If another election is necessary under the judgment, the secretary of the senate or chief clerk of the house of representatives shall promptly deliver a certified copy of the judgment to the governor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.022. PROCEDURES FOR NEW ELECTION GENERALLY.** (a) If the contested election is declared void, the new election shall be held in the same manner as the contested election, except as otherwise provided by this chapter.

(b) Section 232.050 applies to the ballot form for the new election.

(c) Section 232.043 applies to write-in voting in the new election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.023. ACCELERATED ELECTION SCHEDULE.** If another election is necessary under the judgment in an election contest, the applicable time intervals for conducting a special election for state senator or state representative apply if the judgment is rendered:

(1) during a regular legislative session; or

(2) within 60 days before the date a legislative session is convened.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.024. CANDIDATES IN NEW ELECTION.** (a) The candidates in a new election ordered in an election contest in which the election is declared void under this chapter are determined in accordance with the applicable provisions of Chapter 232, Subchapter B, prescribing the candidates in a new election ordered by a court.

(b) In a new election in which replacement candidates are permitted on the ballot, the governor shall set the filing deadlines that are set by the district court in a new election ordered by a court.

(c) The governor shall set the deadline for withdrawal from a new election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 241.025. COSTS OF CONTEST.** (a) Subject to Section 221.013(a), the house considering an election contest may assess the costs of the contest against any one or more of the parties, except that costs may not be assessed against a contestee

who prevails in the contest.

(b) In a contest covered by Section 241.019, the committee determines how the costs are to be assessed.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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## **CHAPTER 242. CONTEST FOR CONSTITUTIONAL EXECUTIVE OFFICE**

**Sec. 242.001. APPLICABILITY OF CHAPTER.** This chapter applies to a contest of a general election for the office of governor, lieutenant governor, comptroller of public accounts, land commissioner, or attorney general.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 6.05, eff. Sept. 1, 1997.

**Sec. 242.002. CONDUCT OF CONTEST GENERALLY.** (a) Except as otherwise provided by this chapter, the applicable provisions of Chapter 241 govern an election contest under this chapter.

(b) Two copies of the petition and answer must be filed with the secretary of state. The secretary shall deliver one copy of each document to the presiding officer of each house of the legislature. Security for costs must be filed with the chief clerk of the house of representatives. Any cost bond must be payable to both houses.

(c) The presiding officers of the two houses of the legislature shall act jointly in appointing a master of discovery and in setting the amount of and approving the sureties on a cost bond. The master may be a member of either house.

(d) The presiding officers shall refer the contest to a committee constituted in accordance with joint rules of the two legislative houses. Unless otherwise provided by joint rule, the referral is not effective until both presiding officers make the referral.

(e) The committee shall make its report to both houses of the legislature, and the two houses shall consider the report and dispose of the contest in joint session.

(f) Any legislative rules applicable to a contest under this chapter must be joint rules.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 10, eff. Sept. 1, 1993.

**Sec. 242.003. CONTEST FOR OFFICE OF GOVERNOR OR LIEUTENANT GOVERNOR.** (a) This section applies only to a contest for the office of governor or lieutenant governor.

(b) For purposes of a contest under this section, the date the official result of the contested election is determined is the date the governor completes the state canvass. The official result is determined from the tabulation of the election returns prepared by the secretary of state, except as provided by Subsection (d).

(c) The secretary of state shall deliver a certified copy of the tabulation to each of the presiding officers.

(d) The committee to which the contest is referred may treat the tabulation as correct until the speaker of the house of representatives opens and publishes the official election returns. If a discrepancy exists between the tabulation and the speaker's official count that might be material to a determination of the contest, the committee shall investigate the discrepancy to ascertain, if possible, the correct vote count.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 163, Sec. 10, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 759, Sec. 11, eff. Sept. 1, 1993.

**Sec. 242.004. ACCELERATED ELECTION SCHEDULE.** The time intervals for conducting a special election to fill a vacancy in the office of state senator or state representative occurring during a regular legislative session apply to any election necessary under the judgment in an election contest under this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.



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## CHAPTER 243. CONTEST FOR PRESIDENTIAL ELECTORS

**Sec. 243.001. APPLICABILITY OF CHAPTER.** This chapter applies to a contest of an election of presidential electors for president and vice-president of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 243.002. PARTIES.** (a) An election of presidential electors may be contested only by:

(1) a presidential candidate whose name appeared on the ballot for the election in this state or who had qualified as a write-in candidate in this state;

(2) any one or more of the presidential elector candidates who correspond to a presidential candidate specified by Subdivision (1), if the presidential candidate gives express approval; or

(3) a presidential candidate specified by Subdivision (1) and one or more corresponding presidential elector candidates acting jointly.

(b) The contestees are the presidential elector candidates officially determined to be elected and the presidential candidate to whom they correspond.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 243.003. PETITION.** (a) The contestant must state the grounds for the contest in a petition in the same manner as a petition in an election contest in the district court.

(b) The contestant must file the petition with the secretary of state not later than the later of the 10th day after the date the election records are publicly available under Section 1.012 or the official result of the contested election is determined.

(c) The contestant may not file the petition before the day after the date of the contested election.

(d) The petition must state the name and address of the contestant or an agent for the contestant to whom a copy of the contestee's answer is to be delivered. If there is more than one contestant, the petition must designate one to receive the copy on behalf of all the contestants.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by S.B. 902, 86<sup>th</sup> Leg., Sec. 7, eff. Sept. 1, 2019.

**Sec. 243.004. NOTICE TO CONTESTEES.** (a) When a petition is filed, the secretary of state shall promptly notify each contestee of the filing and shall deliver a copy of the petition to each contestee who requests one or to an agent designated by the requesting contestee.

(b) The secretary of state shall use the most expeditious means available for notifying each contestee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 243.005. ANSWER.** (a) The contestee must reply to the contestant's petition in an answer in the same manner as an answer to a petition in an election contest in the district court.

(b) The contestee must file the answer with the secretary of state not later than the eighth day after the date the petition is filed. The contestee must deliver a copy of the answer by the same deadline to the person designated by the petition to receive it.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 243.006. HEARING OF CONTEST.** When the contestee's answer is filed, the governor shall set a time and place for hearing the contest. After notice to the parties, the governor shall investigate the issues raised by the contest, hearing all legal evidence presented by the parties.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 11, eff. Sept. 1, 1989.

**Sec. 243.007. MASTER OF DISCOVERY.** (a) The governor may appoint a master of discovery for the contest. The master has the authority of a master appointed under Section 241.009.

(b) The master must be a resident of the state who:

(1) is not employed by or related within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a party to the contest; and

(2) is not an officer of a political party that had a presidential nominee on the ballot of the contested election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by Acts 1989, 71st Leg., ch. 163, Sec. 12, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 561, Sec. 19, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995.

**Sec. 243.008. DISCOVERY AND DEPOSITIONS.** (a) Any party to a contest may conduct discovery and take depositions under the procedures applicable to a civil suit in the district court, subject to changes in those procedures or limitations imposed by the governor or the master of discovery.

(b) Each party is responsible for the initial payment of the party's costs of discovery and taking depositions, but the costs may be assessed as provided by Section 243.013.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 13, eff. Sept. 1, 1989.

**Sec. 243.009. HEARING PROCEDURE.** The governor shall determine the procedure for hearing an election contest.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 14, eff. Sept. 1, 1989.

**Sec. 243.010. EVIDENCE.** Except as otherwise provided by the governor, the rules of evidence generally applicable to a civil suit in the district court apply to the hearing of an election contest.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 14, eff. Sept. 1, 1989.

**Sec. 243.011. ATTENDANCE OF WITNESSES.** (a) The governor has the same authority as a district court in an election contest to require the attendance of witnesses and the production of evidence. The secretary of state shall issue in the name of the governor subpoenas or other process as directed by the governor.

(b) Any sheriff or constable of the state or a person appointed by the governor may serve the process issued by the secretary of state.

(c) Compliance with process issued under this chapter may be enforced in the manner provided for enforcement of process issued under Chapter 2001, Government Code.

(d) The summoned witnesses and the officers serving the process are entitled to mileage and fees as prescribed by law in a civil suit in the district court.

(e) Each party is responsible for the initial payment of the costs for service of process and attendance of witnesses at the party's request, but the costs may be assessed as provided by Section 243.013.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 15, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

**Sec. 243.012. DISPOSITION OF CONTEST.** (a) The governor shall determine the outcome of the contested election and render the decision not later than the seventh day before the date set by law for the meeting of the electors.

(b) The decision shall declare which set of presidential elector candidates was elected.

(c) The decision shall be in writing and signed by the governor.

(d) Section 221.012(b) does not apply to a contest of an election of presidential electors.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 16, eff. Sept. 1, 1989.

**Sec. 243.013. COSTS OF CONTEST.** The governor may assess the costs of the contest against any one or more of the parties.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 17, eff. Sept. 1, 1989.

## SUBTITLE D. OTHER ELECTION LAWSUITS

### CHAPTER 247. LAWSUIT ALLEGING IMPROPER ELECTION ACTIVITIES

**Sec. 247.001. PETITION ALLEGING FRAUD.** This chapter applies to a civil suit in which a candidate in an election alleges in the petition that an opposing candidate, an agent of the opposing candidate, or a person acting on behalf of the opposing candidate with the candidate's knowledge violated any of the following sections of this code:

- (1) Section 13.007;
- (2) Section 64.012;
- (3) Section 64.036;
- (4) Section 84.003;
- (5) Section 84.0041;
- (6) Section 86.0051;
- (7) Section 86.006;
- (8) Section 86.010;
- (9) Section 276.013; and
- (10) Section 276.015..

Added by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 8.03, eff. Dec. 2, 2021.

**Sec. 247.002. PROCEDURE.** A candidate in an election may file a petition for an action under this chapter in any county where a defendant resided at the time of the election. If the election is for a statewide office, the candidate may also file the petition in a district court in Travis County.

Added by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 8.03, eff. Dec. 2, 2021.

**Sec. 247.003. FILING PERIOD FOR PETITION.** A candidate in an election may file a petition for an action under this chapter not earlier than the day after the date the election is certified and not later than the 45<sup>th</sup> day after the later of that date or the date election records are made publicly available under Section 1.012.

Added by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 8.03, eff. Dec. 2, 2021.

**Sec. 247.004. DAMAGES.** (a) If it is shown by a preponderance of the evidence that a defendant, an agent of the defendant, or a person acting on behalf of the defendant with the defendant's knowledge committed one or more violations of a section described by Section 247.001, the defendant is liable to the plaintiff for damages in an amount of \$1,000 for each violation.

(b) Notwithstanding Section 41.004, Civil Practice and Remedies Code, a court shall award damages under Subsection (a) to the plaintiff irrespective of whether the plaintiff is awarded actual damages.

Acts 1985, 69<sup>th</sup> Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Added by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 8.03, eff. Dec. 2, 2021.

**Sec. 247.005. ATTORNEYS FEES.** In an action under this chapter, the court may award reasonable attorney's fees to the prevailing party.

Added by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 8.03, eff. Dec. 2, 2021.

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# TITLE 15. REGULATING POLITICAL FUNDS AND CAMPAIGNS

## CHAPTER 251. GENERAL PROVISIONS

### SUBCHAPTER A. GENERAL PROVISIONS

**Sec. 251.001. DEFINITIONS.** In this title:

(1) "Candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include:

(A) the filing of a campaign treasurer appointment, except that the filing does not constitute candidacy or an announcement of candidacy for purposes of the automatic resignation provisions of Article XVI, Section 65, or Article XI, Section 11, of the Texas Constitution;

(B) the filing of an application for a place on a ballot;

(C) the filing of an application for nomination by convention;

(D) the filing of a declaration of intent to become an independent candidate or a declaration of write-in candidacy;

(E) the making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement;

(F) before a public announcement of intent, the making of a statement of definite intent to run for public office and the soliciting of support by letter or other mode of communication;

(G) the soliciting or accepting of a campaign contribution or the making of a campaign expenditure; and

(H) the seeking of the nomination of an executive committee of a political party to fill a vacancy.

(2) "Contribution" means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. The term does not include:

(A) a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made; or

(B) an expenditure required to be reported under Section 305.006(b), Government Code.

(3) "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution.

(4) "Officeholder contribution" means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that:

(A) are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office; and

(B) are not reimbursable with public money.

(5) "Political contribution" means a campaign contribution or an officeholder contribution.

(6) "Expenditure" means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment.

(7) "Campaign expenditure" means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure.

(8) "Direct campaign expenditure" means a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure. A campaign expenditure does not constitute a contribution by the person making the expenditure to a candidate or officeholder if the expenditure is made without the prior consent or approval of the candidate or officeholder on whose behalf the expenditure is made. A campaign expenditure made in connection with a measure does not constitute a contribution by the person making the expenditure if it is not made as a political contribution to a political committee supporting or opposing the measure.

(9) "Officeholder expenditure" means an expenditure made by any person to defray expenses that:

(A) are incurred by an officeholder in performing a duty or engaging in an activity in connection with the office; and

(B) are not reimbursable with public money.

(10) "Political expenditure" means a campaign expenditure or an officeholder expenditure.

(11) "Reportable activity" means a political contribution, political expenditure, or other activity required to be reported under this title.

(12) "Political committee" means a two or more persons acting in concert with a principal purpose of accepting political contributions or making political expenditures. The term does not include a group composed exclusively of two or more individual filers or political committees required to file reports under this title who make reportable expenditures for a joint activity.

(13) "Specific-purpose committee" means a political committee that does not have among its principal purposes those of a general-purpose committee but does have among its principal purposes:

(A) supporting or opposing one or more:

(i) candidates, all of whom are identified and are seeking offices that are known; or

(ii) measures, all of which are identified;

(B) assisting one or more officeholders, all of whom are identified; or

(C) supporting or opposing only one candidate who is unidentified or who is seeking an office that is unknown.

(14) "General-purpose committee" means a political committee that has among its principal purposes:

(A) supporting or opposing:

(i) two or more candidates who are unidentified or are seeking offices that are unknown; or

(ii) one or more measures that are unidentified; or

(B) assisting two or more officeholders who are unidentified.

(15) "Out-of-state political committee" means a political committee that:

(A) makes political expenditures outside this state; and

(B) in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee's total political expenditures in any combination of elections outside this state and federal offices not voted on in this state.

(16) "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(B) appears:

(i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or

(ii) on an Internet website.

(17) "Campaign communication" means a written or oral communication relating to a campaign for nomination or election to public office or office of a political party or to a campaign on a measure.

(18) "Labor organization" means an agency, committee, or any other organization in which employees participate that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(19) "Measure" means a question or proposal submitted in an election for an expression of the voters' will and includes the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will.

(20) "Commission" means the Texas Ethics Commission.

(21) "In-kind contribution" means a contribution of goods, services, or any other thing of value that is not money, and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make the contribution. The term does not include a direct campaign expenditure.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.01, eff. Jan. 1, 1992; Acts 2003, 78th Leg., ch. 249, Sec. 2.01, eff. Sept. 1, 2003; H.B. 2586, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 251.0015. COMMUNICATION WITH CANDIDATE.** For purposes of Section 251.001(8), communication between a person and a candidate, officeholder, or candidate's or officeholder's agent is not evidence that the person obtained the candidate's or officeholder's consent or approval for a campaign expenditure made after the communication by the person on behalf of the candidate or officeholder unless the communication establishes that:

(1) the expenditure is incurred at the request or suggestion of the candidate, officeholder, or candidate's or

officeholder's agent;

(2) the candidate, officeholder, or candidate's or officeholder's agent is materially involved in decisions regarding the creation, production, or distribution of a campaign communication related to the expenditure; or

(3) the candidate, officeholder, or candidate's or officeholder's agent shares information about the candidate's or officeholder's plans or needs that is:

(A) material to the creation, production, or distribution of a campaign communication related to the expenditure; and

(B) not available to the public.

Added by H.B. 2586, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019.

**Sec. 251.0016. COMMON VENDOR.** A person using the same vendor as a candidate, officeholder, or political committee established or controlled by a candidate or officeholder is not acting in concert with the candidate, officeholder, or committee to make a campaign expenditure unless the person makes the expenditure using information from the vendor about the campaign plans or needs of the candidate, officeholder, or committee that is:

(1) material to the expenditure; and

(2) not available to the public.

Added by H.B. 2586, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019.

**Sec. 251.002. OFFICEHOLDERS COVERED.** (a) The provisions of this title applicable to an officeholder apply only to a person who holds an elective public office and to the secretary of state.

(b) For purposes of this title, a state officer-elect or a member-elect of the legislature is considered an officeholder beginning on the day after the date of the general or special election at which the officer-elect or member-elect was elected. This subsection does not relieve a state officer-elect or member-elect of the legislature of any reporting requirements the person may have as a candidate under this title.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 251.003. PROHIBITION OF DOCUMENT FILING FEE.** A charge may not be made for filing a document required to be filed under this title.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 251.004. VENUE.** (a) Venue for a criminal offense prescribed by this title is in the county of residence of the defendant, unless the defendant is not a Texas resident, in which case venue is in Travis County.

(b) Venue for the recovery of delinquent civil penalties imposed by the commission under this title is in Travis County.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1134, Sec. 1, eff. Sept. 1, 1997.

**Sec. 251.005. OUT-OF-STATE COMMITTEES EXCLUDED.** (a) An out-of-state political committee is not subject to Chapter 252 or 254, except as provided by Subsection (b), (c), or (d).

(b) If an out-of-state committee decides to file a campaign treasurer appointment under Chapter 252, at the time the appointment is filed the committee becomes subject to this title to the same extent as a political committee that is not an out-of-state committee.

(c) If an out-of-state committee performs an activity that removes the committee from out-of-state status as defined by Section 251.001(15), the committee becomes subject to this title to the same extent as a political committee that is not an out-of-state committee.

(d) An out-of-state political committee that does not file a campaign treasurer appointment shall comply with Section 254.1581.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 249, Sec. 2.02, eff. Sept. 1, 2003.

**Sec. 251.006. FEDERAL OFFICE EXCLUDED.** (a) Except as provided by Subsection (b), this title does not apply to a candidate for an office of the federal government.

(b) A candidate for an elective office of the federal government shall file with the commission a copy of each document relating to the candidacy that is required to be filed under federal law. The document shall be filed within the same period in which it is required to be filed under the federal law.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.01, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 236, eff. Sept. 1, 1997.

**Sec. 251.007. TIMELINESS OF ACTION BY MAIL.** When this title requires a notice, report, or other document or paper



to be delivered, submitted, or filed within a specified period or before a specified deadline, a delivery, submission, or filing by first-class United States mail or common or contract carrier is timely, except as otherwise provided by this title, if:

(1) it is properly addressed with postage or handling charges prepaid; and

(2) it bears a post office cancellation mark or a receipt mark of a common or contract carrier indicating a time within the period or before the deadline, or if the person required to take the action furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within the period or before the deadline.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 251.008. CERTAIN POLITICAL CLUB MEETINGS EXCLUDED.** (a) An expense incurred in connection with the conduct of a meeting of an organization or club affiliated with a political party at which a candidate for an office regularly filled at the general election for state and county officers, or a person holding that office, appears before the members of the organization or club is not considered to be a political contribution or political expenditure if no political contributions are made to or solicited for the candidate or officeholder at the meeting.

(b) In this section, an organization or club is affiliated with a political party if it:

(1) supports the nominees of that political party but does not support any candidate seeking the party's nomination for an office over any other candidate seeking that nomination; and

(2) is recognized by the political party as an auxiliary of the party.

Added by Acts 1989, 71st Leg., ch. 422, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 752, Sec. 1, eff. Sept. 1, 1995.

**Sec. 251.009. LEGISLATIVE CAUCUS CONTRIBUTION OR EXPENDITURE NOT CONSIDERED TO BE OFFICEHOLDER CONTRIBUTION OR EXPENDITURE.** A contribution to or expenditure by a legislative caucus, as defined by Section 253.0341, is not considered to be an officeholder contribution or officeholder expenditure for purposes of this title.

Added by Acts 1995, 74th Leg., ch. 43, Sec. 4, eff. Aug. 28, 1995.

## SUBCHAPTER B. DUTIES OF COMMISSION

**Sec. 251.032. FORMS.** In addition to furnishing samples of the appropriate forms to the authorities having administrative duties under this title, the commission shall furnish the forms to each political party's state executive committee and county chair of each county executive committee.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.03, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 237, eff. Sept. 1, 1997.

**Sec. 251.033. NOTIFICATION OF DEADLINE FOR FILING REPORTS.** (a) The commission shall notify each person responsible for filing a report with the commission under Subchapters C through F, Chapter 254, of the deadline for filing a report, except that notice of the deadline is not required for a political committee involved in an election other than a primary election or the general election for state and county officers. Notification under this subsection may be sent by electronic mail.

(b) If the commission is unable to notify a person of a deadline after two attempts, the commission is not required to make any further attempts to notify the person of that deadline or any future deadlines until the person has notified the commission of the person's current address or electronic mail address.

(c) Chapter 552, Government Code, does not apply to a notification under this section sent by electronic mail.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.04, eff. Aug. 30, 1993; Acts 2009, 81st Leg., R.S., Ch. 996 (H.B. 3922), Sec. 1, eff. June 19, 2009.

## **CHAPTER 252. CAMPAIGN TREASURER**

**Sec. 252.001. APPOINTMENT OF CAMPAIGN TREASURER REQUIRED.** Each candidate and each political committee shall appoint a campaign treasurer as provided by this chapter.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 252.0011. INELIGIBILITY FOR APPOINTMENT AS CAMPAIGN TREASURER.** (a) Except as provided by Subsection (b) or (c), a person is ineligible for appointment as a campaign treasurer if the person is the campaign treasurer of a political committee that does not file a report required by Chapter 254.

(b) The period for which a person is ineligible under Subsection (a) for appointment as a campaign treasurer ends on the date on which the political committee in connection with which the person's ineligibility arose has filed each report required by Chapter 254 that was not timely filed or has paid all fines and penalties in connection with the failure to file the report.

(c) Subsection (a) does not apply to a person if, in any semiannual reporting period prescribed by Chapter 254:

(1) the political committee in connection with which the person's ineligibility arose did not accept political contributions that in the aggregate exceed \$5,000 or make political expenditures that in the aggregate exceed \$5,000; and

(2) the candidate who or political committee that subsequently appoints the person does not accept political contributions that in the aggregate exceed \$5,000 or make political expenditures that in the aggregate exceed \$5,000.

(d) Subsection (c) applies to a person who is the campaign treasurer of a general-purpose committee regardless of whether the committee files monthly reports under Section 254.155. For purposes of this subsection, political contributions accepted and political expenditures made during a monthly reporting period are aggregated with political contributions accepted and political expenditures made in each other monthly reporting period that corresponds to the semiannual reporting period that contains those months.

(e) A candidate or political committee is considered to have not appointed a campaign treasurer if the candidate or committee appoints a person as campaign treasurer whose appointment is prohibited by Subsection (a).

(f) A person who violates this section is liable for a civil penalty not to exceed three times the amount of political contributions accepted or political expenditures made in violation of this section.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 2.03, eff. Sept. 1, 2003.

**Sec. 252.002. CONTENTS OF APPOINTMENT.** (a) A campaign treasurer appointment must be in writing and include:

- (1) the campaign treasurer's name;
- (2) the campaign treasurer's residence or business street address;
- (3) the campaign treasurer's telephone number; and
- (4) the name of the person making the appointment.

(b) A political committee that files its campaign treasurer appointment with the commission must notify the commission in writing of any change in the campaign treasurer's address not later than the 10th day after the date on which the change occurs.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.05, eff. Aug. 30, 1993.

**Sec. 252.003. CONTENTS OF APPOINTMENT BY GENERAL-PURPOSE COMMITTEE.** (a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a general-purpose committee must include:

(1) the full name, and any acronym of the name that will be used in the name of the committee as provided by Subsection (d), of each corporation, labor organization, or other association or legal entity that directly establishes, administers, or controls the committee, if applicable, or the name of each person who determines to whom the committee makes contributions or the name of each person who determines for what purposes the committee makes expenditures;

(2) the full name and address of each general-purpose committee to whom the committee intends to make political contributions; and

(3) the name of the committee and, if the name is an acronym, the words the acronym represents; and

(4) before the committee may use a political contribution from a corporation or a labor organization to make a direct campaign expenditure in connection with a campaign for an elective office, an affidavit stating that:

(A) the committee is not established or controlled by a candidate or an officeholder; and

(B) the committee will not use any political contribution from a corporation or a labor organization to make a political contribution to:

- (i) a candidate for elective office;
- (ii) an officeholder; or
- (iii) a political committee that has not filed an affidavit under this subdivision or Section 252.0031(a)(2).

(a-1) Filing an affidavit under Subsection (a)(4) does not create any additional reporting requirements under Section 254.261.

(b) If any of the information required to be included in a general-purpose committee's appointment changes, excluding changes reported under Section 252.002(b), the committee shall file an amended appointment with the commission not later than the 30th day after the date the change occurs.

(c) The name of a general-purpose committee may not be the same as or deceptively similar to the name of any other general-purpose committee whose campaign treasurer appointment is filed with the commission. The commission shall determine whether the name of a general-purpose political committee is in violation of this prohibition and shall immediately notify the campaign treasurer of the offending political committee of that determination. The campaign treasurer of the political committee must file a name change with the commission not later than the 14th day after the date of notification. A campaign treasurer who fails to file a name change as provided by this subsection or a political committee that continues to use a prohibited name after its campaign treasurer has been notified by the commission commits an offense. An offense under this subsection is a Class B misdemeanor.

(d) The name of a general-purpose committee must include the name of each corporation, labor organization, or other association or legal entity other than an individual that directly establishes, administers, or controls the committee. The name of an entity that is required to be included in the name of the committee may be a commonly recognized acronym by which the entity is known.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.02, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 107, Sec. 3.06, eff. Aug. 30, 1993; H.B. 2586, 86<sup>th</sup> Leg., Sec. 3, eff. Sept. 1, 2019.

**Sec. 252.0031. CONTENTS OF APPOINTMENT BY SPECIFIC-PURPOSE COMMITTEE.** (a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a specific-purpose committee for supporting or opposing a candidate for an office specified by Section 252.005(1) must include:

- (1) the name of and the office sought by the candidate; and
- (2) before the committee may use a political contribution from a corporation or a labor organization to make a direct campaign expenditure in connection with a campaign for an elective office, an affidavit stating that:
  - (A) the committee is not established or controlled by a candidate or an officeholder; and
  - (B) the committee will not use any political contribution from a corporation or a labor organization to make a political contribution to:

- (i) a candidate for elective office;
- (ii) an officeholder; or
- (iii) a political committee that has not filed an affidavit under this subdivision or Section 252.003(a)(4).

(a-1) If the information required to be provided under Subsection (a) changes, the committee shall immediately file an amended appointment reflecting the change.

(a-2) Filing an affidavit under Subsection (a)(2) does not create any additional reporting requirements under Section 254.261.

(b) The name of a specific-purpose committee for supporting a candidate for an office specified by Section 252.005(1) must include the name of the candidate that the committee supports.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 7.15(a), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 5.03, eff. Jan. 1, 1992; H.B. 2586, 86<sup>th</sup> Leg., Sec. 4, eff. Sept. 1, 2019.

**Sec. 252.0032. CONTENTS OF APPOINTMENT BY CANDIDATE.** (a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a candidate must include:

- (1) the candidate's telephone number; and
- (2) a statement, signed by the candidate, that the candidate is aware of the nepotism law, Chapter 573, Government Code.

(b) A campaign treasurer appointment that is filed in a manner other than by use of an officially prescribed form is not invalid because it fails to comply with Subsection (a)(2).

Added by Acts 1989, 71st Leg., ch. 2, Sec. 7.15(a), eff. Aug. 28, 1989. Amended by Acts 1993, 73rd Leg., ch. 107, Sec. 3A.03, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(26), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1134, Sec. 2, eff. Sept. 1, 1997.

**Sec. 252.004. DESIGNATION OF ONESELF.** An individual may appoint himself or herself as campaign treasurer. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 238, eff. Sept. 1, 1997.

**Sec. 252.005. AUTHORITY WITH WHOM APPOINTMENT FILED: CANDIDATE.** An individual must file a campaign treasurer appointment for the individual's own candidacy with:

- (1) the commission, if the appointment is made for candidacy for:
  - (A) a statewide office;
  - (B) a district office filled by voters of more than one county;
  - (C) a judicial district office filled by voters of only one county;
  - (D) state senator;
  - (E) state representative; or
  - (F) the State Board of Education;
- (2) the county clerk, if the appointment is made for candidacy for a county office, a precinct office, or a district office other than one included in Subdivision (1);
- (3) the clerk or secretary of the governing body of the political subdivision or, if the political subdivision has no clerk or secretary, with the governing body's presiding officer, if the appointment is made for candidacy for an office of a political subdivision other than a county;
- (4) the county clerk if:
  - (A) the appointment is made for candidacy for an office of a political subdivision other than a county;
  - (B) the governing body for the political subdivision has not been formed; and
  - (C) no boundary of the political subdivision crosses a boundary of the county; or
- (5) the commission if:
  - (A) the appointment is made for candidacy for an office of a political subdivision other than a county;
  - (B) the governing body for the political subdivision has not been formed; and
  - (C) the political subdivision is situated in more than one county.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.07, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 511, Sec. 1, eff. Sept. 1, 1999.

**Sec. 252.006. AUTHORITY WITH WHOM APPOINTMENT FILED: SPECIFIC-PURPOSE COMMITTEE FOR SUPPORTING OR OPPOSING CANDIDATE OR ASSISTING OFFICEHOLDER.** A specific-purpose committee for supporting or opposing a candidate or assisting an officeholder must file its campaign treasurer appointment with the same authority as the appointment for candidacy for the office.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 252.007. AUTHORITY WITH WHOM APPOINTMENT FILED: SPECIFIC-PURPOSE COMMITTEE FOR SUPPORTING OR OPPOSING MEASURE.** A specific-purpose committee for supporting or opposing a measure must file its campaign treasurer appointment with:

- (1) the commission, if the measure is to be submitted to voters of the entire state;
- (2) the county clerk, if the measure is to be submitted to voters of a single county in an election ordered by a county authority;
- (3) the secretary of the governing body of the political subdivision or, if the political subdivision has no secretary, with the governing body's presiding officer, if the measure is to be submitted at an election ordered by an authority of a political subdivision other than a county;
- (4) the county clerk if:
  - (A) the measure concerns a political subdivision other than a county;
  - (B) the governing body for the political subdivision has not been formed; and
  - (C) no boundary of the political subdivision crosses a boundary of a county; or
- (5) the commission if:
  - (A) the measure concerns a political subdivision other than a county;
  - (B) the governing body for the political subdivision has not been formed; and
  - (C) the political subdivision is situated in more than one county.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.08, eff. Aug. 30, 1993.

**Sec. 252.008. MULTIPLE FILINGS BY SPECIFIC-PURPOSE COMMITTEE NOT REQUIRED.** If under this chapter a specific-purpose committee is required to file its campaign treasurer appointment with more than one authority, the

appointment need only be filed with the commission and, if so filed, need not be filed with the other authorities.  
Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.09, eff. Aug. 30, 1993.

**Sec. 252.009. AUTHORITY WITH WHOM APPOINTMENT FILED: GENERAL-PURPOSE COMMITTEE.** A general-purpose committee must file its campaign treasurer appointment with the commission.  
Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.10, eff. Aug. 30, 1993.

**Sec. 252.010. TRANSFER OF APPOINTMENT.** (a) If a candidate who has filed a campaign treasurer appointment decides to seek a different office that would require the appointment to be filed with another authority, a copy of the appointment certified by the authority with whom it was originally filed must be filed with the other authority in addition to the new campaign treasurer appointment.

(b) The original appointment terminates on the filing of the copy with the appropriate authority or on the 10th day after the date the decision to seek a different office is made, whichever is earlier.  
Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 252.011. TIME APPOINTMENT TAKES EFFECT; PERIOD OF EFFECTIVENESS.** (a) A campaign treasurer appointment takes effect at the time it is filed with the authority specified by this chapter.

(b) A campaign treasurer appointment continues in effect until terminated.  
Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 252.012. REMOVAL OF CAMPAIGN TREASURER.** (a) A campaign treasurer appointed under this chapter may be removed at any time by the appointing authority by filing the written appointment of a successor in the same manner as the original appointment.

(b) The appointment of a successor terminates the appointment of the campaign treasurer who is removed.

(c) If the campaign treasurer of a specific-purpose political committee required to file its campaign treasurer appointment with the commission or of a general-purpose political committee is removed by the committee, the departing campaign treasurer shall immediately file written notification of the termination of appointment with the commission.  
Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.11, eff. Aug. 30, 1993.

**Sec. 252.013. TERMINATION OF APPOINTMENT ON VACATING POSITION.** (a) If a campaign treasurer resigns or otherwise vacates the position, the appointment is terminated at the time the vacancy occurs.

(b) A campaign treasurer who vacates the treasurer's position shall immediately notify the appointing authority in writing of the vacancy.

(c) If the campaign treasurer of a specific-purpose political committee required to file its campaign treasurer appointment with the commission or of a general-purpose political committee resigns or otherwise vacates the position, the campaign treasurer shall immediately file written notification of the vacancy with the commission.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.12, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 239, eff. Sept. 1, 1997.

**Sec. 252.0131. TERMINATION OF CAMPAIGN TREASURER APPOINTMENT.** (a) The commission by rule shall adopt a process by which the commission may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the commission. The governing body of a political subdivision by ordinance or order may adopt a process by which the clerk or secretary, as applicable, of the political subdivision may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the clerk or secretary. For purposes of this section, a candidate or political committee is inactive if the candidate or committee:

(1) has never filed or has ceased to file reports under Chapter 254;

(2) in the case of a candidate, has not been elected to an office for which a candidate is required to file a campaign treasurer appointment with the authority who is seeking to terminate the candidate's campaign treasurer appointment; and

(3) has not filed:

(A) a final report under Section 254.065 or 254.125; or

(B) a dissolution report under Section 254.126 or 254.159.

(b) Before the commission may terminate a campaign treasurer appointment, the commission must consider the proposed termination in a regularly scheduled open meeting. Before the clerk or secretary of a political subdivision may terminate a campaign treasurer appointment, the governing body of the political subdivision must consider the proposed

termination in a regularly scheduled open meeting.

(c) Rules or an ordinance or order adopted under this section must:

(1) define "inactive candidate or political committee" for purposes of terminating the candidate's or committee's campaign treasurer appointment; and

(2) require written notice to the affected candidate or committee of:

(A) the proposed termination of the candidate's or committee's campaign treasurer appointment;

(B) the date, time, and place of the meeting at which the commission or governing body of the political subdivision, as applicable, will consider the proposed termination; and

(C) the effect of termination of the candidate's or committee's campaign treasurer appointment.

(d) The termination of a campaign treasurer appointment under this section takes effect on the 30th day after the date of the meeting at which the commission or governing body, as applicable, votes to terminate the appointment. Following that meeting, the commission or the clerk or secretary of the political subdivision, as applicable, shall promptly notify the affected candidate or political committee that the appointment has been terminated. The notice must state the effective date of the termination.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 2.04, eff. Sept. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 597 (H.B. 1863), Sec. 1, eff. June 17, 2005.

**Sec. 252.014. PRESERVATION OF FILED APPOINTMENTS.** The authority with whom a campaign treasurer appointment is filed under this chapter shall preserve the appointment for two years after the date the appointment is terminated. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 252.015. ASSISTANT CAMPAIGN TREASURER.** (a) Each specific-purpose committee for supporting or opposing a candidate for an office specified by Section 252.005(1) or a statewide or district measure and each general-purpose committee may appoint an assistant campaign treasurer by written appointment filed with the commission.

(b) In the campaign treasurer's absence, the assistant campaign treasurer has the same authority as a campaign treasurer.

(c) Sections 252.011, 252.012, 252.013, and 252.014 apply to the appointment and removal of an assistant campaign treasurer.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.13, eff. Aug. 30, 1993.

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## **CHAPTER 253. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES**

### **SUBCHAPTER A. GENERAL RESTRICTIONS**

**Sec. 253.001. CONTRIBUTION OR EXPENDITURE IN ANOTHER'S NAME PROHIBITED.** (a) A person may not knowingly make or authorize a political contribution in the name of or on behalf of another unless the person discloses in writing to the recipient the name and address of the person actually making the contribution in order for the recipient to make the proper disclosure.

(b) A person may not knowingly make or authorize a political expenditure in the name of or on behalf of another unless the person discloses in writing to the person on whose behalf the expenditure is made the name and address of the person actually making the expenditure in order for the person on whose behalf the expenditure is made to make the proper disclosure.

(c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1134, Sec. 3, eff. Sept. 1, 1997.

**Sec. 253.003. UNLAWFULLY MAKING OR ACCEPTING CONTRIBUTION.** (a) A person may not knowingly make a political contribution in violation of this chapter.

(b) A person may not knowingly accept a political contribution the person knows to have been made in violation of this chapter.

(c) This section does not apply to a political contribution made or accepted in violation of Subchapter F.

(d) Except as provided by Subsection (e), a person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

(e) A violation of Subsection (a) or (b) is a felony of the third degree if the contribution is made in violation of Subchapter D.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 763, Sec. 2, eff. June 16, 1995.

**Sec. 253.004. UNLAWFULLY MAKING EXPENDITURE.** (a) A person may not knowingly make or authorize a political expenditure in violation of this chapter.

(b) This section does not apply to a political expenditure made or authorized in violation of Subchapter F.

(c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 763, Sec. 2, eff. June 16, 1995.

**Sec. 253.005. EXPENDITURE FROM UNLAWFUL CONTRIBUTION.** (a) A person may not knowingly make or authorize a political expenditure wholly or partly from a political contribution the person knows to have been made in violation of this chapter.

(b) This section does not apply to a political expenditure that is:

(1) prohibited by Section 253.101; or

(2) made from a political contribution made in violation of Subchapter F.

(c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 763, Sec. 2, eff. June 16, 1995.

**Sec. 253.006. CERTAIN CONTRIBUTIONS AND EXPENDITURES BY LOBBYISTS RESTRICTED.**

Notwithstanding any other provision of law, a person required to register under Chapter 305, Government Code, may not knowingly make or authorize a political contribution or political expenditure that is a political contribution to another candidate, officeholder, or political committee, or direct campaign expenditure, from political contributions accepted by:

(1) the person as a candidate or officeholder;

(2) a specific-purpose committee for the purpose of supporting the person as a candidate or assisting the person as an officeholder; or

(3) a political committee that accepted a political contribution from a source described by Subdivision (1) or (2) during the two-year period immediately before the date the political contribution or expenditure was made.

Added by H.B. 2677, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 27, 2019.

**Sec. 253.007. PROHIBITION ON LOBBYING BY PERSON MAKING OR AUTHORIZING CERTAIN POLITICAL CONTRIBUTIONS AND DIRECT CAMPAIGN EXPENDITURES.** (a) In this section, "administrative action," "communicates directly with," "legislation," "member of the executive branch," and "member of the legislative branch" have



the meanings assigned by Section 305.002, Government Code.

(b) Notwithstanding any other provision of law and except as provided by Subsection (c), a person who knowingly makes or authorizes a political contribution or political expenditure that is a political contribution to another candidate, officeholder, or political committee, or direct campaign expenditure, from political contributions accepted by the person as a candidate or officeholder may not engage in any activities that require the person to register under Chapter 305, Government Code, during the two-year period after the date the person makes or authorizes the political contribution or direct campaign expenditure.

(c) Subsection (b) does not apply to a person who:

(1) communicates directly with a member of the legislative or executive branch only to influence legislation or administrative action on behalf of:

(A) a nonprofit organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code;

(B) a group of low-income individuals; or

(C) a group of individuals with disabilities; and

(2) does not receive compensation other than reimbursement for actual expenses for engaging in communication described by Subdivision (1).

Added by H.B. 2677, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 27, 2019.

## **SUBCHAPTER B. CANDIDATES, OFFICEHOLDERS, AND POLITICAL COMMITTEES**

### **Sec. 253.031. CONTRIBUTION AND EXPENDITURE WITHOUT CAMPAIGN TREASURER PROHIBITED.** (a)

A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect.

(b) A political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect.

(c) A political committee may not knowingly make or authorize a campaign contribution or campaign expenditure supporting or opposing a candidate for an office specified by Section 252.005(1) in a primary or general election unless the committee's campaign treasurer appointment has been filed not later than the 30th day before the appropriate election day.

(d) This section does not apply to a political party's county executive committee that accepts political contributions or makes political expenditures, except that:

(1) a county executive committee that accepts political contributions or makes political expenditures shall maintain the records required by Section 254.001; and

(2) a county executive committee that accepts political contributions or makes political expenditures that, in the aggregate, exceed \$25,000 in a calendar year shall file:

(A) a campaign treasurer appointment as required by Section 252.001 not later than the 15th day after the date that amount is exceeded; and

(B) the reports required by Subchapter F, Chapter 254, including in the political committee's first report all political contributions accepted and all political expenditures made before the effective date of the campaign treasurer appointment.

(e) This section does not apply to an out-of-state political committee unless the committee is subject to Chapter 252 under Section 251.005.

(f) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.04, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 531, Sec. 2, eff. Sept. 1, 1993; Acts 2005, 79th Leg., Ch. 1079 (H.B. 1647), Sec. 1, eff. June 18, 2005.

**Sec. 253.032. LIMITATION ON CONTRIBUTION BY OUT-OF-STATE COMMITTEE.** (a) In a reporting period, a candidate, officeholder, or political committee may not knowingly accept political contributions totaling more than \$500 from an out-of-state political committee unless, before accepting a contribution that would cause the total to exceed \$500, the candidate, officeholder, or political committee, as applicable, receives from the out-of-state committee:

(1) a written statement, certified by an officer of the out-of-state committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state committee during the 12 months immediately preceding the date of the contribution; or

(2) a copy of the out-of-state committee's statement of organization filed as required by law with the Federal

Election Commission and certified by an officer of the out-of-state committee.

(b) This section does not apply to a contribution from an out-of-state political committee if the committee appointed a campaign treasurer under Chapter 252 before the contribution was made and is subject to the reporting requirements of Chapter 254.

(c) A person who violates Subsection (a) commits an offense. An offense under this section is a Class A misdemeanor.

(d) A candidate, officeholder, or political committee shall include the statement or copy required by Subsection (a) as a part of the report filed under Chapter 254 that covers the reporting period to which Subsection (a) applies.

(e) A candidate, officeholder, or political committee that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report filed under Chapter 254 that covers the reporting period in which the contribution is accepted:

(1) the same information for the out-of-state political committee required for general-purpose committees by Sections 252.002 and 252.003; or

(2) a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 996, Sec. 7, eff. Sept. 1, 1995.

**Sec. 253.033. CASH CONTRIBUTIONS EXCEEDING \$100 PROHIBITED.** (a) A candidate, officeholder, or specific-purpose committee may not knowingly accept from a contributor in a reporting period political contributions in cash that in the aggregate exceed \$100.

(b) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.034. RESTRICTIONS ON CONTRIBUTIONS DURING AND FOLLOWING REGULAR LEGISLATIVE SESSION.** (a) During the period beginning on the 30th day before the date a regular legislative session convenes and continuing through the 20th day after the date of final adjournment, a person may not knowingly make a political contribution to:

(1) a statewide officeholder;

(2) a member of the legislature; or

(3) a specific-purpose committee for supporting, opposing, or assisting a statewide officeholder or member of the legislature.

(b) A statewide officeholder, a member of the legislature, or a specific-purpose committee for supporting, opposing, or assisting a statewide officeholder or member of the legislature may not knowingly accept a political contribution, and shall refuse a political contribution that is received, during the period prescribed by Subsection (a). A political contribution that is received and refused during that period shall be returned to the contributor not later than the 30th day after the date of receipt. A contribution made by United States mail or by common or contract carrier is not considered received during that period if it was properly addressed and placed with postage or carrier charges prepaid or prearranged in the mail or delivered to the contract carrier before the beginning of the period. The date indicated by the post office cancellation mark or the common or contract carrier documents is considered to be the date the contribution was placed in the mail or delivered to the common or contract carrier unless proven otherwise.

(c) This section does not apply to a political contribution that was made and accepted with the intent that it be used:

(1) in an election held or ordered during the period prescribed by Subsection (a) in which the person accepting the contribution is a candidate if the contribution was made after the person appointed a campaign treasurer with the appropriate authority and before the person was sworn in for that office;

(2) to defray expenses incurred in connection with an election contest; or

(3) by a person who holds a state office or a member of the legislature if the person or member was defeated at the general election held immediately before the session is convened or by a specific-purpose political committee that supports or assists only that person or member.

(d) This section does not apply to a political contribution made to or accepted by a holder of an office to which Subchapter F applies.

(e) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.05, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 1134, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 249, Sec. 2.05, 2.06, eff. Sept. 1, 2003; Acts 2009, 81st Leg., R.S., Ch. 426 (H.B. 2065), Sec. 1, eff. September 1, 2009.

**Sec. 253.0341. RESTRICTIONS ON CONTRIBUTIONS TO LEGISLATIVE CAUCUSES DURING AND**

**FOLLOWING REGULAR LEGISLATIVE SESSION.** (a) During the period beginning on the 30th day before the date a regular legislative session convenes and continuing through the 20th day after the date of final adjournment, a person not a member of the caucus may not knowingly make a contribution to a legislative caucus.

(b) A legislative caucus may not knowingly accept from a nonmember a contribution, and shall refuse a contribution from a nonmember that is received, during the period prescribed by Subsection (a). A contribution that is received and refused during that period shall be returned to the contributor not later than the 30th day after the date of receipt. A contribution made by United States mail or by common or contract carrier is not considered received during that period if it was properly addressed and placed with postage or carrier charges prepaid or prearranged in the mail or delivered to the contract carrier before the beginning of the period. The date indicated by the post office cancellation mark or the common or contract carrier documents is considered to be the date the contribution was placed in the mail or delivered to the common or contract carrier unless proven otherwise.

(c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

(d) A person who knowingly makes or accepts a contribution in violation of this section is liable for damages to the state in the amount of triple the value of the unlawful contribution.

(e) In this section, "legislative caucus" means an organization that is composed exclusively of members of the legislature, that elects or appoints officers and recognizes identified legislators as members of the organization, and that exists for research and other support of policy development and interests that the membership hold in common. The term includes an entity established by or for a legislative caucus to conduct research, education, or any other caucus activity. An organization whose only nonlegislator members are the lieutenant governor or the governor remains a "legislative caucus" for purposes of this section.

Added by Acts 1995, 74th Leg., ch. 43, Sec. 1, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 5, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 249, Sec. 2.07, 2.08, eff. Sept. 1, 2003; Acts 2009, 81st Leg., R.S., Ch. 426 (H.B. 2065), Sec. 2, eff. Sept. 1, 2009.

**Sec. 253.035. RESTRICTIONS ON PERSONAL USE OF CONTRIBUTIONS.** (a) A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use.

(b) A specific-purpose committee that accepts a political contribution may not convert the contribution to the personal use of a candidate, officeholder, or former candidate or officeholder.

(c) The prohibitions prescribed by Subsections (a) and (b) include the personal use of an asset purchased with the contribution and the personal use of any interest and other income earned on the contribution.

(d) In this section, "personal use" means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. The term does not include:

(1) payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder, including payment of rent, utility, and other reasonable housing or household expenses incurred in maintaining a residence in Travis County by members of the legislature who do not ordinarily reside in Travis County, but excluding payments prohibited under Section 253.038; or

(2) payments of federal income taxes due on interest and other income earned on political contributions.

(e) Subsection (a) applies only to political contributions accepted on or after September 1, 1983. Subsection (b) applies only to political contributions accepted on or after September 1, 1987.

(f) A person who converts a political contribution to the person's personal use in violation of this section is civilly liable to the state for an amount equal to the amount of the converted contribution plus reasonable court costs.

(g) A specific-purpose committee that converts a political contribution to the personal use of a candidate, officeholder, or former candidate or officeholder in violation of this section is civilly liable to the state for an amount equal to the amount of the converted contribution plus reasonable court costs.

(h) Except as provided by Section 253.0351 or 253.042, a candidate or officeholder who makes political expenditures from the candidate's or officeholder's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if:

(1) the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made; and

(2) the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement.

(i) "Personal use" does not include the use of contributions for:

(1) defending a criminal action or prosecuting or defending a civil action brought by or against the person

in the person's status as a candidate or officeholder; or

(2) participating in an election contest or participating in a civil action to determine a person's eligibility to be a candidate for, or elected or appointed to, a public office in this state.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.06, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 996, Sec. 9, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 864, Sec. 240, eff. Sept. 1, 1997.

**Sec. 253.0351. LOANS FROM PERSONAL FUNDS.** (a) A candidate or officeholder who makes political expenditures from the candidate's or officeholder's personal funds may report the amount expended as a loan and may reimburse those personal funds from political contributions in the amount of the reported loan.

(b) Section 253.035(h) applies if the person does not report an amount as a loan as authorized by Subsection (a).

(c) A candidate or officeholder who deposits personal funds in an account in which political contributions are held shall report the amount of personal funds deposited as a loan and may reimburse the amount deposited as a loan from political contributions or unexpended personal funds deposited in the account. The reimbursement may not exceed the amount reported as a loan. Personal funds deposited in an account in which political contributions are held are subject to Section 253.035 and must be included in the reports of the total amount of political contributions maintained required by Sections 254.031(a)(8) and 254.0611(a).

Added by Acts 1995, 74th Leg., ch. 996, Sec. 8, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 241, eff. Sept. 1, 1997; Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 76.01, eff. Sept. 28, 2011.

**Sec. 253.036. OFFICEHOLDER CONTRIBUTIONS USED IN CONNECTION WITH CAMPAIGN.** An officeholder who lawfully accepts officeholder contributions may use those contributions in connection with the officeholder's campaign for elective office after appointing a campaign treasurer.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.037. RESTRICTIONS ON CONTRIBUTION OR EXPENDITURE BY GENERAL-PURPOSE COMMITTEE.** (a) Repealed by H.B. 3580, 86th Leg., Sec. 4, eff. Sept. 1, 2019.

(b) A general-purpose committee may not knowingly make a political contribution to another general-purpose committee unless the other committee is listed in the campaign treasurer appointment of the contributor committee.

(c) Repealed by H.B. 3580, 86th Leg., Sec. 4, eff. Sept. 1, 2019.

(d) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 531, Sec. 1, eff. Sept. 1, 1993; H.B. 3580, 86th Leg., Sec. 4, eff. Sept. 1, 2019.

**Sec. 253.038. PAYMENTS MADE TO PURCHASE REAL PROPERTY OR TO RENT CERTAIN REAL PROPERTY PROHIBITED.** (a) A candidate or officeholder or a specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not knowingly make or authorize a payment from a political contribution to purchase real property or to pay the interest on or principal of a note for the purchase of real property.

(a-1) A candidate or officeholder or a specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not knowingly make or authorize a payment from a political contribution for the rental or purchase of real property from:

(1) a person related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to the candidate or officeholder; or

(2) a business in which the candidate or officeholder or a person described by Subdivision (1) has a participating interest of more than 10 percent, holds a position on the governing body, or serves as an officer.

(b) A person who violates this section commits an offense. An offense under this subsection is a Class A misdemeanor.

(c) This section does not apply to a payment made in connection with real property that was purchased before January 1, 1992.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.07, eff. Jan. 1, 1992. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1087 (H.B. 3066), Sec. 1, eff. September 1, 2007; Acts 2007, 80th Leg., R.S., Ch. 1087 (H.B. 3066), Sec. 2, eff. Sept. 1, 2007.

**Sec. 253.039. CONTRIBUTIONS IN CERTAIN PUBLIC BUILDINGS PROHIBITED.** (a) A person may not knowingly make or authorize a political contribution while in the Capitol or a courthouse to:

(1) a candidate or officeholder;

(2) a political committee; or

(3) a person acting on behalf of a candidate, officeholder, or political committee.

(b) A candidate, officeholder, or political committee or a person acting on behalf of a candidate, officeholder, or political committee may not knowingly accept a political contribution, and shall refuse a political contribution that is received, in the Capitol or a courthouse.

(c) This section does not prohibit contributions made in the Capitol or a courthouse through the United States postal service or a common or contract carrier.

(d) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

(e) In this section, "courthouse" means any building owned by the state, a county, or a municipality, or an office or part of a building leased to the state, a county, or a municipality, in which a justice or judge sits to conduct court proceedings.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.07, eff. Jan. 1, 1992. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1219 (S.B. 1152), Sec. 1, eff. Sept. 1, 2009.

**Sec. 253.040. SEPARATE ACCOUNTS.** (a) Except as provided by Section 253.0351(c), each candidate or officeholder shall keep the person's campaign and officeholder contributions in one or more accounts that are separate from any other account maintained by the person.

(b) A person who violates this section commits an offense. An offense under this section is a Class B misdemeanor.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 2.09, eff. Sept. 1, 2003. Amended by: Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 76.02, eff. September 28, 2011.

**Sec. 253.041. RESTRICTIONS ON CERTAIN PAYMENTS.** (a) A candidate or officeholder or a specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not knowingly make or authorize a payment from a political contribution if the payment is made for personal services rendered by the candidate or officeholder or by the spouse or dependent child of the candidate or officeholder to:

(1) a business in which the candidate or officeholder has a participating interest of more than 10 percent, holds a position on the governing body of the business, or serves as an officer of the business; or

(2) the candidate or officeholder or the spouse or dependent child of the candidate or officeholder.

(b) A payment that is made from a political contribution to a business described by Subsection (a) and that is not prohibited by that subsection may not exceed the amount necessary to reimburse the business for actual expenditures made by the business.

(c) A person who violates this section commits an offense. An offense under this subsection is a Class A misdemeanor.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.07, eff. Jan. 1, 1992.

**Sec. 253.042. RESTRICTIONS ON REIMBURSEMENT OF PERSONAL FUNDS AND PAYMENTS ON CERTAIN LOANS.** (a) A candidate or officeholder who makes political expenditures from the candidate's or officeholder's personal funds may not reimburse those personal funds from political contributions in amounts that in the aggregate exceed the following amounts for each election in which the person's name appears on the ballot:

(1) for a statewide office other than governor, \$250,000; and

(2) for governor, \$500,000.

(b) A candidate or officeholder who accepts one or more political contributions in the form of loans, including an extension of credit or a guarantee of a loan or extension of credit, from one or more persons related to the candidate or officeholder within the second degree by affinity or consanguinity may not use political contributions to repay the loans in amounts that in the aggregate exceed the amount prescribed by Subsection (a).

(c) The total amount of both reimbursements and repayments made by a candidate or officeholder under this section may not exceed the amount prescribed by Subsection (a).

(d) A person who is both a candidate and an officeholder covered by Subsection (a) may reimburse the person's personal funds or repay loans from political contributions only in one capacity.

(e) This section does not prohibit the payment of interest on loans covered by this section at a commercially reasonable rate, except that interest on loans from a candidate's or officeholder's personal funds or on loans from the personal funds of any person related to the candidate or officeholder within the second degree by affinity or consanguinity is included in the amount prescribed by Subsection (a), (b), or (c).

(f) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

(g) The commission shall study possible restrictions on amounts of reimbursements under Subsection (a) in connection with the offices of state senator and state representative and shall make appropriate recommendations to the legislature on those matters.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.07, eff. Jan. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 242, eff. Sept. 1, 1997.

**Sec. 253.043. POLITICAL CONTRIBUTIONS USED IN CONNECTION WITH APPOINTIVE OFFICE.** A former candidate or former officeholder who lawfully accepts political contributions may use those contributions to make an expenditure to defray expenses incurred by the person in performing a duty or engaging in an activity in connection with an appointive office of a state board or commission.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 2.09, eff. Sept. 1, 2003.

## **SUBCHAPTER D. CORPORATIONS AND LABOR ORGANIZATIONS**

**Sec. 253.091. CORPORATIONS COVERED.** This subchapter applies only to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 2007, 80th Leg., R.S., Ch. 481 (H.B. 2492), Sec. 1, eff. September 1, 2007.

**Sec. 253.092. TREATMENT OF INCORPORATED POLITICAL COMMITTEE.** If a political committee the only principal purpose of which is accepting political contributions and making political expenditures incorporates for liability purposes only, the committee is not considered to be a corporation for purposes of this subchapter.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.093. CERTAIN ASSOCIATIONS COVERED.** (a) For purposes of this subchapter, the following associations, whether incorporated or not, are considered to be corporations covered by this subchapter: banks, trust companies, savings and loan associations or companies, insurance companies, reciprocal or interinsurance exchanges, railroad companies, cemetery companies, government-regulated cooperatives, stock companies, and abstract and title insurance companies.

(b) For purposes of this subchapter, the members of the associations specified by Subsection (a) are considered to be stockholders.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.094. CONTRIBUTIONS PROHIBITED.** (a) A corporation or labor organization may not make a political contribution that is not authorized by this subchapter.

(b) A corporation or labor organization may not make a political contribution in connection with a recall election, including the circulation and submission of a petition to call an election.

(c) A person who violates this section commits an offense. An offense under this section is a felony of the third degree.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 2011, 82nd Leg., R.S., Ch. 1009 (H.B. 2359), Sec. 1, eff. June 17, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1009 (H.B. 2359), Sec. 2, eff. June 17, 2011.

**Sec. 253.095. PUNISHMENT OF AGENT.** An officer, director, or other agent of a corporation or labor organization who commits an offense under this subchapter is punishable for the grade of offense applicable to the corporation or labor organization.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.096. CONTRIBUTION ON MEASURE.** A corporation or labor organization may make campaign contributions from its own property in connection with an election on a measure only to a political committee for supporting or opposing measures exclusively.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.097. CONTRIBUTION FROM CORPORATION OR LABOR ORGANIZATION.** A corporation or labor organization may make campaign contributions from its own property to a political committee that has filed an affidavit with the committee's campaign treasurer appointment in accordance with Section 252.003(a)(4) or 252.0031(a)(2).

Added by H.B. 2586, 86<sup>th</sup> Leg., Sec. 5, eff. Sept. 1, 2019.

**Sec. 253.098. COMMUNICATION WITH STOCKHOLDERS OR MEMBERS.** (a) A corporation or labor organization may make one or more direct campaign expenditures from its own property for the purpose of communicating directly with its stockholders or members, as applicable, or with the families of its stockholders or members.

(b) An expenditure under this section is not reportable under Chapter 254.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.099. NONPARTISAN VOTER REGISTRATION AND GET-OUT-THE-VOTE CAMPAIGNS.** (a) A corporation or labor organization may make one or more expenditures to finance nonpartisan voter registration and get-out-the-vote campaigns aimed at its stockholders or members, as applicable, or at the families of its stockholders or members.

(b) An expenditure under this section is not reportable under Chapter 254.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.100. EXPENDITURES FOR GENERAL-PURPOSE COMMITTEE.** (a) A corporation, acting alone or with one or more other corporations, may make one or more political expenditures to finance the establishment or administration of a general-purpose committee. In addition to any other expenditure that is considered permissible under this section, a corporation may make an expenditure for the maintenance and operation of a general-purpose committee, including an expenditure for:

- (1) office space maintenance and repairs;
- (2) telephone and Internet services;
- (3) office equipment;
- (4) utilities;
- (5) general office and meeting supplies;
- (6) salaries for routine clerical, data entry, and administrative assistance necessary for the proper administrative operation of the committee;
- (7) legal and accounting fees for the committee's compliance with this title;
- (8) routine administrative expenses incurred in establishing and administering a general-purpose political committee;
- (9) management and supervision of the committee, including expenses incurred in holding meetings of the committee's governing body to interview candidates and make endorsements relating to the committee's support;
- (10) the recording of committee decisions;
- (11) expenses incurred in hosting candidate forums in which all candidates for a particular office in an election are invited to participate on the same terms; or
- (12) expenses incurred in preparing and delivering committee contributions; or
- (13) creation and maintenance of the committee's public Internet web pages that do not contain political advertising.

(b) A corporation may make political expenditures, including fully or partially matching contributions to an organization that is exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, to finance the solicitation of political contributions to a general-purpose committee assisted under Subsection (a) from the stockholders, employees, or families of stockholders or employees of one or more corporations.

(c) A labor organization may engage in activity authorized for a corporation by this section. For purposes of this section, the members of a labor organization are considered to be corporate stockholders.

(d) A corporation or labor organization may not make expenditures under this section for:

- (1) political consulting to support or oppose a candidate;
- (2) telephoning or telephone banks to communicate with the public;
- (3) brochures and direct mail supporting or opposing a candidate;
- (4) partisan voter registration and get-out-the-vote drives;
- (5) political fund-raising other than from its stockholders or members, as applicable, or the families of its stockholders or members;
- (6) voter identification efforts, voter lists, or voter databases that include persons other than its stockholders or members, as applicable, or the families of its stockholders or members;
- (7) polling designed to support or oppose a candidate other than of its stockholders or members, as applicable, or the families of its stockholders or members; or
- (8) recruiting candidates.

(e) Subsection (d) does not apply to a corporation or labor organization making a campaign contribution to a political committee under Section 253.097 or an expenditure to communicate with its stockholders or members, as applicable, or with the families of its stockholders or members as provided by Section 253.098.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 249, Sec. 2.26, eff. Sept. 1, 2003; Acts 2009, 81st Leg., R.S., Ch. 1306 (H.B. 2525), Sec. 1, eff. June 19, 2009; H.B. 2586, 86<sup>th</sup> Leg., Sec. 6, eff. Sept. 1, 2019; H.B. 3044, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 253.101. UNLAWFUL CONTRIBUTION OR EXPENDITURE BY COMMITTEE.** (a) A political committee assisted by a corporation or labor organization under Section 253.100 may not make a political contribution or political

expenditure in whole or part from money that is known by a member or officer of the political committee to be dues, fees, or other money required as a condition of employment or condition of membership in a labor organization.

(a-1) Subsection (a) does not prohibit a political committee from making a political contribution or political expenditure wholly or partly from a campaign contribution made by a corporation or labor organization to the political committee under Section 253.096 or 253.097.

(b) A person who violates this section commits an offense. An offense under this section is a felony of the third degree.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; H.B. 2586, 86<sup>th</sup> Leg., Sec. 7, eff. Sept. 1, 2019.

**Sec. 253.102. COERCION PROHIBITED.** (a) A corporation or labor organization or a political committee assisted by a corporation or labor organization under Section 253.100 commits an offense if it uses or threatens to use physical force, job discrimination, or financial reprisal to obtain money or any other thing of value to be used to influence the result of an election or to assist an officeholder.

(b) A political committee assisted by a corporation or labor organization under Section 253.100 commits an offense if it accepts or uses money or any other thing of value that is known by a member or officer of the political committee to have been obtained in violation of Subsection (a).

(c) An offense under this section is a felony of the third degree.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.103. CORPORATE LOANS.** (a) A corporation may not make a loan to a candidate, officeholder, or political committee for campaign or officeholder purposes unless:

(1) the corporation has been legally and continuously engaged in the business of lending money for at least one year before the loan is made; and

(2) the loan is made in the due course of business.

(b) This section does not apply to a loan covered by Section 253.096.

(c) A person who violates this section commits an offense. An offense under this section is a felony of the third degree.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.104. CONTRIBUTION TO POLITICAL PARTY.** (a) A corporation or labor organization may make a contribution from its own property to a political party to be used as provided by Chapter 257.

(b) A corporation or labor organization may not knowingly make a contribution authorized by Subsection (a) during a period beginning on the 60th day before the date of a general election for state and county officers and continuing through the day of the election.

(c) A corporation or labor organization that knowingly makes a contribution in violation of this section commits an offense. An offense under this section is a felony of the third degree.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.08, eff. Jan. 1, 1992.

**Sec. 253.105. CONTRIBUTIONS TO DIRECT EXPENDITURE ONLY COMMITTEES.** (a) A corporation or labor organization may make a political contribution from its own property to a political committee that:

(1) is not established or controlled by a candidate or an officeholder;

(2) makes or intends to make direct campaign expenditures;

(3) does not make or intend to make political contributions to:

(A) a candidate;

(B) an officeholder;

(C) a specific-purpose committee established or controlled by a candidate or an officeholder; or

(D) a political committee that makes or intends to make political contributions to a candidate, an officeholder, or a specific-purpose committee established or controlled by a candidate or an officeholder; and

(4) has filed an affidavit with the commission stating the committee's intention to operate as described by Subdivisions (2) and (3).

(b) A political contribution made by a corporation or labor organization under this section does not constitute a violation of Section 253.094(a) and the acceptance of the political contribution does not constitute a violation of Section 253.003(b).

Added by H.B. 3580, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.



## SUBCHAPTER E. CIVIL LIABILITY

**Sec. 253.131. LIABILITY TO CANDIDATES.** (a) A person who knowingly makes or accepts a campaign contribution or makes a campaign expenditure in violation of this chapter is liable for damages as provided by this section.

(b) If the contribution or expenditure is in support of a candidate, each opposing candidate whose name appears on the ballot is entitled to recover damages under this section.

(c) If the contribution or expenditure is in opposition to a candidate, the candidate is entitled to recover damages under this section.

(d) In this section, "damages" means:

(1) twice the value of the unlawful contribution or expenditure; and

(2) reasonable attorney's fees incurred in the suit.

(e) Reasonable attorney's fees incurred in the suit may be awarded to the defendant if judgment is rendered in the defendant's favor.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.132. LIABILITY TO POLITICAL COMMITTEES.** (a) A corporation or labor organization that knowingly makes a campaign contribution to a political committee or a direct campaign expenditure in violation of Subchapter D is liable for damages as provided by this section to each political committee of opposing interest in the election in connection with which the contribution or expenditure is made.

(b) In this section, "damages" means:

(1) twice the value of the unlawful contribution or expenditure; and

(2) reasonable attorney's fees incurred in the suit.

(c) Reasonable attorney's fees incurred in the suit may be awarded to the defendant if judgment is rendered in the defendant's favor.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.133. LIABILITY TO STATE.** A person who knowingly makes or accepts a political contribution or makes a political expenditure in violation of this chapter is liable for damages to the state in the amount of triple the value of the unlawful contribution or expenditure.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 253.134. CIVIL PENALTIES IMPOSED BY COMMISSION.** This title does not prohibit the imposition of civil penalties by the commission in addition to criminal penalties or other sanctions imposed by law.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.09, eff. Jan. 1, 1992.

## SUBCHAPTER F. JUDICIAL CAMPAIGN FAIRNESS ACT

**Sec. 253.151. APPLICABILITY OF SUBCHAPTER.** This subchapter applies only to a political contribution or political expenditure in connection with the office of:

(1) chief justice or justice, supreme court;

(2) presiding judge or judge, court of criminal appeals;

(3) chief justice or justice, court of appeals;

(4) district judge;

(5) judge, statutory county court; or

(6) judge, statutory probate court.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995.

**Sec. 253.152. DEFINITIONS.** In this subchapter:

(1) "Child" means a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.

(2) "In connection with an election" means:

(A) with regard to a contribution that is designated in writing for a particular election, the election designated;

or

(B) with regard to a contribution that is not designated in writing for a particular election, the next election

for that office occurring after the contribution is made.

(3) "Judicial district" means the territory from which a judicial candidate is elected or appointed.

(4) "Law firm" means a partnership, limited liability partnership, limited liability company, professional corporation, or other entity organized for the practice of law.

(5) "Law firm group" means:

(A) a law firm;

(B) a general-purpose committee established or controlled by the law firm or a member of the law firm;

(C) a member of the law firm; and

(D) the spouse of a member of the law firm.

(6) "Member of a law firm" means:

(A) a person designated "of counsel" or "of the firm";

(B) a partner of the law firm, whether an individual or an entity;

(C) an associate of the law firm;

(D) a shareholder of the law firm, whether an individual or an entity; or

(E) an employee of the law firm.

(7) "Statewide judicial office" means the office of chief justice or justice, supreme court, or presiding judge or judge, court of criminal appeals.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by Acts 1997, 75th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1997; H.B. 3233, 86<sup>th</sup> Leg., Sec. 1, eff. June 2, 2019.

**Sec. 253.153. CONTRIBUTION PROHIBITED EXCEPT DURING ELECTION PERIOD.** (a) A judicial candidate or officeholder, a specific-purpose committee for supporting or opposing a judicial candidate, or a specific-purpose committee for assisting a judicial officeholder may not knowingly accept a political contribution except during the period:

(1) beginning on:

(A) the 210th day before the date an application for a place on the ballot or for nomination by convention for the office is required to be filed, if the election is for a full term; or

(B) the later of the 210th day before the date an application for a place on the ballot or for nomination by convention for the office is required to be filed or the date a vacancy in the office occurs, if the election is for an unexpired term; and

(2) ending on the 120th day after the date of the election in which the candidate or officeholder last appeared on the ballot, regardless of whether the candidate or officeholder has an opponent in that election.

(b) Subsection (a)(2) does not apply to a political contribution that was made and accepted with the intent that it be used to defray expenses incurred in connection with an election, including the repayment of any debt that is:

(1) incurred directly by the making of a campaign expenditure during the period beginning on the date the application for a place on the ballot or for nomination by convention was required to be filed for the election in which the candidate last appeared on the ballot and ending on the date of that election; and

(2) subject to the restrictions prescribed by Sections 253.162 and 253.1621.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1329, Sec. 2, eff. September 1, 2009.

(d) A person who violates this section is liable for a civil penalty not to exceed three times the amount of the political contributions accepted in violation of this section.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by Acts 1997, 75th Leg., ch. 479, Sec. 2, eff. Sept. 1, 1997; Acts 2009, 81st Leg., R.S., Ch. 1329 (H.B. 4060), Sec. 1, eff. September 1, 2009; Acts 2009, 81st Leg., R.S., Ch. 1329 (H.B. 4060), Sec. 2, eff. September 1, 2009.

**Sec. 253.154. WRITE-IN CANDIDACY.** (a) A write-in candidate for judicial office or a specific-purpose committee for supporting a write-in candidate for judicial office may not knowingly accept a political contribution before the candidate files a declaration of write-in candidacy.

(b) A person who violates this section is liable for a civil penalty not to exceed three times the amount of the political contributions accepted in violation of this section.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995.

**Sec. 253.1541. ACCEPTANCE OF POLITICAL CONTRIBUTIONS BY PERSON APPOINTED TO FILL VACANCY.** (a) This section applies only to a person appointed to fill a vacancy in an office covered by this subchapter who, at the time of appointment, does not hold another office covered by this subchapter.

(b) Notwithstanding Section 253.153, a person to whom this section applies may accept political contributions beginning on the date the person assumes the duties of office and ending on the 60th day after that date.

Added by Acts 1997, 75th Leg., ch. 552, Sec. 1, eff. Sept. 1, 1997. Amended by H.B. 3233, 86<sup>th</sup> Leg., Secs. 2-3, eff. June 2, 2019.

**Sec. 253.155. CONTRIBUTION LIMITS.** (a) A judicial candidate or officeholder may not, knowingly accept political contributions from a person that, in the aggregate, exceed the contribution limits prescribed by Subsection (b) in connection with each election in which the judicial candidate's name appears on the ballot.

(b) The contribution limits under this section are:

(1) for a statewide judicial office, \$5,000; or

(2) for any other judicial office:

(A) \$1,000, if the population of the judicial district is less than 250,000;

(B) \$2,500, if the population of the judicial district is 250,000 to one million; or

(C) \$5,000, if the population of the judicial district is more than one million.

(c) This section does not apply to a political contribution made by a general-purpose committee.

(d) Repealed by H.B. 3233, 86th Leg., Sec. 17, eff. June 2, 2019.

(d-1) In addition to the contribution limits imposed on each contributor under this section, a judicial candidate or officeholder may not accept a political contribution in excess of \$50 from a person if:

(1) the person is part of a law firm group; and

(2) the contribution, when aggregated with all political contributions accepted by the candidate or officeholder from the same law firm group in connection with the election, would exceed six times the applicable contribution limit under this section.

(e) A person who receives a political contribution that violates this section shall return the contribution to the contributor not later than the later of:

(1) the last day of the reporting period in which the contribution is received; or

(2) the fifth day after the date the contribution is received.

(f) A person who violates this section is liable for a civil penalty not to exceed three times the amount of the political contributions accepted in violation of this section.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by Acts 1997, 75th Leg., ch. 479, Sec. 3, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1096, Sec. 2, eff. Sept. 1, 2003; H.B. 3233, 86th Leg., Secs. 4 and 17, eff. June 2, 2019.

**Sec. 253.157. LIMIT ON CONTRIBUTION BY GENERAL PURPOSE COMMITTEES.** (a) Repealed by H.B. 3233, 86th Leg., Sec. 17., eff. June 2, 2019.

(a-1) A judicial candidate or officeholder may not knowingly accept political contributions from a general-purpose committee that, in the aggregate, exceed the contribution limits prescribed by this subsection in connection with an election in which the judicial candidate's name appears on the ballot. The contribution limits under this subsection are:

(1) for a statewide judicial office, \$25,000; or

(2) for any other judicial office, \$5,000.

(a-2) In addition to the contribution limits imposed on each contribution in Subsection (a-1), a judicial candidate or officeholder may not accept a political contribution in excess of \$50 from a general-purpose committee if the contribution, when aggregated with all political contributions from all general-purpose committees in connection with an election, would exceed:

(1) for a statewide judicial office, \$300,000;

(2) for the office of chief justice or justice, court of appeals:

(A) \$75,000, if the population of the judicial district is more than one million; or

(B) \$52,500, if the population of the judicial district is one million or less; or

(3) for an office other than an office included under Subdivision (1) or (2):

(A) \$52,500, if the population of the judicial district is more than one million;

(B) \$30,000, if the population of the judicial district is 250,000 to one million; or

(C) \$15,000, if the population of the judicial district is less than 250,000.

(b) A person who receives a political contribution that violates this section shall return the contribution to the contributor not later than the later of:

(1) the last day of the reporting period in which the contribution is received; or

(2) the fifth day after the date the contribution is received.

(c) A person who violates this section is liable for a civil penalty not to exceed three times the amount of the political contributions accepted in violation of this section.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by Acts 1997, 75th Leg., ch. 479, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 552, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 5.16, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1096, Sec. 3, eff. Sept. 1, 2003; H.B. 3233, 86th Leg., Secs. 5, 6, and 17, eff. June 2, 2019.

**Sec. 253.158. CONTRIBUTION BY SPOUSE OR CHILD.** (a) For purposes of this subchapter, a contribution by the spouse of an individual is not considered to be a contribution by the individual.

(b) For purposes of this subchapter, a contribution by a child of an individual is considered to be a contribution by the individual.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by H.B. 3233, 86<sup>th</sup> Leg., Sec. 7, eff. June 2, 2019.

**Sec. 253.159. EXCEPTION TO CONTRIBUTION LIMITS.** Section 253.155 does not apply to an individual who is related to the candidate or officeholder within the second degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by H.B. 3233, 86<sup>th</sup> Leg., Sec. 7, eff. June 2, 2019.

**Sec. 253.1601. CONTRIBUTION TO CERTAIN COMMITTEES CONSIDERED CONTRIBUTION TO CANDIDATE OR OFFICEHOLDER.** For purposes of Sections 253.155 and 253.157, a contribution to a specific-purpose committee for the purpose of supporting a judicial candidate, opposing the candidate's opponent, or assisting a judicial officeholder is considered to be a contribution to the candidate or officeholder.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Renumbered from Election Code Sec. 253.156 and amended by Acts 1997, 75th Leg., ch. 479, Sec. 4, eff. Sept. 1, 1997. Amended by H.B. 3233, 86<sup>th</sup> Leg., Sec. 7, eff. June 2, 2019.

**Sec. 253.161. USE OF CONTRIBUTION FROM NONJUDICIAL OR JUDICIAL OFFICE PROHIBITED.** (a) A judicial candidate or officeholder, a specific-purpose committee for supporting or opposing a judicial candidate, or a specific-purpose committee for assisting a judicial officeholder may not use a political contribution to make a campaign expenditure for judicial office or to make an officeholder expenditure in connection with a judicial office if the contribution was accepted while the candidate or officeholder:

(1) was a candidate for an office other than a judicial office and the contribution was made in connection with an election for judicial office; or

(2) held an office other than a judicial office, unless the person had become a candidate for judicial office.

(b) A candidate, officeholder, or specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not use a political contribution to make a campaign expenditure for an office other than a judicial office or to make an officeholder expenditure in connection with an office other than a judicial office if the contribution was accepted while the candidate or officeholder:

(1) was a candidate for a judicial office; or

(2) held a judicial office, unless the person had become a candidate for another office and the contribution was made in connection with an election for nonjudicial office.

(c) Repealed by H.B. 3233, 86<sup>th</sup> Leg., Sec. 17, eff. June 2, 2019.

(d) A person who violates this section is liable for a civil penalty not to exceed three times the amount of political contributions used in violation of this section.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by H.B. 3233, 86<sup>th</sup> Leg., Secs. 8 and 17, eff. June 2, 2019.

**Sec. 253.1611. CERTAIN CONTRIBUTIONS BY JUDICIAL CANDIDATES, OFFICEHOLDERS, AND COMMITTEES RESTRICTED.** (a) A judicial candidate or officeholder or a specific-purpose committee for supporting or opposing a judicial candidate or assisting a judicial officeholder may not use a political contribution to knowingly make political contributions that in the aggregate exceed \$100 in a calendar year to a candidate or officeholder.

(b) A judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make political contributions to a political committee in connection with a primary election.

(c) A judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in connection with a general election, exceeds \$500.

(d) A judicial officeholder or a specific-purpose committee for assisting a judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250.

(e) This section does not apply to a political contribution made to the principal political committee of the state executive committee or a county executive committee of a political party that provides goods or services, including political advertising or a campaign communication, to or for the benefit of judicial candidates.

(e-1) This subsection applies only to a political party required to nominate candidates by primary election. This section does not apply to a political contribution made, for the purpose of sponsoring or attending an event, to a political committee affiliated with:

(1) an organization that has been designated as an auxiliary, coalition, or county chair association of a political party as provided by political party rule or state executive committee bylaw; or

(2) a local chapter of an organization described by Subdivision (1).

(f) Repealed by H.B. 3903, 85th Leg., R.S., Sec. 2, eff. Sept. 1, 2017.

(g) A person who violates this section is liable for a civil penalty not to exceed three times the amount of political contributions used in violation of this section.

Added by Acts 1997, 75th Leg., ch. 479, Sec. 7, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 937, Sec. 1, eff. Sept. 1, 2001; H.B. 3903, 85th Leg., R.S., Sec. 1, eff. Sept. 1, 2017.

**Sec. 253.1612. CERTAIN CAMPAIGN ACTIVITIES AUTHORIZED.** The Code of Judicial Conduct may not prohibit, and a judicial candidate may not be penalized for, a joint campaign activity conducted by two or more judicial candidates.

Added by H.B. 3233, 86th Leg., Sec. 9, eff. June 2, 2019.

**Sec. 253.162. RESTRICTIONS ON REIMBURSEMENT OF PERSONAL FUNDS AND PAYMENTS ON CERTAIN LOANS.** (a) A judicial candidate or officeholder who makes political expenditures from the person's personal funds or who accepts one or more political contributions in the form of a loan, including an extension of credit or guarantee of a loan or extension of credit, from one or more persons related to the candidate or officeholder within the second degree of affinity or consanguinity, as determined under Subchapter B, Chapter 573, Government Code, may not reimburse those personal funds or repay those loans from political contributions in amounts that in the aggregate exceed, for each election in which the person's name appears on the ballot:

(1) for a statewide judicial office, \$100,000; or

(2) for an office other than a statewide judicial office, five times the applicable contribution limit under Section 253.155.

(b) Repealed by H.B. 3233, 86th Leg., Sec. 17, eff. June 2, 2019.

(c) A person who is both a candidate and an officeholder may reimburse the person's personal funds in only one capacity.

(d) A person who violates this section is liable for a civil penalty not to exceed three times the amount by which the reimbursement made in violation of this section exceeds the applicable limit prescribed by Subsection (a).

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by Acts 2003, 78th Leg., ch. 1096, Sec. 5, eff. Sept. 1, 2003; H.B. 3233, 86th Leg., Secs. 10 and 17, eff. June 2, 2019.

**Sec. 253.1621. APPLICATION OF CONTRIBUTION AND REIMBURSEMENT LIMITS TO CERTAIN CANDIDATES.** (a) For purposes of the contribution limits prescribed by Section 253.155 or 253.157 and the limit on reimbursement of personal funds and repayment of certain loans prescribed by Section 253.162, the general and primary elections are considered separate elections for a candidate whose name appears on the ballot.

(b) For purposes of the contribution limit prescribed by Sections 253.155 and 253.157 and the limits on reimbursement of personal funds and repayment of certain loans prescribed by Section 253.162, a runoff election in which the candidate's name is on the ballot is considered a separate election.

Added by Acts 2003, 78th Leg., ch. 1096, Sec. 1, eff. Sept. 1, 2003. Amended by H.B. 3233, 86th Leg., Sec. 10, eff. June 2, 2019.

**Sec. 253.167. CERTIFICATION OF POPULATION; NOTICE OF CONTRIBUTION LIMITS.** (a) For purposes of this subchapter only, not later than June 1 of each odd-numbered year, the commission shall:

(1) make a written certification of the population of each judicial district for which a candidate for judge or justice must file a campaign treasurer appointment with the commission; and

(2) deliver to the county clerk of each county a written certification of the county's population, if the county:

(A) comprises an entire judicial district under Chapter 26, Government Code; or

(B) has a statutory county court or statutory probate court, other than a multicounty statutory county court created under Subchapter D, Chapter 25, Government Code.

(b) Following certification of population under Subsection (a), the commission or county clerk, as appropriate, shall make available to each candidate for an office covered by this subchapter written notice of the contribution limits applicable to the office the candidate seeks.

(c) The commission shall post the written certification required by this section on the commission's Internet website.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 40, eff. September

1, 2011; H.B. 3233, 86<sup>th</sup> Leg., Secs. 12-13, eff. June 2, 2019.

**Sec. 253.171. CONTRIBUTION FROM OR DIRECT CAMPAIGN EXPENDITURE BY POLITICAL PARTY.** (a) A political expenditure that is made by the principal political committee of the state executive committee or a county executive committee of a political party for a generic get-out-the-vote campaign or to create and distribute a written list of two or more candidates is not considered a contribution to a judicial candidate who benefits from the get-out-the-vote campaign or is included in the written list and is not subject to the limits of Section 253.155 or 253.157 if the get-out-the-vote campaign or written list:

- (1) identifies the party's candidates by name and office sought, office held, or photograph;
- (2) does not include any reference to the judicial philosophy or positions on issues of the party's judicial candidates; and
- (3) is not broadcast, cablecast, published in a newspaper or magazine, or placed on a billboard.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by H.B. 3233, 86<sup>th</sup> Leg., Sec. 14, eff. June 2, 2019.

**Sec. 253.176. CIVIL PENALTY.** (a) The commission may impose a civil penalty against a person as provided by this subchapter only after a formal hearing as provided by Subchapter E, Chapter 571, Government Code.

(b) The commission shall base the amount of the penalty on:

- (1) the seriousness of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter future violations; and
- (4) any other matter that justice may require.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 1, eff. June 16, 1995. Amended by H.B. 3233, 86<sup>th</sup> Leg., Secs. 15 and 17, eff. June 2, 2019.

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## **CHAPTER 254. POLITICAL REPORTING**

### **SUBCHAPTER A. RECORDKEEPING**

**Sec. 254.001. RECORDKEEPING REQUIRED.** (a) Each candidate and each officeholder shall maintain a record of all reportable activity.

(b) Each campaign treasurer of a political committee shall maintain a record of all reportable activity.

(c) The record must contain the information that is necessary for filing the reports required by this chapter.

(d) A person required to maintain a record under this section shall preserve the record for at least two years beginning on the filing deadline for the report containing the information in the record.

(e) A person who violates this section commits an offense. An offense under this section is a Class B misdemeanor. Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

### **SUBCHAPTER B. POLITICAL REPORTING GENERALLY**

**Sec. 254.031. GENERAL CONTENTS OF REPORTS.** (a) Except as otherwise provided by this chapter, each report filed under this chapter must include:

(1) the amount of political contributions, other than political contributions described by Subdivision (1-a), from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions;

(1-a) the amount of political contributions from each person that are made electronically and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions;

(2) the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period;

(3) the amount of political expenditures that in the aggregate exceed \$100 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures;

(4) the amount of each payment made during the reporting period from a political contribution if the payment is not a political expenditure, the full name and address of the person to whom the payment is made, and the date and purpose of the payment;

(5) the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period;

(6) the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period;

(7) the name of each candidate or officeholder who benefits from a direct campaign expenditure made during the reporting period by the person or committee required to file the report, and the office sought or held, excluding a direct campaign expenditure that is made by the principal political committee of a political party on behalf of a slate of two or more nominees of that party;

(8) as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period;

(9) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$100;

(10) any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$100;

(11) any investment purchased with a political contribution that is received during the reporting period and



the amount of which exceeds \$100;

(12) any other gain from a political contribution that is received during the reporting period and the amount of which exceeds \$100; and

(13) the full name and address of each person from whom an amount described by Subdivision (9), (10), (11), or (12) is received, the date the amount is received, and the purpose for which the amount is received.

(a-1) A de minimis error in calculating or reporting a cash balance under Subsection (a)(8) is not a violation of this section.

(b) If no reportable activity occurs during a reporting period, the person required to file a report shall indicate that fact in the report.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.10, eff. Jan. 1, 1992; Acts 2003, 78th Leg., ch. 249, Sec. 2.091, eff. Sept. 1, 2003; Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 76.03, eff. September 28, 2011.

**Sec. 254.0311. REPORT BY LEGISLATIVE CAUCUS.** (a) A legislative caucus shall file a report of contributions and expenditures as required by this section.

(b) A report filed under this section must include:

(1) the amount of contributions from each person, other than a caucus member, that in the aggregate exceed \$50 and that are accepted during the reporting period by the legislative caucus, the full name and address of the person making the contributions, and the dates of the contributions;

(2) the amount of loans that are made during the reporting period to the legislative caucus and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period;

(3) the amount of expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures;

(4) the total amount or a specific listing of contributions of \$50 or less accepted from persons other than caucus members and the total amount or a specific listing of expenditures of \$50 or less made during the reporting period; and

(5) the total amount of all contributions accepted, including total contributions from caucus members, and the total amount of all expenditures made during the reporting period.

(c) If no reportable activity occurs during a reporting period, the legislative caucus shall indicate that fact in the report.

(d) A legislative caucus shall file with the commission two reports for each year.

(e) The first report shall be filed not later than July 15. The report covers the period beginning January 1 or the day the legislative caucus is organized, as applicable, and continuing through June 30.

(f) The second report shall be filed not later than January 15. The report covers the period beginning July 1 or the day the legislative caucus is organized, as applicable, and continuing through December 31.

(g) A legislative caucus shall maintain a record of all reportable activity under this section and shall preserve the record for at least two years beginning on the filing deadline for the report containing the information in the record.

(h) In this section, "legislative caucus" has the meaning assigned by Section 253.0341.

Added by Acts 1995, 74th Leg., ch. 43, Sec. 2, eff. Aug. 28, 1995.

**Sec. 254.0312. BEST EFFORTS.** (a) A person required to file a report under this chapter is considered to be in compliance with Section 254.0612, 254.0912, or 254.1212 only if the person or the person's campaign treasurer shows that the person has used best efforts to obtain, maintain, and report the information required by those sections. A person is considered to have used best efforts to obtain, maintain, and report that information if the person or the person's campaign treasurer complies with this section.

(b) Each written solicitation for political contributions from an individual must include:

(1) a clear request for the individual's full name and address, the individual's principal occupation or job title, and the full name of the individual's employer; and

(2) an accurate statement of state law regarding the collection and reporting of individual contributor information, such as:

(A) "State law requires (certain candidates, officeholders, or political committees, as applicable) to use best efforts to collect and report the full name and address, principal occupation or job title, and full name

of employer of individuals whose contributions equal or exceed \$500 in a reporting period."; or

(B) "To comply with state law, (certain candidates, officeholders, or political committees, as applicable) must use best efforts to obtain, maintain, and report the full name and address, principal occupation or job title, and full name of employer of individuals whose contributions equal or exceed \$500 in a reporting period."

(c) For each political contribution received from an individual that, when aggregated with all other political contributions received from the individual during the reporting period, equals or exceeds \$500 and for which the information required by Section 254.0612, 254.0912, or 254.1212 is not provided, the person must make at least one oral or written request for the missing information. A request under this subsection:

- (1) must be made not later than the 30th day after the date the contribution is received;
- (2) must include a clear and conspicuous statement that complies with Subsection (b);
- (3) if made orally, must be documented in writing; and
- (4) may not be made in conjunction with a solicitation for an additional political contribution.

(d) A person must report any information required by Section 254.0612, 254.0912, or 254.1212 that is not provided by the individual making the political contribution and that the person has in the person's records of political contributions or previous reports under this chapter.

(e) A person who receives information required by Section 254.0612, 254.0912, or 254.1212 after the filing deadline for the report on which the contribution is reported must include the missing information on the next report the person is required to file under this chapter.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 2.10, eff. Sept. 1, 2003.

**Sec. 254.0313. OMISSION OF ADDRESS FOR JUDGE AND FAMILY MEMBER.** (a) In this section, "family member" has the meaning assigned by Section 31.006, Finance Code.

(b) On receiving notice from the Office of Court Administration of the Texas Judicial System of a judge's qualification for office or on receipt of a written request from a federal judge, including a federal bankruptcy judge, a state judge, or family member of a federal judge, including a federal bankruptcy judge, or a state judge, the commission shall remove or redact the residence address of a federal judge, including a federal bankruptcy judge, a state judge, or the family member of a federal judge, including a federal bankruptcy judge, or a state judge from any report filed by the judge in the judge's capacity or made available on the Internet under this chapter.

Added by S.B. 489, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019; Amended by S.B. 1134, 87<sup>th</sup> Leg., R.S., Sec. 6, eff. Sept. 1, 2021.

**Sec. 254.032. NONREPORTABLE PERSONAL TRAVEL EXPENSE.** A political contribution consisting of personal travel expense incurred by an individual is not required to be reported under this chapter if the individual receives no reimbursement for the expense.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.033. NONREPORTABLE PERSONAL SERVICE.** A political contribution consisting of an individual's personal service is not required to be reported under this chapter if the individual receives no compensation for the service.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.034. TIME OF ACCEPTING CONTRIBUTION.** (a) A determination to accept or refuse a political contribution that is received by a candidate, officeholder, or political committee shall be made not later than the end of the reporting period during which the contribution is received.

(b) If the determination to accept or refuse a political contribution is not made before the time required by Subsection (a), for purposes of this chapter, the contribution is considered to have been accepted on the last day of that reporting period.

(c) A political contribution that is received but not accepted shall be returned to the contributor not later than the 30th day after the deadline for filing a report for the reporting period during which the contribution is received. A contribution not returned within that time is considered to be accepted.

(d) A candidate, officeholder, or political committee commits an offense if the person knowingly fails to return a political contribution as required by Subsection (c).

(e) An offense under this section is a Class A misdemeanor.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 7.16, eff. Aug. 28, 1989.

**Sec. 254.035. TIME OF MAKING EXPENDITURE.** (a) For purposes of reporting under this chapter, a political expenditure is not considered to have been made until the amount is readily determinable by the person making the expenditure,

except as provided by Subsection (b).

(b) If the character of an expenditure is such that under normal business practice the amount is not disclosed until receipt of a periodic bill, the expenditure is not considered made until the date the bill is received.

(c) The amount of a political expenditure made by credit card is readily determinable by the person making the expenditure on the date the person receives the credit card statement that includes the expenditure.

(d) Subsection (c) does not apply to a political expenditure made by credit card during the period covered by a report required to be filed under Section 254.064(b) or (c), 254.124(b) or (c), or 254.154(b) or (c).

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 249, Sec. 2.11, eff. Sept. 1, 2003.

**Sec. 254.036. FORM OF REPORT; AFFIDAVIT; MAILING OF FORMS.** (a) Each report filed under this chapter with an authority other than the commission must be in a format prescribed by the commission. A report filed with the commission that is not required to be filed by computer diskette, modem, or other means of electronic transfer must be on a form prescribed by the commission and written in black ink or typed with black typewriter ribbon or, if the report is a computer printout, the printout must conform to the same format and paper size as the form prescribed by the commission.

(b) Except as provided by Subsection (c) or (e), each report filed under this chapter with the commission must be filed by computer diskette, modem, or other means of electronic transfer, using computer software provided by the commission or computer software that meets commission specifications for a standard file format.

(c) A candidate, officeholder, or political committee that is required to file reports with the commission may file reports that comply with Subsection (a) if:

(1) the candidate, officeholder, or campaign treasurer of the committee files with the commission an affidavit stating that the candidate, officeholder, or committee, an agent of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts does not use computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions to the candidate, officeholder, or committee; and

(2) the candidate, officeholder, or committee does not, in a calendar year, accept political contributions that in the aggregate exceed \$20,000 or make political expenditures that in the aggregate exceed \$20,000.

(c-1) An affidavit under Subsection (c) must be filed with each report filed under Subsection (a). The affidavit must include a statement that the candidate, officeholder, or political committee understands that the candidate, officeholder, or committee shall file reports as required by Subsection (b) if:

(1) the candidate, officeholder, or committee, a consultant of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts uses computer equipment for a purpose described by Subsection (c); or

(2) the candidate, officeholder, or committee exceeds \$20,000 in political contributions or political expenditures in a calendar year.

(d) Repealed by Acts 2003, 78th Leg., ch. 249, Sec. 2.26.

(e) A candidate for an office described by Section 252.005(5) or a specific-purpose committee for supporting or opposing only candidates for an office described by Section 252.005(5) or a measure described by Section 252.007(5) may file reports that comply with Subsection (a).

(f) In prescribing the format of a report filed under this chapter with an authority other than the commission, the commission shall ensure that:

(1) a report may be filed:

(A) by first class United States mail or common or contract carrier;

(B) by personal delivery; or

(C) by electronic filing, if the authority with whom the report is required to be filed has adopted rules and procedures to provide for the electronic filing of the report and the report is filed in accordance with those rules and procedures; and

(2) an authority with whom a report is electronically filed issues an electronic receipt for the report to the person filing the report.

(g) In prescribing the format of a report filed under this chapter, including a report filed with an authority other than the commission under Subsection (a), the commission shall ensure that the report requires for political expenditures made with a credit card that:

(1) the expenditures be reported in a single itemized list; and

(2) the list include, stated by credit card issuer:

(A) the name of the credit card issuer;

(B) the date and amount of each expenditure; and

(C) the date the credit card issuer was repaid for the expenditure.

(h) Each report filed under this chapter that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code." Each report filed under this chapter by electronic transfer must be under oath by the person required to file the report and must contain, in compliance with commission specifications, the digitized signature of the person required to file the report. A report filed under this chapter is considered to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or a defect in the affidavit.

(i) Each person required to file reports with the commission that comply with Subsection (b) shall file with the commission a written statement providing the manner of electronic transfer that the person will use to file the report. A statement under this subsection must be filed not later than the 30th day before the filing deadline for the first report a person is required to file under Subsection (b). A person who intends to change the manner of filing described by the person's most recent statement shall notify the commission of the change not later than the 30th day before the filing deadline for the report to which the change applies. If a person does not file a statement under this subsection, the commission may accept as authentic a report filed in any manner that complies with Subsection (b). If the commission receives a report that is not filed in the manner described by the person's most recent statement under this subsection, the commission shall promptly notify the person in writing that the commission has received a report filed in a different manner than expected.

(j) As part of the notification required by Section 251.033, the commission shall mail the appropriate forms to each person required to file a report with the commission during that reporting period.

(k) The commission shall prescribe forms for purposes of legislative caucus reports under Section 254.0311 that are separate and distinct from forms for other reports under this chapter.

(l) This section applies to a report that is filed electronically or otherwise.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.11, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 43, Sec. 3, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1134, Sec. 6, 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1434, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 249, Sec. 2.12, 2.26, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 1225 (H.B. 1071), Sec. 1, eff. Sept. 1, 2005; Acts 2011, 82nd Leg., R.S., Ch. 1009 (H.B. 2359), Sec. 3, eff. June 17, 2011; Acts 2011, 82nd Leg., R.S., Ch. 1009 (H.B. 2359), Sec. 6(3), eff. June 17, 2011; Acts 2013, 83rd Leg., R.S., Ch. 894 (H.B. 1035), Sec. 1, eff. Sept. 1, 2013; S.B. 1761, 87<sup>th</sup> R.S., Sec. 1, eff. Sept. 1, 2021.

**Sec. 254.0362. USE OF PUBLICLY ACCESSIBLE COMPUTER TERMINAL FOR PREPARATION OF REPORTS.**

(a) Except as provided by Subsection (d), a person who is required to file reports under this chapter may use a publicly accessible computer terminal that has Internet access and web browser software to prepare the reports.

(b) A public entity may prescribe reasonable restrictions on the use of a publicly accessible computer terminal for preparation of reports under this chapter, except that a public entity may not prohibit a person from using a computer terminal for preparation of reports during the public entity's regular business hours if the person requests to use the computer terminal less than 48 hours before a reporting deadline to which the person is subject.

(c) This section does not require a public entity to provide a person with consumable materials, including paper and computer diskettes, in conjunction with the use of a publicly accessible computer terminal.

(d) An officeholder may not use a computer issued to the officeholder for official use to prepare a report under this title.

(e) In this section:

(1) "Public entity" means a state agency, city, county, or independent school district.

(2) "Publicly accessible computer terminal" means a computer terminal that is normally available for use by members of the public and that is owned by a state agency, an independent school district, or a public library operated by a city or county.

Added by Acts 1999, 76th Leg., ch. 1434, Sec. 2, eff. Sept. 1, 1999.

**Sec. 254.037. FILING DEADLINE.** (a) Except as provided by Subsection (b), the deadline for filing a report required by this chapter is 5 p.m. on the last day permitted under this chapter for filing the report.

(b) The deadline for filing a report electronically with the commission as required by this chapter is midnight on the last day for filing the report.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987. Acts 2007, 80th Leg., R.S., Ch. 472 (H.B. 2195), Sec. 1, eff. September 1, 2007.

**Sec. 254.038. SPECIAL REPORT NEAR ELECTION BY CERTAIN CANDIDATES AND POLITICAL COMMITTEES.** (a) In addition to other reports required by this chapter, the following persons shall file additional reports during the period beginning the ninth day before election day and ending at 12 noon on the day before election day:

(1) a candidate for an office specified by Section 252.005(1) who accepts political contributions from a

person that in the aggregate exceed \$1,000 during that reporting period; and

(2) a specific-purpose committee for supporting or opposing a candidate described by Subdivision (1) and that accepts political contributions from a person that in the aggregate exceed \$1,000 during that reporting period.

(b) Each report required by this section must include the amount of the contributions specified by Subsection (a), the full name and address of the person making the contributions, and the dates of the contributions.

(c) A report under this section shall be filed electronically, by telephonic facsimile machine, or by hand, in the form required by Section 254.036. The commission must receive a report under this section filed by telephonic facsimile machine, or hand not later than 5 p.m. of the first business day after the date the contribution is accepted. The commission must receive a report under this section filed electronically not later than midnight of the first business day after the date the contribution is accepted. A report under this section is not required to be accompanied by the affidavit required under Section 254.036(h) or to be submitted on a form prescribed by the commission. A report under this section that complies with Section 254.036(a) must be accompanied by an affidavit under Section 254.036(c)(1) unless the candidate or committee has submitted an affidavit under Section 254.036(c)(1) with another report filed in connection with the election for which a report is required under this section.

(d) To the extent of a conflict between this section and Section 254.036, this section controls.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 994, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 107, Sec. 3.14, eff. Aug. 30, 1993; Acts 2001, 77th Leg., ch. 1428, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 249, Sec. 2.13, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 174 (H.B. 350), Sec. 1, eff. Oct. 1, 2005; Acts 2005, 79th Leg., Ch. 174 (H.B. 350), Sec. 2, eff. Oct. 1, 2005; Acts 2007, 80th Leg., R.S., Ch. 472 (H.B. 2195), Sec. 2, eff. Sept. 1, 2007; S.B. 1761, 87<sup>th</sup> R.S., Sec. 2, eff. Sept 1, 2021.

**Sec. 254.039. SPECIAL REPORT NEAR ELECTION BY CERTAIN GENERAL-PURPOSE COMMITTEES.** (a) In addition to other reports required by this chapter, a general-purpose committee shall file additional reports during the period beginning the ninth day before election day and ending at 12 noon on the day before election day if the committee:

(1) accepts political contributions from a person that in the aggregate exceed \$5,000 during that reporting period; or

(2) makes direct campaign expenditures supporting or opposing either a single candidate that in the aggregate exceed \$1,000 or a group of candidates that in the aggregate exceed \$15,000 during that reporting period.

(a-1) A report under this section shall be filed electronically, by telephonic facsimile machine, or by hand, in the form required by Section 254.036. The commission must receive a report under this section not later than 5 p.m. of the first business day after the date the contribution is accepted or the expenditure is made. A report under this section is not required to be accompanied by the affidavit required under Section 254.036(h) or to be submitted on a form prescribed by the commission. A report under this section that complies with Section 254.036(a) must be accompanied by an affidavit under Section 254.036(c)(1) unless the committee has submitted an affidavit under Section 254.036(c)(1) with another report filed in connection with the election for which a report is required under this section.

(a-2) Each report required by Subsection (a)(1) must include the amount of the contributions specified by that subsection, the full name and address of the person making the contributions, and the dates of the contributions.

(b) Each report required by Subsection (a)(2) must include the amount of the expenditures, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures.

(c) To the extent of a conflict between this section and Section 254.036, this section controls.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 994, Sec. 2, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 107, Sec. 3.15, eff. Aug. 30, 1993; Acts 2005, 79th Leg., Ch. 174 (H.B. 350), Sec. 3, eff. Oct. 1, 2005; Acts 2005, 79th Leg., Ch. 174 (H.B. 350), Sec. 4, eff. Oct. 1, 2005; Acts 2007, 80th Leg., R.S., Ch. 1294 (S.B. 64), Sec. 1, eff. Sept. 1, 2007; S.B. 1761, 87<sup>th</sup> R.S., Sec. 3, eff. Sept 1, 2021.

**Sec. 254.0391. REPORT DURING SPECIAL LEGISLATIVE SESSION.** (a) A statewide officeholder, a member of the legislature, or a specific-purpose committee for supporting, opposing, or assisting a statewide officeholder or member of the legislature, or a candidate for statewide office or the legislature or a specific-purpose committee for supporting or opposing the candidate, that accepts a political contribution during the period beginning on the date the governor signs the proclamation calling a special legislative session and continuing through the date of final adjournment shall report the contribution to the commission not later than the 30th day after the date of final adjournment.

(b) A determination to accept or refuse the political contribution shall be made not later than the third day after the date the contribution is received.

(c) Each report required by this section must include the amount of the political contribution, the full name and address of the person making the contribution, and the date of the contribution.

(d) A report is not required under this section if a person covered by Subsection (a) is required to file another report under this chapter not later than the 10th day after the date a report required under this section would be due.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.12, eff. Jan. 1, 1992.

**Sec. 254.040. PRESERVATION OF REPORTS; RECORD OF INSPECTION.** (a) Each report filed under this chapter shall be preserved by the authority with whom it is filed for at least two years after the date it is filed.

(b) Each time a person requests to inspect a report, the commission shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The commission shall retain that statement in the file for one year after the date the requested report is filed. This subsection does not apply to a request to inspect a report by:

- (1) a member or employee of the commission acting on official business; or
- (2) an individual acting on the individual's own behalf.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1134, Sec. 8, eff. Sept. 1, 1997.

**Sec. 254.0401. AVAILABILITY OF REPORTS ON INTERNET.** (a) The commission shall make each report filed with the commission under Section 254.036(b) available to the public on the Internet not later than the second business day after the date the report is filed.

(a-1) Repealed by H.B. 2626, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

(b) The clerk or secretary of a political subdivision's governing body or, if the governing body does not have a clerk or secretary, the governing body's presiding officer shall make a report filed with the political subdivision by a candidate, officeholder, or specific-purpose committee under this subchapter available to the public on the political subdivision's Internet website not later than the 10th business day after the date the report is received.

(c) Repealed by H.B. 2626, 88<sup>th</sup> Leg., R.S., Sec. 2, eff. Sept. 1, 2023.

(d) The access allowed by this section to reports is in addition to the public's access to the information through other electronic or print distribution of the information.

(e) Before making a report filed under Section 254.036(b) available on the Internet, the commission shall remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing the report. The address information removed must remain available on the report maintained in the commission's office but may not be available electronically at that office.

(e-1) Before making a report available on the Internet as required by Subsection (b), the authority with whom the report is filed may remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing the report. The address information removed must remain available on the report maintained in the authority's office.

(f) The commission shall clearly state on the Internet website on which reports are provided that reports filed by an independent candidate, a third-party candidate, or a specific-purpose committee for supporting or opposing an independent or third-party candidate will not be available if the candidate or committee has not yet filed a report.

(g) Electronic report data saved in a temporary storage location of the authority with whom the report is filed for later retrieval and editing before the report is filed is confidential and may not be disclosed. After the report is filed with the authority, the information disclosed in the filed report is public information to the extent provided by this title.

(h) A report made available on an Internet website under this section must be accessible on that website until the fifth anniversary of the date the report is first made available.

Added by Acts 1999, 76th Leg., ch. 1434, Sec. 3, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 2.14, 2.26, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 567, Sec. 1, eff. Sept. 1, 2003; Acts 2013, 83rd Leg., R.S., Ch. 847 (H.B. 195), Sec. 1, eff. Sept. 1, 2013; Acts 2013, 83rd Leg., R.S., Ch. 847 (H.B. 195), Sec. 2, eff. Sept. 1, 2013; Acts 2013, 83rd Leg., R.S., Ch. 847 (H.B. 195), Sec. 3(a), eff. Sept. 1, 2013; H.B. 998, 85<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2017; H.B. 2626, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023.

**Sec. 254.04011. AVAILABILITY OF REPORTS OF SCHOOL TRUSTEES ON INTERNET.** (a) This section applies only to a school district:

- (1) located wholly or partly in a municipality with a population of more than 500,000; and
- (2) with a student enrollment of more than 15,000.

(b) A report filed under this chapter by a member of the board of trustees of a school district, a candidate for membership on the board of trustees of a school district, or a specific-purpose committee for supporting, opposing, or assisting a candidate or member of a board of trustees of a school district must be posted on the Internet website of the school district.

(c) A report to which Subsection (b) applies must be available to the public on the Internet website not later than the fifth business day after the date the report is filed with the school district.

(d) The access allowed by this section to reports is in addition to the public's access to the information through other electronic or print distribution of the information.

(e) Before making a report available on the Internet under this section, the school district may remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing

the report. If the address information is removed as permitted by this subsection, the information must remain available on the report maintained in the school district's office.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1272 (H.B. 336), Sec. 1, eff. September 1, 2011.

**Sec. 254.0402. PUBLIC INSPECTION OF REPORTS.** (a) Notwithstanding Section 552.222(a), Government Code, the authority with whom a report is filed under this chapter may not require a person examining the report to provide any information or identification.

(b) The commission shall make information from reports filed with the commission under Section 254.036(b) available by electronic means, including:

- (1) providing access to computer terminals at the commission's office;
- (2) providing information on computer diskette for purchase at a reasonable cost; and
- (3) providing modem or other electronic access to the information.

Added by Acts 1999, 76th Leg., ch. 1434, Sec. 3, eff. Sept. 1, 1999.

**Sec. 254.0405. AMENDMENT OF FILED REPORT.** (a) A person who files a semiannual report under this chapter may amend the report.

(b) A semiannual report that is amended before the eighth day after the date the original report was filed is considered to have been filed on the date on which the original report was filed.

(c) A semiannual report that is amended on or after the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if:

- (1) the amendment is made before any complaint is filed with regard to the subject of the amendment; and
- (2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

Added by Acts 2011, 82nd Leg., R.S., Ch. 561 (H.B. 3093), Sec. 1, eff. September 1, 2011.

**Sec. 254.041. CRIMINAL PENALTY FOR UNTIMELY OR INCOMPLETE REPORT.** (a) A person who is required by this chapter to file a report commits an offense if the person knowingly fails:

- (1) to file the report on time;
- (2) to file a report by computer diskette, modem, or other means of electronic transfer, if the person is required to file reports that comply with Section 254.036(b); or
- (3) to include in the report information that is required by this title to be included.

(b) Except as provided by Subsection (c), an offense under this section is a Class C misdemeanor.

(c) A violation of Subsection (a)(3) by a candidate or officeholder is a Class A misdemeanor if the report fails to include information required by Section 254.061(3) or Section 254.091(2), as applicable.

(d) It is an exception to the application of Subsection (a)(3) that:

- (1) the information was required to be included in a semiannual report; and
- (2) the person amended the report within the time prescribed by Section 254.0405(b) or under the circumstances described by Section 254.0405(c).

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1999, 76th Leg., ch. 1434, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 4A.001, eff. Sept. 1, 2001; Acts 2011, 82nd Leg., R.S., Ch. 561 (H.B. 3093), Sec. 2, eff. Sept. 1, 2011.

**Sec. 254.042. CIVIL PENALTY FOR LATE REPORT.** (a) The commission shall determine from any available evidence whether a report required to be filed with the commission under this chapter is late. On making that determination, the commission shall immediately mail a notice of the determination to the person required to file the report.

(b) If a report other than a report under Section 254.064(c), 254.124(c), or 254.154(c) or the first report under Section 254.063 or 254.123 that is required to be filed following the primary or general election is determined to be late, the person required to file the report is liable to the state for a civil penalty of \$500. If a report under Section 254.064(c), 254.124(c), or 254.154(c) or the first report under Section 254.063 or 254.153 that is required to be filed following the primary or general election is determined to be late, the person required to file the report is liable to the state for a civil penalty of \$500 for the first day the report is late and \$100 for each day thereafter that the report is late. If a report is more than 30 days late, the commission shall issue a warning of liability by registered mail to the person required to file the report. If the penalty is not paid before the 10th day after the date on which the warning is received, the person is liable for a civil penalty in an amount determined by commission rule, but not to exceed \$10,000.

(c) A penalty paid voluntarily under this section shall be deposited in the State Treasury to the credit of the General Revenue Fund.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.13, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch.

**Sec. 254.043. ACTION TO REQUIRE COMPLIANCE.** (a) This section applies only to:

- (1) a person required to file reports under this chapter with the commission; or
- (2) a person required to file reports under this chapter with an authority other than the commission in connection with an office of a political subdivision in a county with a population of at least 500,000.

(b) A resident of the territory served by an office may bring an action for injunctive relief against a candidate for or holder of that office or a specific-purpose committee for supporting or opposing such a candidate or assisting such an officeholder to require the person to file a report under this chapter that the person has failed to timely file.

(c) An action under this section may be brought against a person required to file reports under this chapter only if:

- (1) the report is not filed before the 60th day after the date on which the report was required to be filed;
- (2) not earlier than the 60th day after the date on which the report was required to be filed, the person bringing the action delivers written notice by certified mail to the person required to file the report, stating:

(A) the person's intention to bring an action under this section if the report is not filed; and

(B) that an action to require the filing of the report may be filed if the report is not filed before the 30th day after the date on which the person required to file the report receives the notice; and

(3) the report is not filed before the 30th day after the date on which the person required to file the report receives the notice required by Subdivision (2).

(d) The court shall award a plaintiff who prevails in an action under this section reasonable attorney's fees and court costs.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 2.16, eff. Sept. 1, 2003.

**Sec. 254.044. REPORTING OF POLITICAL CONTRIBUTIONS AND EXPENDITURES MADE USING CREDIT CARD.** (a) A candidate or officeholder who accepts a political contribution made using a credit card shall:

(1) for a political contribution for which a processing fee is deducted by the credit card issuer from the political contribution amount:

(A) report as a political contribution the full amount, including the deducted amount; and

(B) report as a political expenditure the deducted amount; and

(2) for a political contribution for which a processing fee is paid by the person making the political contribution in excess of the political contribution amount, report only as a political contribution the full amount the candidate or officeholder accepts, not including the amount paid in excess of the political contribution amount.

(b) A candidate or officeholder who accepts a political contribution described by Subsection (a)(2) is not required to report the excess amount paid as a processing fee by the person making the political contribution.

H.B. 3372, 88<sup>th</sup> Leg., R.S., Sec. 1, eff. Sept. 1, 2023. Only applies to a report filed on or after January 1, 2024.

## **SUBCHAPTER C. REPORTING BY CANDIDATE**

**Sec. 254.061. ADDITIONAL CONTENTS OF REPORTS.** In addition to the contents required by Section 254.031, each report by a candidate must include:

(1) the candidate's full name and address, the office sought, and the identity and date of the election for which the report is filed;

(2) the campaign treasurer's name, residence or business street address, and telephone number;

(3) for each political committee from which the candidate received notice under Section 254.128 or 254.161:

(A) the committee's full name and address;

(B) an indication of whether the committee is a general-purpose committee or a specific-purpose committee;

and

(C) the full name and address of the committee's campaign treasurer; and

(4) on a separate page or pages of the report, the identification of any payment from political contributions made to a business in which the candidate has a participating interest of more than 10 percent, holds a position on the governing body of the business, or serves as an officer of the business.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.14, eff. Jan. 1, 1992; Acts 2011, 82nd Leg., R.S., Ch. 1009 (H.B. 2359), Sec. 4, eff. June 17, 2011.

**Sec. 254.0611. ADDITIONAL CONTENTS OF REPORTS BY CERTAIN JUDICIAL CANDIDATES.** (a) In addition



to the contents required by Sections 254.031 and 254.061, each report by a candidate for a judicial office covered by Subchapter F, Chapter 253, must include:

- (1) the total amount of political contributions, including interest or other income, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period;
- (2) for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period:
  - (A) the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any; or
  - (B) if the individual is a child, the full name of the law firm of which either of the individual's parents is a member, if any;
- (3) a specific listing of each asset valued at \$500 or more that was purchased with political contributions and on hand as of the last day of the reporting period;
- (4) for each political contribution accepted by the person filing the report but not received as of the last day of the reporting period:
  - (A) the full name and address of the person making the contribution;
  - (B) the amount of the contribution; and
  - (C) the date of the contribution; and
- (5) for each outstanding loan to the person filing the report as of the last day of the reporting period:
  - (A) the full name and address of the person or financial institution making the loan; and
  - (B) the full name and address of each guarantor of the loan other than the candidate.

(b) In this section:

- (1) "Child" and "law firm" have the meanings assigned by Section 253.152.
- (2) "Member" has the meaning assigned to "member of a law firm" by Section 253.152.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 3, eff. July 1, 1995. Amended by H.B. 3233, 86<sup>th</sup> Leg., Sec. 16, eff. June 2, 2019.

**Sec. 254.0612. ADDITIONAL CONTENTS OF REPORTS BY CANDIDATE FOR STATEWIDE EXECUTIVE OFFICE OR LEGISLATIVE OFFICE.** In addition to the contents required by Sections 254.031 and 254.061, each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period:

- (1) the individual's principal occupation or job title; and
- (2) the full name of the individual's employer.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 2.17, eff. Sept. 1, 2003.

**Sec. 254.062. CERTAIN OFFICEHOLDER ACTIVITY INCLUDED.** If an officeholder who becomes a candidate has reportable activity that is not reported under Subchapter D before the end of the period covered by the first report the candidate is required to file under this subchapter, the reportable activity shall be included in the first report filed under this subchapter instead of in a report filed under Subchapter D.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.063. SEMIANNUAL REPORTING SCHEDULE FOR CANDIDATE.** (a) A candidate shall file two reports for each year as provided by this section.

(b) The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30.

(c) The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through December 31.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.064. ADDITIONAL REPORTS OF OPPOSED CANDIDATE.** (a) In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports.

(b) The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning the day the candidate's campaign treasurer appointment

is filed on the first day after the period covered by the last report required to be filed under this chapter, as applicable, and continuing through the 40th day before election day.

(c) The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day.

(d) If a person becomes an opposed candidate after a reporting period prescribed by Subsection (b) or (c), the person's first report must be received by the authority with whom the report is required to be filed not later than the regular deadline for the report covering the period during which the person becomes an opposed candidate. The period covered by the first report begins the day the candidate's campaign treasurer appointment is filed.

(e) In addition to other required reports, an opposed candidate in a runoff election shall file one report for that election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 245, eff. Sept. 1, 1997; Acts 2007, 80th Leg., R.S., Ch. 673 (H.B. 1381), Sec. 1, eff. September 1, 2007.

**Sec. 254.065. FINAL REPORT.** (a) If a candidate expects no reportable activity in connection with the candidacy to occur after the period covered by a report filed under this subchapter, the candidate may designate the report as a "final" report.

(b) The designation of a report as a final report:

(1) relieves the candidate of the duty to file additional reports under this subchapter, except as provided by Subsection (c); and

(2) terminates the candidate's campaign treasurer appointment.

(c) If, after a candidate's final report is filed, reportable activity with respect to the candidacy occurs, the candidate shall file the appropriate reports under this subchapter and is otherwise subject to the provisions of this title applicable to candidates. A report filed under this subsection may be designated as a final report.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.066. AUTHORITY WITH WHOM REPORTS FILED.** Reports under this subchapter shall be filed with the authority with whom the candidate's campaign treasurer appointment is required to be filed.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1999, 76th Leg., ch. 511, Sec. 2, eff. Sept. 1, 1999; Acts 2009, 81st Leg., R.S., Ch. 518 (S.B. 1142), Sec. 1, eff. June 19, 2009.

## SUBCHAPTER D. REPORTING BY OFFICEHOLDER

**Sec. 254.091. ADDITIONAL CONTENTS OF REPORTS.** In addition to the contents required by Section 254.031, each report by an officeholder must include:

(1) the officeholder's full name and address and the office held;

(2) for each political committee from which the officeholder received notice under Section 254.128 or 254.161:

(A) the committee's full name and address;

(B) an indication of whether the committee is a general-purpose committee or a specific-purpose committee;

and

(C) the full name and address of the committee's campaign treasurer; and

(3) on a separate page or pages of the report, the identification of any payment from political contributions made to a business in which the officeholder has a participating interest of more than 10 percent, holds a position on the governing body of the business, or serves as an officer of the business.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.15, eff. Jan. 1, 1992.

**Sec. 254.0911. ADDITIONAL CONTENTS OF REPORTS BY CERTAIN JUDICIAL OFFICEHOLDERS.** In addition to the contents required by Sections 254.031 and 254.091, each report by a holder of a judicial office covered by Subchapter F, Chapter 253, must include the contents prescribed by Section 254.0611.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 4, eff. July 1, 1995.

**Sec. 254.0912. ADDITIONAL CONTENTS OF REPORTS BY STATEWIDE EXECUTIVE OFFICEHOLDERS AND LEGISLATIVE OFFICEHOLDERS.** In addition to the contents required by Sections 254.031 and 254.091, each report by a holder of a statewide office in the executive branch or a legislative office must include the contents prescribed by Section

254.0612.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 2.18, eff. Sept. 1, 2003.

**Sec. 254.092. CERTAIN OFFICEHOLDER EXPENDITURES EXCLUDED.** An officeholder is not required to report officeholder expenditures made from the officeholder's personal funds, except as provided by Section 253.035(h).

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.16, eff. Jan. 1, 1992.

**Sec. 254.093. SEMIANNUAL REPORTING SCHEDULE FOR OFFICEHOLDER.** (a) An officeholder shall file two reports for each year as provided by this section.

(b) The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the officeholder takes office, or the first day after the period covered by the last report required to be filed under this chapter, as applicable, and continuing through June 30.

(c) The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the officeholder takes office, or the first day after the period covered by the last report required to be filed under this chapter, as applicable, and continuing through December 31.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.094. REPORT FOLLOWING APPOINTMENT OF CAMPAIGN TREASURER.** (a) An officeholder who appoints a campaign treasurer shall file a report as provided by this section.

(b) The report covers the period beginning the first day after the period covered by the last report required to be filed under this chapter or the day the officeholder takes office, as applicable, and continuing through the day before the date the officeholder's campaign treasurer is appointed.

(c) The report shall be filed not later than the 15th day after the date the officeholder's campaign treasurer is appointed.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.095. REPORT NOT REQUIRED.** If at the end of any reporting period prescribed by this subchapter an officeholder who is required to file a report with an authority other than the commission has not accepted political contributions that in the aggregate exceed \$500 or made political expenditures that in the aggregate exceed \$500, the officeholder is not required to file a report covering that period.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.17, eff. Aug. 30, 1993.

**Sec. 254.096. OFFICEHOLDER WHO BECOMES CANDIDATE.** An officeholder who becomes a candidate is subject to Subchapter C during each period covered by a report required to be filed under Subchapter C.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.097. AUTHORITY WITH WHOM REPORTS FILED.** Reports under this subchapter shall be filed with the authority with whom a campaign treasurer appointment by a candidate for the office held by the officeholder is required to be filed.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1999, 76th Leg., ch. 511, Sec. 3, eff. Sept. 1, 1999; Acts 2009, 81st Leg., R.S., Ch. 518 (S.B. 1142), Sec. 1, eff. June 19, 2009.

## **SUBCHAPTER E. REPORTING BY SPECIFIC-PURPOSE COMMITTEE**

**Sec. 254.121. ADDITIONAL CONTENTS OF REPORTS.** In addition to the contents required by Section 254.031, each report by a campaign treasurer of a specific-purpose committee must include:

- (1) the committee's full name and address;
- (2) the full name, residence or business street address, and telephone number of the committee's campaign treasurer;
- (3) the identity and date of the election for which the report is filed, if applicable;
- (4) the name of each candidate and each measure supported or opposed by the committee, indicating for each whether the committee supports or opposes;
- (5) the name of each officeholder assisted by the committee;
- (6) the amount of each political expenditure in the form of a political contribution that is made to a candidate, officeholder, or another political committee and that is returned to the committee during the reporting period, the name of the person to whom the expenditure was originally made, and the date it is returned;
- (7) on a separate page or pages of the report, the identification of any payment from political contributions made to a

business in which the candidate or officeholder has a participating interest of more than 10 percent, holds a position on the governing body of the business, or serves as an officer of the business; and

(8) on a separate page or pages of the report, the identification of any contribution from a corporation or labor organization made and accepted under Subchapter D, Chapter 253.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.17, eff. Jan. 1, 1992.

**Sec. 254.1211. ADDITIONAL CONTENTS OF REPORTS OF CERTAIN COMMITTEES.** In addition to the contents required by Sections 254.031 and 254.121, each report by a specific-purpose committee for supporting or opposing a candidate for or assisting a holder of a judicial office covered by Subchapter F, Chapter 253, must include the contents prescribed by Section 254.0611.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 5, eff. July 1, 1995.

**Sec. 254.1212. ADDITIONAL CONTENTS OF REPORTS OF COMMITTEE SUPPORTING OR OPPOSING CANDIDATE FOR STATEWIDE EXECUTIVE OFFICEHOLDERS OR LEGISLATIVE OFFICEHOLDERS OR ASSISTING STATEWIDE EXECUTIVE OFFICEHOLDERS OR LEGISLATIVE OFFICEHOLDERS.** In addition to the contents required by Sections 254.031 and 254.121, each report by a specific-purpose committee for supporting or opposing a candidate for or assisting a holder of a statewide office in the executive branch or a legislative office must include the contents prescribed by Section 254.0612.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 2.19, eff. Sept. 1, 2003.

**Sec. 254.122. INVOLVEMENT IN MORE THAN ONE ELECTION BY CERTAIN COMMITTEES.** If a specific-purpose committee for supporting or opposing more than one candidate becomes involved in more than one election for which the reporting periods prescribed by Section 254.124 overlap, the reportable activity that occurs during the overlapping period is not required to be included in a report filed after the first report in which the activity is required to be reported.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.123. SEMIANNUAL REPORTING SCHEDULE FOR COMMITTEE.** (a) The campaign treasurer of a specific-purpose committee shall file two reports for each year as provided by this section.

(b) The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30.

(c) The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through December 31.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.124. ADDITIONAL REPORTS OF COMMITTEE FOR SUPPORTING OR OPPOSING CANDIDATE OR MEASURE.** (a) In addition to other required reports, for each election in which a specific-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports.

(b) The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th day before election day.

(c) The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day.

(d) If a specific-purpose committee supports or opposes a candidate or measure in an election after a reporting period prescribed by Subsection (b) or (c), the first report must be received by the authority with whom the report is required to be filed not later than the regular deadline for the report covering the period during which the committee becomes involved in the election. The period covered by the first report begins the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable.

(e) In addition to other required reports, the campaign treasurer of a specific-purpose committee that supports or opposes a candidate in a runoff election shall file one report for the runoff election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff

election day.

(f) This section does not apply to a specific-purpose committee supporting only candidates who do not have opponents whose names are to appear on the ballot.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 7.17(a), eff. Aug. 28, 1989; Acts 2007, 80th Leg., R.S., Ch. 673 (H.B. 1381), Sec. 2, eff. Sept. 1, 2007; Acts 2009, 81st Leg., R.S., Ch. 553 (S.B. 1795), Sec. 1, eff. Sept. 1, 2009.

**Sec. 254.125. FINAL REPORT OF COMMITTEE FOR SUPPORTING OR OPPOSING CANDIDATE OR MEASURE.** (a) If a specific-purpose committee for supporting or opposing a candidate or measure expects no reportable activity in connection with the election to occur after the period covered by a report filed under this subchapter, the committee's campaign treasurer may designate the report as a "final" report.

(b) The designation of a report as a final report:

(1) relieves the campaign treasurer of the duty to file additional reports under this subchapter, except as provided by Subsection (c); and

(2) terminates the committee's campaign treasurer appointment.

(c) If, after a committee's final report is filed, reportable activity with respect to the election occurs, the committee must file the appropriate reports under this subchapter and is otherwise subject to the provisions of this title applicable to political committees. A report filed under this subsection may be designated as a final report.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.126. DISSOLUTION REPORT OF COMMITTEE FOR ASSISTING OFFICEHOLDER.** (a) If a specific-purpose committee for assisting an officeholder expects no reportable activity to occur after the period covered by a report filed under this subchapter, the committee's campaign treasurer may designate the report as a "dissolution" report.

(b) The filing of a report designated as a dissolution report:

(1) relieves the campaign treasurer of the duty to file additional reports under this subchapter; and

(2) terminates the committee's campaign treasurer appointment.

(c) A dissolution report must contain an affidavit, executed by the committee's campaign treasurer, that states that all the committee's reportable activity has been reported.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.127. TERMINATION REPORT.** (a) If the campaign treasurer appointment of a specific-purpose committee is terminated, the terminated campaign treasurer shall file a termination report.

(b) A termination report is not required if the termination occurs on the last day of a reporting period under this subchapter and a report for that period is filed as provided by this subchapter.

(c) The report covers the period beginning the day after the period covered by the last report required to be filed under this subchapter and continuing through the day the campaign treasurer appointment is terminated.

(d) The report shall be filed not later than the 10th day after the date the campaign treasurer appointment is terminated.

(e) Reportable activity contained in a termination report is not required to be included in any subsequent report of the committee that is filed under this subchapter. The period covered by the committee's first report filed under this subchapter after a termination report begins the day after the date the campaign treasurer appointment is terminated.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.128. NOTICE TO CANDIDATE AND OFFICEHOLDER OF CONTRIBUTIONS AND EXPENDITURES.**

(a) If a specific-purpose committee accepts political contributions or makes political expenditures for a candidate or officeholder, the committee's campaign treasurer shall deliver written notice of that fact to the affected candidate or officeholder not later than the end of the period covered by the report in which the reportable activity occurs.

(b) The notice must include the full name and address of the political committee and its campaign treasurer and an indication that the committee is a specific-purpose committee.

(c) A campaign treasurer commits an offense if the campaign treasurer fails to comply with this section. An offense under this section is a Class A misdemeanor.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 246, eff. Sept. 1, 1997.

**Sec. 254.129. NOTICE OF CHANGE IN COMMITTEE STATUS.** (a) If a specific-purpose committee changes its operation and becomes a general-purpose committee, the committee's campaign treasurer shall deliver written notice of the change in status to the authority with whom the specific-purpose committee's reports under this chapter are required to be filed.

(b) The notice shall be delivered not later than the next deadline for filing a report under this subchapter that:

(1) occurs after the change in status; and

(2) would be applicable to the political committee if the committee had not changed its status.

(c) The notice must indicate the filing authority with whom future filings are expected to be made.

(d) A campaign treasurer commits an offense if the campaign treasurer fails to comply with this section. An offense under this section is a Class B misdemeanor.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 247, eff. Sept. 1, 1997.

**Sec. 254.130. AUTHORITY WITH WHOM REPORTS FILED.** (a) Except as provided by Subsection (b), reports filed under this subchapter shall be filed with the authority with whom the political committee's campaign treasurer appointment is required to be filed.

(b) A specific-purpose committee created to support or oppose a measure on the issuance of bonds by a school district shall file reports under this subchapter with the commission.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1999, 76th Leg., ch. 511, Sec. 4, eff. Sept. 1, 1999; Acts 2009, 81st Leg., R.S., Ch. 518 (S.B. 1142), Sec. 1, eff. June 19, 2009; Acts 2015, 84th Leg., R.S., Ch. 707 (H.B. 1114), Sec. 1, eff. September 1, 2015.

## SUBCHAPTER F. REPORTING BY GENERAL-PURPOSE COMMITTEE

**Sec. 254.151. ADDITIONAL CONTENTS OF REPORTS.** In addition to the contents required by Section 254.031, each report by a campaign treasurer of a general-purpose committee must include:

(1) the committee's full name and address;

(2) the full name, residence or business street address, and telephone number of the committee's campaign treasurer;

(3) the identity and date of the election for which the report is filed, if applicable;

(4) the name of each identified candidate or measure or classification by party of candidates supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate, measure, or classification by party of candidates;

(5) the name of each identified officeholder or classification by party of officeholders assisted by the committee;

(6) the principal occupation of each person from whom political contributions that in the aggregate exceed \$50 are accepted during the reporting period;

(7) the amount of each political expenditure in the form of a political contribution made to a candidate, officeholder, or another political committee that is returned to the committee during the reporting period, the name of the person to whom the expenditure was originally made, and the date it is returned;

(8) on a separate page or pages of the report, the identification of any contribution from a corporation or labor organization made and accepted under Subchapter D, Chapter 253; and

(9) on a separate page or pages of the report, the identification of the name of the donor, the amount, and the date of any expenditure made by a corporation or labor organization to:

(A) establish or administer the political committee; or

(B) finance the solicitation of political contributions to the committee under Section 253.100.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 304, Sec. 5.18, eff. Jan. 1, 1992; Acts 2003, 78th Leg., ch. 249, Sec. 2.20, eff. Sept. 1, 2003.

**Sec. 254.152. TIME FOR REPORTING CERTAIN EXPENDITURES.** If a general-purpose committee makes a political expenditure in the form of a political contribution to another general-purpose committee or to an out-of-state political committee and the contributing committee does not intend that the contribution be used in connection with a particular election, the contributing committee shall include the expenditure in the first report required to be filed under this subchapter after the expenditure is made.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.153. SEMIANNUAL REPORTING SCHEDULE FOR COMMITTEE.** (a) The campaign treasurer of a general-purpose committee shall file two reports for each year as provided by this section.

(b) The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30.

(c) The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through December 31.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.154. ADDITIONAL REPORTS OF COMMITTEE INVOLVED IN ELECTION.** (a) In addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports.

(b) The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th day before election day.

(c) The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day.

(d) If a general-purpose committee becomes involved in an election after a reporting period prescribed by Subsection (b) or (c), the first report must be received by the authority with whom the report is required to be filed not later than the regular deadline for the report covering the period during which the committee becomes involved in the election. The period covered by the first report begins the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable.

(e) In addition to other required reports, the campaign treasurer of a general-purpose committee involved in a runoff election shall file one report for the runoff election. The runoff election report must be received by the authority with whom the report is required to be filed not earlier than the 10th day or later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 2007, 80th Leg., R.S., Ch. 673 (H.B. 1381), Sec. 3, eff. Sept. 1, 2007; Acts 2009, 81st Leg., R.S., Ch. 553 (S.B. 1795), Sec. 2, eff. Sept. 1, 2009.

**Sec. 254.1541. ALTERNATE REPORTING REQUIREMENTS FOR CERTAIN COMMITTEES.** (a) This section applies only to a general-purpose committee with less than \$20,000 in one or more accounts maintained by the committee in which political contributions are deposited, as of the last day of the preceding reporting period for which the committee was required to file a report.

(b) A report by a campaign treasurer of a general-purpose committee to which this section applies may include, instead of the information required under Sections 254.031(a)(1) and (5) and Section 254.151(6):

(1) the amount of political contributions from each person that in the aggregate exceed \$100 and that are accepted during the reporting period by the committee, the full name and address of the person making the contributions, the person's principal occupation, and the dates of the contributions; and

(2) the total amount or a specific listing of the political contributions of \$100 or less accepted and the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period.

Added by Acts 2005, 79th Leg., Ch. 1081 (H.B. 1664), Sec. 1, eff. September 1, 2005.

**Sec. 254.155. OPTION TO FILE MONTHLY; NOTICE.** (a) As an alternative to filing reports under Sections 254.153 and 254.154, a general-purpose committee may file monthly reports.

(b) To be entitled to file monthly reports, the committee must deliver written notice of the committee's intent to file monthly to the commission not earlier than January 1 or later than January 15 of the year in which the committee intends to file monthly. The notice for a committee formed after January 15 must be delivered at the time the committee's campaign treasurer appointment is filed.

(c) A committee that files monthly reports may revert to the regular filing schedule prescribed by Sections 254.153 and 254.154 by delivering written notice of the committee's intent not earlier than January 1 or later than January 15 of the year in which the committee intends to revert to the regular reporting schedule. The notice must include a report of all political contributions accepted and all political expenditures made that were not previously reported.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.18, eff. Aug. 30, 1993.

**Sec. 254.156. CONTENTS OF MONTHLY REPORTS.** Each monthly report filed under this subchapter must comply with Sections 254.031 and 254.151 except that the maximum amount of a political contribution, expenditure, or loan that is not required to be individually reported is:

(1) \$10 in the aggregate; or

(2) \$20 in the aggregate for a contribution accepted by a general-purpose committee to which Section 254.1541 applies.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 2005, 79th Leg., Ch. 1081 (H.B. 1664), Sec. 2, eff. September 1, 2005.

**Sec. 254.157. MONTHLY REPORTING SCHEDULE.** (a) The campaign treasurer of a general-purpose committee filing monthly reports shall file a report not later than the fifth day of the month following the period covered by the report. A report covering the month preceding an election in which the committee is involved must be received by the authority with whom the report is required to be filed not later than the fifth day of the month following the period covered by the report.

(b) A monthly report covers the period beginning the 26th day of each month and continuing through the 25th day of the following month, except that the period covered by the first report begins January 1 and continues through January 25.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 400, Sec. 1, eff. Sept. 1, 1991; Acts 2007, 80th Leg., R.S., Ch. 673 (H.B. 1381), Sec. 4, eff. September 1, 2007.

**Sec. 254.158. EXCEPTION TO MONTHLY REPORTING SCHEDULE.** If the campaign treasurer appointment of a general-purpose committee filing monthly reports is filed after January 1 of the year in which monthly reports are filed, the period covered by the first monthly report begins the day the appointment is filed and continues through the 25th day of the month in which the appointment is filed unless the appointment is filed the 25th or a succeeding day of the month. In that case, the period continues through the 25th day of the month following the month in which the appointment is filed.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.1581. REPORTING BY OUT-OF-STATE POLITICAL COMMITTEE.** For each reporting period under this subchapter in which an out-of-state political committee accepts political contributions or makes political expenditures, the committee shall file with the commission a copy of one or more reports filed with the Federal Election Commission or with the proper filing authority of at least one other state that shows the political contributions accepted, political expenditures made, and other expenditures made by the committee. A report must be filed within the same period in which it is required to be filed under federal law or the law of the other state.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 2.21, eff. Sept. 1, 2003.

**Sec. 254.159. DISSOLUTION REPORT.** If a general-purpose committee expects no reportable activity to occur after the period covered by a report filed under this subchapter, the report may be designated as a "dissolution" report as provided by Section 254.126 for a specific-purpose committee and has the same effect.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.160. TERMINATION REPORT.** If the campaign treasurer appointment of a general-purpose committee is terminated, the campaign treasurer shall file a termination report as prescribed by Section 254.127 for a specific-purpose committee.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.161. NOTICE TO CANDIDATE AND OFFICEHOLDER OF CONTRIBUTIONS AND EXPENDITURES.** If a general-purpose committee other than the principal political committee of a political party or a political committee established by a political party's county executive committee accepts political contributions or makes political expenditures for a candidate or officeholder, notice of that fact shall be given to the affected candidate or officeholder as provided by Section 254.128 for a specific-purpose committee.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 531, Sec. 3, eff. Sept. 1, 1993.

**Sec. 254.162. NOTICE OF CHANGE IN COMMITTEE STATUS.** If a general-purpose committee changes its operation and becomes a specific-purpose committee, notice of the change in status shall be given to the commission as provided by Section 254.129 for a specific-purpose committee.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.19, eff. Aug. 30, 1993.

**Sec. 254.163. AUTHORITY WITH WHOM REPORTS FILED.** Reports filed under this subchapter shall be filed with the commission.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 107, Sec. 3.20, eff. Aug. 30, 1993.

**Sec. 254.164. CERTAIN COMMITTEES EXEMPT FROM CIVIL PENALTIES.** The commission may not impose a civil penalty on a general-purpose committee for a violation of this chapter if the report filed by the committee that is the subject of the violation discloses that the committee did not accept political contributions totaling \$3,000 or more, accept political contributions from a single person totaling \$1,000 or more, or make or authorize political expenditures totaling \$3,000 or more



during:

- (1) the reporting period covered by the report that is the subject of the violation; or
- (2) either of the two reporting periods preceding the reporting period described by Subdivision (1).

Added by Acts 2007, 80th Leg., R.S., Ch. 597 (H.B. 89), Sec. 1, eff. September 1, 2007.

## **SUBCHAPTER G. MODIFIED REPORTING PROCEDURES; \$500 MAXIMUM IN CONTRIBUTIONS OR EXPENDITURES**

**Sec. 254.181. MODIFIED REPORTING AUTHORIZED.** (a) An opposed candidate or specific-purpose committee required to file reports under Subchapter C or E may file a report under this subchapter instead if the candidate or committee does not intend to accept political contributions that in the aggregate exceed \$500 or to make political expenditures that in the aggregate exceed \$500 in connection with the election.

(b) The amount of a filing fee paid by a candidate is excluded from the \$500 maximum expenditure permitted under this section.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.182. DECLARATION OF INTENT REQUIRED.** (a) To be entitled to file reports under this subchapter, an opposed candidate or specific-purpose committee must file with the campaign treasurer appointment a written declaration of intent not to exceed \$500 in political contributions or political expenditures in the election.

(b) The declaration of intent must contain a statement that the candidate or committee understands that if the \$500 maximum for contributions and expenditures is exceeded, the candidate or committee is required to file reports under Subchapter C or E, as applicable.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.183. MAXIMUM EXCEEDED.** (a) An opposed candidate or specific-purpose committee that exceeds \$500 in political contributions or political expenditures in the election shall file reports as required by Subchapter C or E, as applicable.

(b) If a candidate or committee exceeds the \$500 maximum after the filing deadline prescribed by Subchapter C or E for the first report required to be filed under the appropriate subchapter, the candidate or committee shall file a report not later than 48 hours after the maximum is exceeded.

(c) A report filed under Subsection (b) covers the period beginning the day the campaign treasurer appointment is filed and continuing through the day the maximum is exceeded.

(d) The reporting period for the next report filed by the candidate or committee begins on the day after the last day of the period covered by the report filed under Subsection (b).

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.184. APPLICABILITY OF REGULAR REPORTING REQUIREMENTS.** (a) Subchapter C or E, as applicable, applies to an opposed candidate or specific-purpose committee filing under this subchapter to the extent that the appropriate subchapter does not conflict with this subchapter.

(b) A candidate or committee filing under this subchapter is not required to file any reports of political contributions and political expenditures other than the semiannual reports required to be filed not later than July 15 and January 15.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

## **SUBCHAPTER H. UNEXPENDED CONTRIBUTIONS**

**Sec. 254.201. ANNUAL REPORT OF UNEXPENDED CONTRIBUTIONS.** (a) This section applies to:

(1) a former officeholder who has unexpended political contributions after filing the last report required to be filed by Subchapter D; or

(2) a person who was an unsuccessful candidate who has unexpended political contributions after filing the last report required to be filed by Subchapter C.

(b) A person covered by this section shall file an annual report for each year in which the person retains unexpended contributions.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.202. FILING OF REPORT; CONTENTS.** (a) A person shall file the report required by Section 254.201 not

earlier than January 1 or later than January 15 of each year following the year in which the person files a final report under this chapter.

(b) The report shall be filed with the authority with whom the person's campaign treasurer appointment was required to be filed.

(c) The report must include:

- (1) the person's full name and address;
- (2) the full name and address of each person to whom a payment from unexpended political contributions was made during the previous year;
- (3) the date, amount, and purpose of each payment made under Subdivision (2);
- (4) the total amount of unexpended political contributions as of December 31 of the previous year; and
- (5) the total amount of interest and other income earned on unexpended political contributions during the previous year.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.203. RETENTION OF CONTRIBUTIONS.** (a) A person may not retain political contributions covered by this title, assets purchased with the contributions, or interest and other income earned on the contributions for more than six years after the date the person either ceases to be an officeholder or candidate or files a final report under this chapter, whichever is later.

(b) If the person becomes an officeholder or candidate within the six-year period, the prohibition in Subsection (a) does not apply until the person again ceases to be an officeholder or candidate.

(c) A person who violates Subsection (a) commits an offense. An offense under this section is a Class A misdemeanor.  
Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 7.18, eff. Aug. 28, 1989.

**Sec. 254.204. DISPOSITION OF UNEXPENDED CONTRIBUTIONS.** (a) At the end of the six-year period prescribed by Section 254.203, the former officeholder or candidate shall remit any unexpended political contributions to one or more of the following:

- (1) the political party with which the person was affiliated when the person's name last appeared on a ballot;
- (2) a candidate or political committee;
- (3) the comptroller for deposit in the state treasury;
- (4) one or more persons from whom political contributions were received, in accordance with Subsection (d);
- (5) a recognized charitable organization formed for educational, religious, or scientific purposes that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986, and its subsequent amendments; or
- (6) a public or private postsecondary educational institution or an institution of higher education as defined by Section 61.003(8), Education Code, solely for the purpose of assisting or creating a scholarship program.

(b) A person who disposes of unexpended political contributions under Subsection (a)(2) shall report each contribution as if the person were a campaign treasurer of a specific-purpose committee.

(c) Political contributions disposed of under Subsection (a)(3) may be appropriated only for financing primary elections.

(d) The amount of political contributions disposed of under Subsection (a)(4) to one person may not exceed the aggregate amount accepted from that person during the last two years that the candidate or officeholder accepted contributions under this title.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 248, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 249, Sec. 2.22, eff. Sept. 1, 2003.

**Sec. 254.205. REPORT OF DISPOSITION OF UNEXPENDED CONTRIBUTIONS.** (a) Not later than the 30th day after the date the six-year period prescribed by Section 254.203 ends, the person required to dispose of unexpended political contributions shall file a report of the disposition.

(b) The report shall be filed with the authority with whom the person's campaign treasurer appointment was required to be filed.

(c) The report must include:

- (1) the person's full name and address;
- (2) the full name and address of each person to whom a payment from unexpended political contributions is made; and
- (3) the date and amount of each payment reported under Subdivision (2).

## SUBCHAPTER I. CIVIL LIABILITY

**Sec. 254.231. LIABILITY TO CANDIDATES.** (a) A candidate or campaign treasurer or assistant campaign treasurer of a political committee who fails to report in whole or in part a campaign contribution or campaign expenditure as required by this chapter is liable for damages as provided by this section.

(b) Each opposing candidate whose name appears on the ballot is entitled to recover damages under this section.

(c) In this section, "damages" means:

(1) twice the amount not reported that is required to be reported; and

(2) reasonable attorney's fees incurred in the suit.

(d) Reasonable attorney's fees incurred in the suit may be awarded to the defendant if judgment is rendered in the defendant's favor.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 254.232. LIABILITY TO STATE.** A candidate, officeholder, or campaign treasurer or assistant campaign treasurer of a political committee who fails to report in whole or in part a political contribution or political expenditure as required by this chapter is liable in damages to the state in the amount of triple the amount not reported that is required to be reported.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

## SUBCHAPTER J. REPORTING BY CERTAIN PERSONS MAKING DIRECT CAMPAIGN EXPENDITURES

**Sec. 254.261. DIRECT CAMPAIGN EXPENDITURE EXCEEDING \$100.** (a) A person not acting in concert with another person who makes one or more direct campaign expenditures in an election from the person's own property shall comply with this chapter as if the person were the campaign treasurer of a general-purpose committee that does not file monthly reports under Section 254.155.

(b) A person is not required to file a report under this section if the person is required to disclose the expenditure in another report required under this title within the time applicable under this section for reporting the expenditure.

(c) This section does not require a general-purpose committee that files under the monthly reporting schedule to file reports under Section 254.154.

(d) A person is not required to file a campaign treasurer appointment for making expenditures for which reporting is required under this section, unless the person is otherwise required to file a campaign treasurer appointment under this title.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1009 (H.B. 2359), Sec. 5, eff. June 17, 2011.

**Sec. 254.262. TRAVEL EXPENSE.** A direct campaign expenditure consisting of personal travel expenses incurred by a person may be made without complying with Section 254.261.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1009 (H.B. 2359), Sec. 5, eff. June 17, 2011.

## **CHAPTER 255. REGULATING POLITICAL ADVERTISING AND CAMPAIGN COMMUNICATIONS**

**Sec. 255.001. REQUIRED DISCLOSURE ON POLITICAL ADVERTISING.** (a) A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising:

- (1) that it is political advertising; and
- (2) the full name of:
  - (A) the person who paid for the political advertising;
  - (B) the political committee authorizing the political advertising; or
  - (C) the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate.

(b) Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under this title shall be deemed to contain express advocacy.

(c) A person may not knowingly use, cause or permit to be used, or continue to use any published, distributed, or broadcast political advertising containing express advocacy that the person knows does not include the disclosure required by Subsection (a). A person is presumed to know that the use of political advertising is prohibited by this subsection if the commission notifies the person in writing that the use is prohibited. A person who learns that political advertising signs, as defined by Section 259.001, that have been distributed do not include the disclosure required by Subsection (a) or include a disclosure that does not comply with Subsection (a) does not commit a continuing violation of this subsection if the person makes a good faith attempt to remove or correct those signs. A person who learns that printed political advertising other than a political advertising sign that has been distributed does not include the disclosure required by Subsection (a) or includes a disclosure that does not comply with Subsection (a) is not required to attempt to recover the political advertising and does not commit a continuing violation of this subsection as to any previously distributed political advertising.

(d) This section does not apply to:

- (1) tickets or invitations to political fund-raising events;
- (2) campaign buttons, pins, hats, or similar campaign materials; or
- (3) circulars or flyers that cost in the aggregate less than \$500 to publish and distribute.

(e) A person who violates this section is liable to the state for a civil penalty in an amount determined by the commission not to exceed \$4,000.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 249, Sec. 2.23, eff. Sept. 1, 2003; H.B. 2554, 86<sup>th</sup> Leg., Sec. 5, eff. Sept. 1, 2019.

**Sec. 255.002. RATES FOR POLITICAL ADVERTISING.** (a) The rate charged for political advertising by a radio or television station may not exceed:

(1) during the 45 days preceding a general or runoff primary election and during the 60 days preceding a general or special election, the broadcaster's lowest unit charge for advertising of the same class, for the same time, and for the same period; or

(2) at any time other than that specified by Subdivision (1), the amount charged other users for comparable use of the station.

(b) The rate charged for political advertising that is printed or published may not exceed the lowest charge made for comparable use of the space for any other purposes.

(c) In determining amounts charged for comparable use, the amount and kind of space or time used, number of times used, frequency of use, type of advertising copy submitted, and any other relevant factors shall be considered.

(d) Discounts offered by a newspaper or magazine to its commercial advertisers shall be offered on equal terms to purchasers of political advertising from the newspaper or magazine.

(e) A person commits an offense if the person knowingly demands or receives or knowingly pays or offers to pay for political advertising more consideration than permitted by this section.

(f) An offense under this section is a Class C misdemeanor.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987.

**Sec. 255.003. UNLAWFUL USE OF PUBLIC FUNDS FOR POLITICAL ADVERTISING.** (a) An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.

(b) Subsection (a) does not apply to a communication that factually describes the purposes of a measure if the

communication does not advocate passage or defeat of the measure.

(b-1) An officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

- (1) the officer or employee knows is false; and
- (2) is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

(c) A person who violates Subsection (a) or (b-1) commits an offense. An offense under this section is a Class A misdemeanor.

(d) It is an affirmative defense to prosecution for an offense under this section or the imposition of a civil penalty for conduct under this section that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation of this section in a written opinion issued by:

- (1) a court of record;
- (2) the attorney general; or
- (3) the commission.

(e) On written request of the governing body of a political subdivision that has ordered an election on a measure, the commission shall prepare an advance written advisory opinion as to whether a particular communication relating to the measure does or does not comply with this section.

(f) Subsections (d) and (e) do not apply to a port authority or navigation district.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987. Acts 2009, 81st Leg., R.S., Ch. 644 (H.B. 1720), Sec. 1, eff. Sept. 1, 2009. Acts 2009, 81st Leg., R.S., Ch. 843 (S.B. 2085), Sec. 1, eff. Sept. 1, 2009.

**Sec. 255.0031. UNLAWFUL USE OF INTERNAL MAIL SYSTEM FOR POLITICAL ADVERTISING.** (a) An officer or employee of a state agency or political subdivision may not knowingly use or authorize the use of an internal mail system for the distribution of political advertising.

(b) Subsection (a) does not apply to:

- (1) the use of an internal mail system to distribute political advertising that is delivered to the premises of a state agency or political subdivision through the United States Postal Service; or
- (2) the use of an internal mail system by a state agency or municipality to distribute political advertising that is the subject of or related to an investigation, hearing, or other official proceeding of the agency or municipality.

(c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

(d) In this section:

(1) "Internal mail system" means a system operated by a state agency or political subdivision to deliver written documents to officers or employees of the agency or subdivision.

(2) "State agency" means:

(A) a department, commission, board, office, or other agency that is in the legislative, executive, or judicial branch of state government;

(B) a university system or an institution of higher education as defined by Section 61.003, Education Code; or

(C) a river authority created under the constitution or a statute of this state.

Added by Acts 2003, 78th Leg., ch. 229, Sec. 1, eff. Sept. 1, 2003.

**Sec. 255.004. TRUE SOURCE OF COMMUNICATION.** (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person enters into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from a source other than its true source.

(b) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person knowingly represents in a campaign communication that the communication emanates from a source other than its true source.

(c) An offense under this section is a Class A misdemeanor.

(d) A person commits an offense if the person, with intent to injure a candidate or influence the result of an election:

- (1) creates a deep fake video; and
- (2) causes the deep fake video to be published or distributed within 30 days of an election.

(e) In this section, "deep fake video" means a video, created with the intent to deceive, that appears to depict a real person performing an action that did not occur in reality.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987. Amended by S.B. 751, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 255.005. MISREPRESENTATION OF IDENTITY.** (a) A person commits an offense if, with intent to injure a

candidate or influence the result of an election, the person misrepresents the person's identity or, if acting or purporting to act as an agent, misrepresents the identity of the agent's principal, in political advertising or a campaign communication.

(b) An offense under this section is a Class A misdemeanor.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 864, Sec. 249, eff. Sept. 1, 1997.

**Sec. 255.006. MISLEADING USE OF OFFICE TITLE.** (a) A person commits an offense if the person knowingly enters into a contract or other agreement to print, publish, or broadcast political advertising with the intent to represent to an ordinary and prudent person that a candidate holds a public office that the candidate does not hold at the time the agreement is made.

(b) A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made.

(c) For purposes of this section, a person represents that a candidate holds a public office that the candidate does not hold if:

(1) the candidate does not hold the office that the candidate seeks; and

(2) the political advertising or campaign communication states the public office sought but does not include the word "for" in a type size that is at least one-half the type size used for the name of the office to clarify that the candidate does not hold that office.

(d) A person other than an officeholder commits an offense if the person knowingly uses a representation of the state seal in political advertising.

(e) An offense under this section is a Class A misdemeanor.

Amended by Acts 1987, 70th Leg., ch. 899, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 300, Sec. 30, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 250, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1134, Sec. 9, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 5.17, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 737, Sec. 1, eff. Sept. 1, 1999.

**Sec. 255.008. DISCLOSURE ON POLITICAL ADVERTISING FOR JUDICIAL OFFICE.** (a) This section applies only to a candidate or political committee covered by Subchapter F, Chapter 253.

(b) Political advertising by a candidate who files a declaration of intent to comply with the limits on expenditures under Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate may include the following statement: "Political advertising paid for by (name of candidate or committee) in compliance with the voluntary limits of the Judicial Campaign Fairness Act."

(c) Political advertising by a candidate who files a declaration of intent to comply with the limits on expenditures under Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate that does not contain the statement prescribed by Subsection (b) must comply with Section 255.001.

(d) Political advertising by a candidate who files a declaration of intent to exceed the limits on expenditures under Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate must include the following statement: "Political advertising paid for by (name of candidate or committee), (who or which) has rejected the voluntary limits of the Judicial Campaign Fairness Act."

(e) The commission shall adopt rules providing for:

(1) the minimum size of the disclosure required by this section in political advertising that appears on television or in writing; and

(2) the minimum duration of the disclosure required by this section in political advertising that appears on television or radio.

(f) A person who violates this section or a rule adopted under this section is liable for a civil penalty not to exceed:

(1) \$15,000, for a candidate for a statewide judicial office or a specific-purpose committee for supporting such a candidate;

(2) \$10,000, for a candidate for chief justice or justice, court of appeals, or a specific-purpose committee for supporting such a candidate; or

(3) \$5,000, for a candidate for any other judicial office covered by Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate.

(g) Section 253.176 applies to the imposition and disposition of a civil penalty under this section.

Added by Acts 1995, 74th Leg., ch. 763, Sec. 6, eff. Sept. 1, 1995.

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## CHAPTER 257. POLITICAL PARTIES

**Sec. 257.001. PRINCIPAL POLITICAL COMMITTEE OF POLITICAL PARTY.** The state or county executive committee of a political party may designate a general-purpose committee as the principal political committee for that party in the state or county, as applicable.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.19, eff. Jan. 1, 1992.

**Sec. 257.002. REQUIREMENTS RELATING TO CORPORATE OR LABOR UNION CONTRIBUTIONS.** (a) A political party that accepts a contribution authorized by Section 253.104 may use the contribution only to:

- (1) defray normal overhead and administrative or operating costs incurred by the party; or
- (2) administer a primary election or convention held by the party.

(b) A political party that accepts contributions authorized by Section 253.104 shall maintain the contributions in a separate account.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.19, eff. Jan. 1, 1992.

**Sec. 257.003. REPORT REQUIRED.** (a) A political party that accepts contributions authorized by Section 253.104 shall report all contributions and expenditures made to and from the account required by Section 257.002.

(b) The report must be filed with the commission and must include the information required under Section 254.031 as if the contributions or expenditures were political contributions or political expenditures.

(c) Sections 254.001 and 254.032-254.037 apply to a report required by this section as if the party chair were a campaign treasurer of a political committee and as if the contributions or expenditures were political contributions or political expenditures.

(d) The commission shall prescribe by rule reporting schedules for each primary election held by the political party and for the general election for state and county officers.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.19, eff. Jan. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 251, eff. Sept. 1, 1997.

**Sec. 257.004. RESTRICTIONS ON CONTRIBUTIONS BEFORE GENERAL ELECTION.** (a) Beginning on the 60th day before the date of the general election for state and county officers and continuing through the day of the election, a political party may not knowingly accept a contribution authorized by Section 253.104 or make an expenditure from the account required by Section 257.002.

(b) A person who violates this section commits an offense. An offense under this section is a felony of the third degree.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.19, eff. Jan. 1, 1992.

**Sec. 257.005. CANDIDATE FOR STATE OR COUNTY CHAIR OF POLITICAL PARTY.** (a) Except as provided by this section, the following are subject to the requirements of this title that apply to a candidate for public office:

(1) a candidate for state chair of a political party with a nominee on the ballot in the most recent gubernatorial general election; and

(2) a candidate for election to the office of county chair of a political party with a nominee on the ballot in the most recent gubernatorial general election if the county has a population of 350,000 or more.

(b) A political committee that supports or opposes a candidate covered by Subsection (a) is subject to the provisions of this title that apply to any other committee that supports or opposes candidates for public office, except as provided by this section.

(c) The reporting schedules for a candidate covered by Subsection (a) or a political committee supporting or opposing the candidate shall be prescribed by commission rule.

(d) Except as provided by this section, each contribution to and expenditure by a candidate covered by Subsection (a) is subject to the same requirements of this title as a political contribution to or a political expenditure by a candidate for public office. Each contribution to and expenditure by a political committee supporting or opposing a candidate covered by Subsection (a) is subject to the same requirements of this title as a political contribution to or political expenditure by any other specific-purpose committee.

(e) Section 251.001(1) does not apply to this section.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.19, eff. Jan. 1, 1992. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 252, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 249, Sec. 2.24, 2.25, eff. Sept. 1, 2003.

**Sec. 257.006. CRIMINAL PENALTY FOR FAILURE TO COMPLY.** (a) Except as provided by Section 257.004, a



person who knowingly uses a contribution in violation of Section 257.002 or who knowingly fails to otherwise comply with this chapter commits an offense.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.19, eff. Jan. 1, 1992.

**Sec. 257.007. RULES.** The commission shall adopt rules to implement this chapter.

Added by Acts 1991, 72nd Leg., ch. 304, Sec. 5.19, eff. Jan. 1, 1992.

## CHAPTER 258. FAIR CAMPAIGN PRACTICES

**Sec. 258.001. SHORT TITLE.** This chapter may be cited as the Fair Campaign Practices Act.  
Added by Acts 1997, 75th Leg., ch. 168, Sec. 1, eff. Sept. 1, 1997.

**Sec. 258.002. PURPOSE.** (a) The purpose of this chapter is to encourage every candidate and political committee to subscribe to the Code of Fair Campaign Practices.

(b) It is the intent of the legislature that every candidate and political committee that subscribes to the Code of Fair Campaign Practices will follow the basic principles of decency, honesty, and fair play to encourage healthy competition and open discussion of issues and candidate qualifications and to discourage practices that cloud the issues or unfairly attack opponents.

Added by Acts 1997, 75th Leg., ch. 168, Sec. 1, eff. Sept. 1, 1997.

**Sec. 258.003. DELIVERY OF COPY OF CODE.** (a) When a candidate or political committee files its campaign treasurer appointment, the authority with whom the appointment is filed shall give the candidate or political committee a blank form of the Code of Fair Campaign Practices and a copy of this chapter.

(b) The authority shall inform each candidate or political committee that the candidate or committee may subscribe to and file the code with the authority and that subscription to the code is voluntary.

Added by Acts 1997, 75th Leg., ch. 168, Sec. 1, eff. Sept. 1, 1997.

**Sec. 258.004. TEXT OF CODE.** The Code of Fair Campaign Practices reads as follows:

### CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty, and fair play that every candidate and political committee in this state has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional rights to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

(1) I will conduct the campaign openly and publicly and limit attacks on my opponent to legitimate challenges to my opponent's record and stated positions on issues.

(2) I will not use or permit the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or the candidate's personal or family life.

(3) I will not use or permit any appeal to negative prejudice based on race, sex, religion, or national origin.

(4) I will not use campaign material of any sort that misrepresents, distorts, or otherwise falsifies the facts, nor will I use malicious or unfounded accusations that aim at creating or exploiting doubts, without justification, as to the personal integrity or patriotism of my opponent.

(5) I will not undertake or condone any dishonest or unethical practice that tends to corrupt or undermine our system of free elections or that hampers or prevents the full and free expression of the will of the voters, including any activity aimed at intimidating voters or discouraging them from voting.

(6) I will defend and uphold the right of every qualified voter to full and equal participation in the electoral process, and will not engage in any activity aimed at intimidating voters or discouraging them from voting.

(7) I will immediately and publicly repudiate methods and tactics that may come from others that I have pledged not to use or condone. I shall take firm action against any subordinate who violates any provision of this code or the laws governing elections.

I, the undersigned, candidate for election to public office in the State of Texas or campaign treasurer of a political committee, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct the campaign in accordance with the above principles and practices.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Added by Acts 1997, 75th Leg., ch. 168, Sec. 1, eff. Sept. 1, 1997.

**Sec. 258.005. FORMS.** The commission shall print copies of the Code of Fair Campaign Practices and shall supply the forms to the authorities with whom copies of the code may be filed in quantities and at times requested by the authorities.

Added by Acts 1997, 75th Leg., ch. 168, Sec. 1, eff. Sept. 1, 1997.

**Sec. 258.006. ACCEPTANCE AND PRESERVATION OF COPIES.** (a) An authority with whom a campaign treasurer

appointment is filed shall accept each completed copy of the code submitted to the authority that is properly subscribed to by a candidate or the campaign treasurer of a political committee.

(b) Each copy of the code accepted under this section shall be preserved by the authority with whom it is filed for the period prescribed for the filer's campaign treasurer appointment.

Added by Acts 1997, 75th Leg., ch. 168, Sec. 1, eff. Sept. 1, 1997.

**Sec. 258.007. SUBSCRIPTION TO CODE VOLUNTARY.** The subscription to the Code of Fair Campaign Practices by a candidate or a political committee is voluntary.

Added by Acts 1997, 75th Leg., ch. 168, Sec. 1, eff. Sept. 1, 1997.

**Sec. 258.008. INDICATION ON POLITICAL ADVERTISING.** A candidate or a political committee that has filed a copy of the Code of Fair Campaign Practices may so indicate on political advertising in a form to be determined by the commission.

Added by Acts 1997, 75th Leg., ch. 168, Sec. 1, eff. Sept. 1, 1997.

**Sec. 258.009. CIVIL CAUSE OF ACTION.** This chapter does not create a civil cause of action for recovery of damages or for enforcement of this chapter.

Added by Acts 1997, 75th Leg., ch. 168, Sec. 1, eff. Sept. 1, 1997.

## **CHAPTER 259. POLITICAL SIGNS**

**Sec. 259.001. NOTICE REQUIREMENT ON POLITICAL ADVERTISING SIGNS.** (a) The following notice must be written on each political advertising sign:

"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY."

(b) A person commits an offense if the person:

(1) knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or

(2) instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) It is an exception to the application of Subsection (b) that the political advertising sign was printed or made before September 1, 1997, and complied with Subsection (a) as it existed immediately before that date.

(e) In this section, "political advertising sign" means a written form of political advertising designed to be seen from a road but does not include a bumper sticker.

Added by Acts 1991, 72nd Leg., ch. 288, Sec. 5, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 71, eff. Sept. 1, 1997; H.B. 2554, 86<sup>th</sup> Leg., Sec. 2, eff. Sept. 1, 2019 (transferred from Sec. 255.007).

**Sec. 259.002. REGULATION OF DISPLAY OF POLITICAL SIGNS BY PROPERTY OWNERS' ASSOCIATION.**

(a) In this section, "property owners' association" has the meaning assigned by Section 202.001, Property Code.

(b) Except as otherwise provided by this section, a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property owner from displaying on the owner's property one or more signs advertising a [political] candidate or measure for an election:

(1) on or after the 90th day before the date of the election to which the sign relates; or

(2) before the 10th day after that election date.

(c) This section does not prohibit the enforcement or adoption of a covenant that:

(1) requires a sign to be ground-mounted; or

(2) limits a property owner to displaying only one sign for each candidate or measure.

(d) This section does not prohibit the enforcement or adoption of a covenant that prohibits a sign that:

(1) contains roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component;

(2) is attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object;

(3) includes the painting of architectural surfaces;

(4) threatens the public health or safety;

(5) is larger than four feet by six feet;

(6) violates a law;

(7) contains language, graphics, or any display that would be offensive to the ordinary person; or

(8) is accompanied by music or other sounds or by streamers or is otherwise distracting to motorists.

(e) A property owners' association may remove a sign displayed in violation of a restrictive covenant permitted by this section.

Added by H.B. 2554, 86<sup>th</sup> Leg., Sec. 3, eff. Sept. 1, 2019 (transferred from Sec. 202.009, Property Code).

**Sec. 259.003. REGULATION OF POLITICAL SIGNS BY MUNICIPALITY.** (a) In this section, "private real property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.

(b) A municipal charter provision or ordinance that regulates signs may not, for a sign that contains primarily a political message and that is located on private real property with the consent of the property owner:

(1) prohibit the sign from being placed;

(2) require a permit or approval of the municipality or impose a fee for the sign to be placed;

(3) restrict the size of the sign; or

(4) provide for a charge for the removal of a political sign that is greater than the charge for removal of other signs regulated by ordinance.

(c) Subsection (b) does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.

(d) Subsection (b) does not apply to a sign that:

(1) has an effective area greater than 36 feet;

(2) is more than eight feet high;

(3) is illuminated; or

(4) has any moving elements.

Added by H.B. 2554, 86<sup>th</sup> Leg., Sec. 4, eff. Sept. 1, 2019 (transferred from Sec. 216.903, Local Government Code).

# TITLE 16. MISCELLANEOUS PROVISIONS

## CHAPTER 271. JOINT ELECTIONS

**Sec. 271.001. APPLICABILITY OF OTHER PARTS OF CODE.** The other titles of this code apply to a joint election except provisions that are inconsistent with this chapter or that cannot feasibly be applied to a joint election.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 271.002. JOINT ELECTIONS AUTHORIZED.** (a) If the elections ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same county, the governing bodies of the political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(b) If an election ordered by the governor and the elections ordered by the authorities of one or more political subdivisions are to be held on the same day in all or part of the same county, the commissioners court of a county in which the election ordered by the governor is to be held and the governing bodies of the other political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(c) If another law requires two or more political subdivisions to hold a joint election, the governing body of any other political subdivision holding an election on the same day in all or part of the same county in which the joint election is to be held may enter into an agreement to participate in the joint election with the governing bodies of the political subdivisions holding the joint election.

(d) The terms of a joint election agreement must be stated in an order, resolution, or other official action adopted by the governing body of each participating political subdivision.

(e) The document containing the joint election agreement shall be preserved for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 24, eff. September 1, 2009.

**Sec. 271.003. LOCATION OF COMMON POLLING PLACE.** (a) A regular county polling place may be used for a common polling place in a joint election.

(b) The voters of a particular election precinct or political subdivision may be served in a joint election by a common polling place located outside the boundary of the election precinct or political subdivision if the location can adequately and conveniently serve the affected voters and will facilitate the orderly conduct of the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1350, Sec. 9, eff. Sept. 1, 1997.

**Sec. 271.004. ALLOCATION OF ELECTION EXPENSES.** The expenses of a joint election are allocated as provided by the joint election agreement.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 271.005. ELECTION OFFICERS.** (a) An election officer for a joint election may be appointed to serve more than one of the participating political subdivisions.

(b) A person who is eligible to serve as an election officer in an election of any participating political subdivision is eligible to serve in the same office in a joint election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 271.006. EARLY VOTING.** (a) The governing bodies of the political subdivisions participating in a joint election shall decide whether to conduct their early voting jointly. The governing bodies that decide to conduct joint early voting shall appoint one of their early voting clerks as the early voting clerk for the joint early voting.

(b) The joint early voting shall be conducted at the early voting polling place or places at which and during the hours, including any extended or weekend hours, that the early voting clerk regularly conducts early voting for the clerk's political subdivision.

(c) The regular early voting clerk for each political subdivision participating in the joint early voting shall receive applications for early voting ballots to be voted by mail in accordance with Title 7. The remaining procedures for conducting the political subdivision's early voting by mail shall be completed by the regular early voting clerk or by the early voting clerk for the joint early voting, at the discretion of the governing body of each political subdivision participating in the joint early

voting.

(d) If a governing body decides not to participate in the joint early voting, the early voting for that political subdivision shall be conducted in accordance with Title 7, except that the early voting may be conducted at common polling places.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.72; Acts 1991, 72nd Leg., ch. 554, Sec. 43, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 77, eff. Sept. 1, 1993.

**Sec. 271.007. BALLOT.** A single ballot containing all the offices or propositions stating measures to be voted on at a particular polling place may be used in a joint election. A voter may not be permitted to select a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 271.0071. MULTIPLE METHODS OF VOTING ALLOWED.** The restrictions on multiple methods of voting at the same polling place or in early voting prescribed by Sections 123.005-123.007 do not apply to a joint election as if the joint election were a single election but rather apply independently to the election of each participating political subdivision in the joint election.

Added by Acts 1997, 75th Leg., ch. 1349, Sec. 72, eff. Sept. 1, 1997.

**Sec. 271.008. BALLOT BOXES.** (a) One set of ballot boxes may be used at a common polling place in a joint election for the deposit of all the ballots for each of the participating political subdivisions.

(b) If the voted ballots for more than one political subdivision participating in a joint election are deposited in a single ballot box after they are counted, the custodian of the key to the ballot box for voted ballots for elections ordered by an authority of any one of the participating political subdivisions may be appointed as the custodian of the key to that box.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 271.009. COMBINING ELECTION FORMS AND RECORDS.** The forms used and records maintained at a common polling place in a joint election may be combined in any manner convenient and adequate to record and report the results of the election for each of the participating political subdivisions.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 271.010. CUSTODIAN OF ELECTION RECORDS.** The general custodian of election records for elections ordered by an authority of any one of the political subdivisions participating in a joint election may be appointed as the general custodian of election records for the joint election if:

(1) the election records for a common polling place are combined; or

(2) the ballots for more than one of the participating political subdivisions are deposited by the voters in a single ballot box.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 271.011. CANVASS.** (a) The authority responsible for canvassing the precinct returns for the elections of one of the political subdivisions participating in a joint election may be designated to canvass the returns for one or more of the other participating political subdivisions.

(b) If elections are jointly canvassed, the presiding officer of the joint canvassing authority shall deliver the appropriate part of the tabulation of the precinct results to each of the presiding officers of the canvassing authorities designated by law for the elections of the participating political subdivisions. Each tabulation shall then be processed in the same manner as for an election not canvassed jointly.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 271.012. CERTIFICATE OF ELECTION.** The presiding officer of the canvassing authority that regularly serves a particular political subdivision shall issue certificates of election to candidates elected at the joint election to offices of the political subdivision.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 271.013. COMPENSATION OF JUDGES AND CLERKS.** (a) Except as provided by this section, compensation for election officers serving at a common polling place in a joint election is the same as that paid to election officers serving at a regular polling place.

(b) If the election records, keys, and supplies for a common polling place are to be delivered to different places for two or more participating political subdivisions:

(1) compensation may be paid in the amount prescribed by this code for delivery, multiplied by the number of participating political subdivisions for which delivery is made to different locations; and

(2) compensation may be paid to one election officer appointed to make the delivery or allocated evenly among the election officers who make the delivery.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 271.014. CONFLICTS WITH OTHER LAW.** A law outside this code pertaining to a joint election supersedes this chapter to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.



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## CHAPTER 272. BILINGUAL REQUIREMENTS

**Sec. 272.001. BILINGUAL ELECTION MATERIALS REQUIRED.** Bilingual election materials printed in English and Spanish shall be used in elections in this state as provided by this chapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 272.002. ELECTION PRECINCTS IN WHICH BILINGUAL MATERIALS USED.** Except as provided by Section 272.003, bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 272.003. EXEMPT ELECTION PRECINCTS.** (a) An election precinct to which Section 272.002 applies may be exempted from the bilingual requirement as provided by this section if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct's inhabitants.

(b) To exempt an election precinct from the bilingual requirement, the presiding officer of the governing body of the political subdivision responsible for the expenses of an election, with the approval of the governing body, must file with the authority responsible for procuring the election supplies for the political subdivision's elections:

- (1) a written certification by the presiding officer that the precinct qualifies for the exemption;
- (2) a written summary of the official census information or other information relied on to support the exemption;
- (3) a map or maps indicating the precinct's boundary and the boundaries of the census enumeration areas referred to in the summary; and
- (4) an authenticated copy of the resolution or other official action showing the governing body's approval of the exemption.

(c) An exemption is effective on the 30th day after the date the certification and other materials required by Subsection (b) are filed.

(d) In a primary election, each county election precinct that has been exempted under this section is exempt. If an election precinct that qualifies for exemption is not certified as exempt before the 60th day before primary election day, the secretary of state may exempt the precinct for the primary election by filing the certification and other materials as provided by Subsection (b).

(e) A precinct exempted under this section remains exempt until:

- (1) the precinct becomes subject to Section 272.002 as a result of a subsequent federal decennial census; or
- (2) the effective date of a change in the precinct's boundary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 272.004. USE OF BILINGUAL MATERIALS FOR EARLY VOTING.** Bilingual election materials shall be used for early voting in each election in which bilingual election materials are used.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.73; Acts 1991, 72nd Leg., ch. 554, Sec. 44, eff. Sept. 1, 1991.

**Sec. 272.005. REQUIRED BILINGUAL MATERIALS.** (a) The instruction posters must be printed in English and Spanish on separate posters or on the same poster with the Spanish text next to the English text. If separate posters are used, they must be posted side by side.

(b) Except as provided by Section 272.006, ballots must be printed with all ballot instructions, office titles, column headings, proposition headings, and propositions appearing in English and Spanish.

(c) Except as provided by Section 272.006, the following materials must contain a Spanish translation beneath the English text:

- (1) the official affidavit forms and other official forms that voters are required to sign in connection with voting;
- (2) the official application forms for early voting ballots;
- (3) written instructions furnished to early voting voters; and
- (4) the balloting materials furnished to voters in connection with early voting by mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.74; Acts 1991, 72nd Leg., ch. 554, Sec. 45, eff. Sept. 1, 1991; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.18, eff. Jan. 1, 2006.

**Sec. 272.006. SEPARATE TRANSLATION AUTHORIZED.** (a) In an election precinct in which use of bilingual election materials is required, bilingual printing of the ballot is not required if a Spanish translation of the ballot is posted in each voting station and a statement in Spanish is placed on the ballot informing the voter that the translation is posted in the station.

(b) If a separate translation of the ballot is made under Subsection (a), the translation must be furnished to each voter to whom an early voting ballot to be voted by mail is provided.

(c) An item specified by Section 272.005(c) is not required to contain a Spanish translation if:

(1) for an item used in connection with voting at a polling place:

(A) a separate translation of the item is made available to the voter on request; and

(B) the item contains a statement in Spanish informing the voter of the availability of the translation;

or

(2) for an item used in connection with early voting by mail, a separate translation of the item is furnished with the item to the voter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.75; Acts 1991, 72nd Leg., ch. 554, Sec. 46, eff. Sept. 1, 1991; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.19, eff. Jan. 1, 2006.

**Sec. 272.007. AUTHORITY PREPARING TRANSLATION.** (a) Except as otherwise provided by this section, the secretary of state shall prepare the Spanish translation for the bilingual election materials required by Sections 272.005 and 272.006.

(b) The secretary of state shall prepare the Spanish translation of the ballot propositions for proposed constitutional amendments and other measures submitted by the legislature if the legislature does not provide a translation.

(c) The authority responsible for having the official ballot prepared for an election other than a primary election or an election ordered by the governor shall prepare the Spanish translation of the contents of the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.20, eff. January 1, 2006.

**Sec. 272.008. OPTIONAL USE OF BILINGUAL MATERIALS.** (a) The governing body of the political subdivision responsible for the expenses of an election may require the use of bilingual election materials in one or more election precincts.

(b) If bilingual materials are required to be used under this section, an authenticated copy of the resolution or other official action showing the governing body's decision shall be filed with the authority responsible for procuring the election supplies for the political subdivision's elections.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 272.009. BILINGUAL ELECTION CLERKS.** (a) The presiding judge of an election precinct subject to Section 272.002 shall make reasonable efforts to appoint a sufficient number of election clerks who are fluent in both English and Spanish to serve the needs of the Spanish-speaking voters of the precinct.

(b) If the number of election clerks appointed under Subsection (a) is insufficient to serve the needs of the Spanish-speaking voters in the election, the authority appointing election judges for the election shall appoint at least one clerk who is fluent in both English and Spanish to serve at a central location to provide assistance for Spanish-speaking voters. On a primary election day, the county chairs of each party holding a primary shall each appoint one clerk under this subsection.

(c) To be eligible to serve as a clerk under this section, a person must:

(1) be a qualified voter of the state and satisfy any additional eligibility requirements prescribed by written order of the commissioners court; or

(2) meet the eligibility requirements of a student election clerk under Section 32.0511.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 638, Sec. 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.24, eff. September 1, 2005; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 96, eff. Sept. 1, 2021.

**Sec. 272.010. VOTER REGISTRATION APPLICATION FORM.** (a) The secretary of state shall prescribe a voter registration application form that is printed in Spanish or shall include a Spanish translation beneath the text of the English-language registration application form prescribed by the secretary.

(b) The voter registrar for each county containing an election precinct subject to Section 272.002 shall maintain a supply of the form required by Subsection (a) and shall keep a notice in Spanish posted at the place in the registrar's office where voter registration is conducted stating that application forms in Spanish are available.

(c) The form required by Subsection (a) may be used in any county in this state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 253, eff. Sept. 1, 1997.

**Sec. 272.011. BILINGUAL ELECTION MATERIALS REQUIRED IN CERTAIN POLITICAL SUBDIVISIONS.** (a)

If the director of the census determines under 42 U.S.C. Section 1973aa-1a that a political subdivision must provide election materials in a language other than English or Spanish, the political subdivision shall provide election materials in that language in the same manner in which the political subdivision would be required to provide materials in Spanish under this chapter, to the extent applicable.

(b) The secretary of state shall prepare the translation for election materials required to be provided in a language other than English or Spanish for the following state prescribed voter forms:

- (1) voter registration application form required by Section 13.002;
- (2) the confirmation form required by Section 15.051;
- (3) the voting instruction poster required by Section 62.011;
- (4) the reasonable impediment declaration required by Section 63.001(b);
- (5) the statement of residence form required by Section 63.0011;
- (6) the provisional ballot affidavit required by Section 63.011;
- (7) the application for a ballot by mail required by Section 84.011;
- (8) the carrier envelope and voting instructions required by Section 86.013; and
- (9) any other voter forms that the secretary of state identifies as frequently used and for which state resources

are otherwise available.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1014 (H.B. 2477), Sec. 5, eff. September 1, 2011. Amended by S.B. 5, 85<sup>th</sup> Leg. R.S., Sec. 7, eff. January 1, 2018.

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## **CHAPTER 273. CRIMINAL INVESTIGATION AND OTHER ENFORCEMENT PROCEEDINGS**

### **SUBCHAPTER A. CRIMINAL INVESTIGATION**

**Sec. 273.001. INVESTIGATION OF CRIMINAL CONDUCT.** (a) If two or more registered voters of the territory covered by an election present affidavits alleging criminal conduct in connection with the election to the county or district attorney having jurisdiction in that territory, the county or district attorney shall investigate the allegations. If the election covers territory in more than one county, the voters may present the affidavits to the attorney general, and the attorney general shall investigate the allegations.

(b) A district or county attorney having jurisdiction or the attorney general may conduct an investigation on the officer's own initiative to determine if criminal conduct occurred in connection with an election.

(c) On receipt of an affidavit under Section 15.028, the county or district attorney having jurisdiction and, if applicable, the attorney general shall investigate the matter.

(d) On referral of a complaint from the secretary of state under Section 31.006, the attorney general may investigate the allegations.

(e) Not later than the 30th day after the date on which a county or district attorney begins an investigation under this section, the county or district attorney shall deliver notice of the investigation to the secretary of state. The notice must include a statement that a criminal investigation is being conducted and the date on which the election that is the subject of the investigation was held. The secretary of state may disclose information relating to a criminal investigation received under this subsection only if the county or district attorney has disclosed the information or would be required by law to disclose the information.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 78, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 916, Sec. 26, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1290, Sec. 1, eff. Sept. 1, 2003.

**Sec. 273.002. LOCAL ASSISTANCE TO ATTORNEY GENERAL.** For an election in which the attorney general is conducting an investigation, the attorney general may:

(1) direct the county or district attorney serving a county in the territory covered by the election to conduct or assist the attorney general in conducting the investigation; or

(2) direct the Department of Public Safety to assist in conducting the investigation.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 273.003. IMPOUNDING ELECTION RECORDS.** (a) In the investigation of an election, a county or district attorney or the attorney general may have impounded for the investigation the election returns, voted ballots, signature roster, and other election records.

(b) To have election records impounded, the investigating officer must apply to a district court for an order placing the election records in the court's custody for examination by the officer.

(c) The application for impoundment must be filed with the district court of the county in which the election was held or an adjoining county. An application for records of a statewide election may be filed in the county in which the election was held, an adjoining county, or Travis County.

(d) On the filing of an application, the district judge shall issue an order impounding the records in a secure place under the terms and conditions the judge considers necessary to keep them under the judge's custody and control during the examination and for any additional time the judge directs.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 254, eff. Sept. 1, 1997.

**Sec. 273.004. EXAMINATION OF IMPOUNDED RECORDS.** (a) The examination of impounded election records shall be conducted in the same manner as a court of inquiry.

(b) Impounded election records must be examined in the presence of the district judge ordering the impoundment or a grand jury, as provided by the judge's order.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

### **SUBCHAPTER B. PROSECUTION BY ATTORNEY GENERAL**

**Sec. 273.021. PROSECUTION BY ATTORNEY GENERAL AUTHORIZED.** (a) The attorney general may prosecute a criminal offense prescribed by the election laws of this state.

(b) The attorney general may appear before a grand jury in connection with an offense the attorney general is authorized to prosecute under Subsection (a).

(c) The authority to prosecute prescribed by this subchapter does not affect the authority derived from other law to prosecute the same offenses.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 79, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 255, eff. Sept. 1, 1997.

**Sec. 273.022. COOPERATION WITH LOCAL PROSECUTOR.** The attorney general may direct the county or district attorney serving the county in which the offense is to be prosecuted to prosecute an offense that the attorney general is authorized to prosecute under Section 273.021 or to assist the attorney general in the prosecution.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 273.023. SUBPOENA.** (a) A subpoena or subpoena duces tecum issued in connection with a prosecution under this subchapter is effective if served anywhere in this state.

(b) A witness may not be punished for failure to comply with a subpoena issued under this subchapter unless the proper fees are tendered to the witness as required by statute or court rule.

(c) The attorney general may direct the Department of Public Safety to serve a subpoena under this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 273.024. VENUE.** An offense under this subchapter may be prosecuted in the county in which the offense was committed or an adjoining county. If the offense is committed in connection with a statewide election, the offense may be prosecuted in the county in which the offense was committed, an adjoining county, or Travis County.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

## SUBCHAPTER C. EXAMINATION OF BALLOTS BY GRAND JURY

**Sec. 273.041. REQUEST TO EXAMINE BALLOTS.** In the investigation of criminal conduct in connection with an election, a grand jury, on finding probable cause to believe an offense was committed, may request a district judge of the county served by the grand jury to order an examination of the voted ballots in the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 22, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 56, eff. Jan. 1, 2004.

**Sec. 273.042. ORDER BY DISTRICT JUDGE.** On request of a grand jury for an examination of voted ballots, a district judge may order the custodian of the ballots and the custodian of the keys to the ballot boxes to deliver the ballot boxes and the keys to the grand jury.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 22, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 56, eff. Jan. 1, 2004.

**Sec. 273.043. CONDUCT OF EXAMINATION.** The examination of ballots under this subchapter shall be conducted in secret before the grand jury.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1078, Sec. 22, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 56, eff. Jan. 1, 2004.

## SUBCHAPTER D. MANDAMUS BY APPELLATE COURT

**Sec. 273.061. JURISDICTION.** (a) The supreme court or a court of appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election or a political party convention, regardless of whether the person responsible for performing the duty is a public officer.

(b) The court of criminal appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the provision, sequestration, transfer, or impoundment of evidence in or records relating to a criminal investigation conducted under this code or conducted in connection with the conduct of an election or political party convention. If a writ of mandamus is issued under this subsection, it shall include an order requiring the provision, sequestration, transfer, or impoundment of the evidence or record.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by S.B. 1, 87th Leg., 2<sup>nd</sup> C.S., Sec. 8.04, eff. Dec. 2, 2021.

**Sec. 273.062. PROCEEDING TO OBTAIN WRIT.** A proceeding to obtain a writ of mandamus under this subchapter shall be conducted in accordance with the rules pertaining to original proceedings of the court in which the petition is filed.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 273.063. VENUE IN COURT OF APPEALS.** (a) A petition to a court of appeals for a writ of mandamus under this subchapter must be filed with the court specified by this section.

- (b) A petition pertaining to an election must be filed with the court of the court of appeals district in which:
- (1) the respondent resides, or in which one of them resides if there is more than one respondent, if the election is statewide; or
  - (2) the territory covered by the election is wholly or partly situated, if the election is not statewide.

(c) A petition pertaining to a political party convention must be filed with the court of the court of appeals district in which:

- (1) the respondent resides, or in which one of them resides if there is more than one respondent, for a state convention;
  - (2) the territory represented by the convention delegates is wholly or partly situated, for a district convention;
- or
- (3) the precinct or county is situated, for a precinct or county convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 15(c), eff. Sept. 1, 1987.

## **SUBCHAPTER E. INJUNCTION**

**Sec. 273.081. INJUNCTION.** A person who is being harmed or is in danger of being harmed by a violation or threatened violation of this code is entitled to appropriate injunctive relief to prevent the violation from continuing or occurring.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.



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## CHAPTER 274. CONSTITUTIONAL AMENDMENTS

### SUBCHAPTER A. AMENDMENT ON BALLOT

**Sec. 274.001. FORM OF AMENDMENT ON BALLOT.** (a) If the legislature fails to prescribe the wording of the proposition submitting a proposed constitutional amendment, the secretary of state shall prescribe it.

(b) The proposition prescribed by the secretary of state must describe the proposed amendment in terms that clearly express its scope and character.

(c) The governor shall include the proposition in the proclamation ordering the election at which the constitutional amendment will be submitted.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 274.002. DRAWING FOR BALLOT ORDER.** (a) If more than one proposed constitutional amendment is to be submitted in an election, the order of the propositions submitting the amendments shall be determined by a drawing as provided by this section.

(b) The secretary of state shall conduct the drawing at a time and place designated by the secretary. The drawing is open to the public.

(c) The secretary of state shall post on the secretary of state's Internet website and may post on a bulletin board for posting notice of a meeting of a state governmental body a notice of the date, hour, and place of the drawing. The notice must remain posted continuously for 72 hours immediately preceding the scheduled time of the drawing.

(d) The propositions submitting the proposed amendments are numbered consecutively, beginning with No. 1, in the order drawn.

(e) Each proposition must appear on the official ballot with its assigned number in the serial order of its number.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by H.B. 933, 86<sup>th</sup> Leg., Sec. 15, eff. Sept. 1, 2019.

**Sec. 274.003. CERTIFYING AMENDMENT FOR PLACEMENT ON BALLOT.** (a) For each proposed constitutional amendment, the secretary of state shall certify in writing for placement on the ballot:

(1) the wording of the proposition submitting the amendment; and

(2) the proposition's number.

(b) Not later than the 68th day before election day, the secretary of state shall deliver the certification to the authority responsible for having the official ballot prepared in each county.

(c) In conjunction with the certification required under Subsection (a), the secretary of state shall include appropriate ballot translation language, as applicable, for each language certified statewide or for a specific county by the director of the census under 42 U.S.C. Section 1973aa-1a.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1014 (H.B. 2477), Sec. 4, eff. Sept. 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 30, eff. Sept. 1, 2015.

**Sec. 274.004. PROPOSITION BALLOT ORDER.** A proposed constitutional amendment must be placed on the ballot before all other propositions.

Added by S.B. 957, 85<sup>th</sup> Leg., R.S., Sec. 2, eff. June 1, 2017.

### SUBCHAPTER B. PUBLISHING NOTICE OF PROPOSED AMENDMENT

**Sec. 274.021. NOTICE OF PROPOSED AMENDMENT REQUIRED.** Notice of each proposed constitutional amendment shall be published as required by the constitution in accordance with this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 274.022. CONTRACT FOR PUBLICATION.** (a) The secretary of state shall contract in writing for the publication of notice of a proposed constitutional amendment with:

(1) each eligible newspaper; or

(2) a statewide association of daily and weekly newspapers in this state.

(b) A contract with a statewide association must provide for publication in each eligible newspaper in this state.

(c) In this subchapter, "eligible newspaper" means a newspaper that meets the requirements prescribed by law for the publication of official notices of officers and departments of the state government.

(d) In this subchapter, "contractor" means a newspaper or statewide association with which the secretary of state contracts under this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 274.023. TEXT OF NOTICE.** (a) The secretary of state shall prepare the text of the notice of each proposed constitutional amendment in the form specified by the contract.

(b) The secretary of state shall deliver the text to each contractor by the deadline specified in the contract.

(c) If the contractor is a statewide association, the association shall deliver to each eligible newspaper the materials and instructions necessary for a correct and uniform publication of the notice.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 274.024. REPORT ON NOTICE PUBLICATION TO SECRETARY OF STATE.** (a) A contractor shall file with the secretary of state a report on the publication of the notice of a proposed constitutional amendment.

(b) The report must include:

(1) duplicate originals of an affidavit of publication executed by:

(A) the owner, editor, or publisher, if the contractor is a newspaper; or

(B) the general manager of the association, if the contractor is a statewide association; and

(2) a tear sheet of the published notice for each publication date or, if the contractor is a statewide association, a tear sheet of the published notice from each newspaper for each publication date.

(c) The affidavit of publication must contain a statement that the publication of the notice was made in accordance with law and any other statement required by the secretary of state relating to the publication. The affidavit must be made on an officially prescribed form.

(d) In addition to the requirements of Subsection (b), a report filed by a newspaper must include:

(1) the name of the newspaper in which the notice was published;

(2) the number of column inches used for the notice;

(3) the newspaper's published national rate for advertising per column inch;

(4) the cost of publishing the notice; and

(5) any other information requested by the secretary of state relating to the publication of the notice.

(e) If the contractor is a statewide association, the report must include the information required by Subsection (d) with respect to each newspaper in which the notice was published.

(f) The report must be filed not later than the 30th day after the date of the last publication of the notice.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 274.025. ACTION ON REPORT BY SECRETARY OF STATE.** (a) On receipt of a report filed under Section 274.024, the secretary of state shall review the report to determine if:

(1) the affidavit is properly executed; and

(2) the publication of the notice was made in accordance with law.

(b) If the affidavit is properly executed and the publication was made in accordance with law, the secretary of state shall approve the report. Otherwise, the secretary may not approve the report.

(c) If a contractor's report is not approved, the contractor is not entitled to payment by the state for the publication. The secretary of state for good cause may permit a contractor to amend a report as necessary for approval.

(d) If a report is approved, the secretary of state shall deliver one of the affidavits of publication to the comptroller of public accounts and retain the other for two years after the date the report is approved. The secretary shall enter the amount to be paid to the contractor on the affidavit delivered to the comptroller.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 274.026. STATE PAYMENT FOR PUBLICATION.** On receipt of an approved affidavit of publication from the secretary of state, the comptroller of public accounts shall issue a warrant payable to the contractor in the amount specified by the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 274.027. AMOUNT OF STATE PAYMENT.** The amount paid by the state for publication of notice of a proposed constitutional amendment under this subchapter is as follows:

(1) for a contractor that is a newspaper, the amount is computed:

(A) at 85 percent of the newspaper's published national rate for advertising per column inch if the text of the

notice furnished to the newspaper by the secretary of state is in the form of a camera-ready paste-up proof, a matrix, or a printing plate; or

(B) at the newspaper's published national rate for advertising per column inch if the text of the notice is not in the form prescribed by Paragraph (A); or

(2) for a contractor that is a statewide association, the amount is equal to the sum of the costs of publication in each newspaper, computed at the newspaper's published national rate for advertising per column inch.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 274.028. COMMISSION RETAINED BY ASSOCIATION.** If the secretary of state contracts with a statewide association for publication of the notice of a proposed constitutional amendment, the contract must provide that the association retain a commission out of the amount paid by the state under the contract. The commission must be a stipulated percentage of the state payment that is uniformly applied against each newspaper.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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## **CHAPTER 275. ELECTION FOR OFFICERS OF CITY WITH 200,000 POPULATION**

**Sec. 275.001. APPLICABILITY OF CHAPTER.** This chapter applies only to a city with a population of 200,000 or more.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 275.002. MAJORITY VOTE REQUIRED.** To be elected to a city office, a candidate must receive a majority of the total number of votes received by all candidates for the office.  
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 275.003. ELECTION BY PLACE REQUIRED.** (a) When a city attains a population of 200,000 or more, the city shall establish a system of electing its governing body in accordance with this section if in the city's general elections more than one member of its governing body is elected from the same set of candidates.

(b) Not later than the 60th day before the date of the first general election held in accordance with this section, the city's governing body shall assign a place number to each position on the governing body that is to be elected from the same territory as another position, identifying it by the name of the incumbent at the time the assignment is made.

(c) One person shall be elected to fill each position for which a place number appears on the ballot.

(d) The city shall use the place system required by this section until the city establishes another system of election that is consistent with an election by majority vote.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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## CHAPTER 276. MISCELLANEOUS OFFENSES AND OTHER PROVISIONS

**Sec. 276.001. RETALIATION AGAINST VOTER.** (a) A person commits an offense if, in retaliation against a voter who has voted for or against a candidate or measure or a voter who has refused to reveal how the voter voted, the person knowingly:

- (1) harms or threatens to harm the voter by an unlawful act; or
- (2) with respect to a voter over whom the person has authority in the scope of employment, subjects or threatens to subject the voter to a loss or reduction of wages or another benefit of employment.

(b) An offense under this section is a felony of the third degree.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 256, eff. Sept. 1, 1997.

**Sec. 276.003. UNLAWFUL REMOVAL FROM BALLOT BOX.** (a) A person commits an offense if the person knowingly or intentionally removes or attempts to remove voted ballots from a ballot box in a manner not authorized by law.

(b) An offense under this section is a felony of the third degree unless the person is convicted of an attempt. In that case, the offense is a Class A misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 489, Sec. 1, eff. Sept. 1, 1987.

**Sec. 276.004. UNLAWFULLY PROHIBITING EMPLOYEE FROM VOTING.** (a) A person commits an offense if, with respect to another person over whom the person has authority in the scope of employment, the person knowingly:

- (1) refuses to permit the other person to be absent from work on election day or while early voting is in progress for the purpose of attending the polls to vote; or
- (2) subjects or threatens to subject the other person to a penalty for attending the polls on election day or while early voting is in progress to vote.

(b) It is an exception to the application of this section that the person's conduct occurs in connection with an election in which the polls are open on election day or while early voting is in progress for voting for two consecutive hours outside of the voter's working hours.

(c) In this section, "penalty" means a loss or reduction of wages or another benefit of employment.

(d) An offense under this section is a Class C misdemeanor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 80, eff. Sept. 1, 1993; S.B. 1, 87th Leg., 2nd C.S., Sec. 7.02, eff. Dec. 2, 2021.

**Sec. 276.005. VOTER'S PRIVILEGE FROM ARREST.** A voter may not be arrested during the voter's attendance at an election and while going to and returning from a polling place except for treason, a felony, or a breach of peace.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 276.006. CHANGING ELECTORAL BOUNDARIES OF CERTAIN POLITICAL SUBDIVISIONS.** A change in a boundary of a territorial unit of a political subdivision other than a county from which an office of the political subdivision is elected is not effective for an election unless the date of the order or other action adopting the boundary change is more than three months before election day.

Added by Acts 1987, 70th Leg., ch. 472, Sec. 59, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 995, Sec. 1, eff. Jan. 1, 2000.

**Sec. 276.007. STUDENT ELECTION AUTHORIZED.** (a) An election for the participation of students in kindergarten through 12th grade may be held in conjunction with a general, special, or primary election as provided by this section.

(b) A student election may be ordered by:

- (1) the commissioners court, for a student election held in conjunction with an election ordered by the governor or a county authority;
- (2) the governing body of a political subdivision, for a student election held in conjunction with an election of the political subdivision; or
- (3) the county executive committee, for a student election held in conjunction with a primary election.

(c) A student election may be held only on election day or the day before election day.

(d) The authority ordering a student election shall specify in the order each grade that may participate in the election.

A student in a specified grade may enter a precinct polling place for the purpose of casting an unofficial ballot in the student election on the same offices and measures that appear on the official ballot.

(e) The authority ordering a student election shall make the results of that election available to the public but only after the polling places are closed on election day.

(f) The election officers serving in the official election may not serve in the student election. The authority ordering



a student election shall appoint a separate set of election officers to conduct the student election, supervise the participating students, and tabulate and report the results of that election.

(g) Expenses incurred in the conduct of a student election, including any personnel expenses, may be paid only from private grant funds or donations.

(h) The secretary of state shall prescribe any procedures necessary to implement this section and ensure that the conduct of a student election does not affect the proper and efficient conduct of a general, special, or primary election.

Added by Acts 1991, 72nd Leg., ch. 887, Sec. 1, eff. Sept. 1, 1991.

**Sec. 276.008. INFORMATION PROVIDED TO TEXAS LEGISLATIVE COUNCIL.** (a) On the written request of the Texas Legislative Council, the secretary of state, a county clerk or county elections administrator, a city secretary, or a voter registrar shall provide without charge to the council information or data maintained by the appropriate officer relating to voter registration, voter turnout, election returns for statewide, district, county, precinct, or city offices, or county election precincts, including precinct maps.

(b) The appropriate officer shall provide the requested information or data to the council as soon as practicable but not later than the 30th day after the date the request is received by that officer.

(c) The information or data shall be provided in a form approved by the council.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.11(a), eff. Sept. 1, 1987.

Amended by Acts 1989, 71st, ch. 114, Sec. 16, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 323.013 and amended by Acts 1993, 73rd Leg., ch. 107, Sec. 3A.02, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 1585, Sec. 3, eff. June 20, 1999.

**Sec. 276.009. VOTING BY SEQUESTERED JUROR.** (a) The judge of a court that has issued an order that a jury not be allowed to separate shall permit a juror reasonable time to vote on election day.

(b) The court may provide the juror with a means of transportation to and from the appropriate polling place.

Added by Acts 1995, 74th Leg., ch. 236, Sec. 1, eff. Sept. 1, 1995.

**Sec. 276.010. UNLAWFUL BUYING AND SELLING OF BALLOTING MATERIALS.** (a) A person commits an offense if the person buys, offers to buy, sells, or offers to sell an official ballot, official ballot envelope, official carrier envelope, signed application for an early voting mail ballot, or any other original election record.

(b) This section does not apply to a person who executes a written contract for the procurement of election supplies necessary to conduct an election under Section 51.003.

(c) An offense under this section is a state jail felony unless a voter sells a ballot, ballot envelope, or carrier envelope that has been provided to the voter by government, in which event the offense is a Class B misdemeanor.

Added by Acts 2003, 78th Leg., ch. 393, Sec. 19, eff. Sept. 1, 2003.

**Sec. 276.012. ENGAGING IN ORGANIZED ELECTION FRAUD ACTIVITY.** (a) A person commits an offense if, with the intent to establish, maintain, or participate in a vote harvesting organization, the person commits or conspires to commit one or more offenses under Titles 1 through 7.

(b) Except as provided by Subsection (c), an offense under this section is one category higher than the most serious offense listed in Subsection (a) that is committed, and if the most serious offense is a Class A misdemeanor, the offense is a state jail felony.

(c) At the punishment stage of a trial, the defendant may raise the issue as to whether in voluntary and complete renunciation of the offense the defendant withdrew from the vote harvesting organization before commission of an offense listed in Subsection (a) and made substantial effort to prevent the commission of the offense. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is the same category of offense as the most serious offense listed in Subsection (a) that is committed.

(d) In this section, "vote harvesting organization" means three or more persons who collaborate in committing offenses under Titles 1 through 7, although participants may not know each other's identity, membership in the organization may change from time to time, and participants may stand in a candidate-consultant, donor-consultant, consultant-field operative, or other arm's length relationship in the organization's operations.

(e) For purposes of this section, "conspires to commit" means that a person agrees with one or more persons that they or one or more of them engage in conduct that would constitute the offense and that person and one or more of them perform an overt act in pursuance of the agreement. An agreement constituting conspiring to commit may be inferred from the acts of the parties.

Added by H.B. 1735, 85<sup>th</sup> Leg., R.S., Sec. 62, eff. September 1, 2017. Redesignated as Sec. 276.012 by H.B. 4170, 86<sup>th</sup> Leg., Sec. 21.001, eff. Sept. 1, 2019.

**Sec. 276.013. ELECTION FRAUD.** (a) A person commits an offense if the person knowingly or intentionally makes any

effort to:

- (1) influence the independent exercise of the vote of another in the presence of the ballot or during the voting process, including by altering the ballot of another or by otherwise causing a ballot to not reflect the intent of the voter;
- (2) cause a voter to become registered, a ballot to be obtained, or a vote to be cast under false pretenses;
- (3) cause any false or intentionally misleading statement, representation, or information to be provided:
  - (A) to an election official; or
  - (B) on an application for ballot by mail, carrier envelope, or any other official election-related form or document;
- (4) prevent a voter from casting a legal ballot in an election in which the voter is eligible to vote;
- (5) provide false information to a voter with the intent of preventing the voter from voting in an election in which the voter is eligible to vote;
- (6) cause the ballot not to reflect the intent of the voter;
- (7) cause a ballot to be voted for another person that the person knows to be deceased or otherwise knows not to be a qualified or registered voter;
- (8) cause or enable a vote to be cast more than once in the same election; or
- (9) discard or destroy a voter's completed ballot without the voter's consent.

(b) An offense under this section is a Class A misdemeanor, unless:

- (1) the person committed the offense while acting in the person's capacity as an elected official, in which case the offense is a state jail felony; or
- (2) the person is convicted of an attempt, in which case the offense is a Class B misdemeanor.

(c) An offense under this section is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

- (1) the defendant was previously convicted of an offense under this code;
- (2) the offense involved a voter 65 years of age or older, and the actor was not:
  - (A) related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code; or
  - (B) physically living in the same dwelling as the voter at the time of the event; or
- (3) the defendant committed another offense under this section in the same election.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Added by S.B. 5, 85<sup>th</sup> Leg., First Called Session, Sec. 17, eff. December 1, 2017. Amended by: S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 7.03, eff. Dec. 2, 2021.

**Sec. 276.014. OTHER ELECTION OFFENSES.** (a) A person commits an offense if the person knowingly or intentionally makes any effort to:

- (1) count votes the person knows are invalid or alter a report to include votes the person knows are invalid;
- or
- (2) refuse to count votes the person knows are valid or alter a report to exclude votes the person knows are valid.

(b) An offense under this section is a felony of the second degree.

Added by H.B. 5,74 87<sup>th</sup> Leg., R.S., Sec. 1, eff. September 1, 2021.

**Sec. 276.015. VOTE HARVESTING.** (a) In this section:

(1) "Benefit" means anything reasonably regarded as a gain or advantage, including a promise or offer of employment, a political favor, or an official act of discretion, whether to a person or another party whose welfare is of interest to the person.

(2) "Vote harvesting services" means in-person interaction with one or more voters, in the physical presence of an official ballot or a ballot voted by mail, intended to deliver votes for a specific candidate or measure.

(b) A person commits an offense if the person, directly or through a third party, knowingly provides or offers to provide vote harvesting services in exchange for compensation or other benefit.

(c) A person commits an offense if the person, directly or through a third party, knowingly provides or offers to provide compensation or other benefit to another person in exchange for vote harvesting services.

(d) A person commits an offense if the person knowingly collects or possesses a mail ballot or official carrier envelope in connection with vote harvesting services.

(e) This section does not apply to:

- (1) an activity not performed in exchange for compensation or a benefit;

- (2) interactions that do not occur in the presence of the ballot or during the voting process;
- (3) interactions that do not directly involve an official ballot or ballot by mail;
- (4) interactions that are not conducted in-person with a voter; or
- (5) activity that is not designed to deliver votes for or against a specific candidate or measure.

(f) An offense under this section is a felony of the third degree.

(g) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

(h) Records necessary to investigate an offense under this section or any other section of this code shall be provided by an election officer in an unredacted form to a law enforcement officer upon request. Records obtained under this subsection are not subject to public disclosure.

Added by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 7.04, eff. Dec. 2, 2021.

**Sec. 276.016. UNLAWFUL SOLICITATION AND DISTRIBUTION OF APPLICATION TO VOTE BY MAIL.** (a) A public official or election official commits an offense if the official, while acting in an official capacity, knowingly:

- (1) solicits the submission of an application to vote by mail from a person who did not request an application;
- (2) distributes an application to vote by mail to a person who did not request the application unless the distribution is expressly authorized by another provision of this code;
- (3) authorizes or approves the expenditure of public funds to facilitate third-party distribution of an application to vote by mail to a person who did not request the application; or
- (4) completes any portion of an application to vote by mail and distributes the application to an applicant.

(b) An offense under this section is a state jail felony.

(c) Subsection (a)(2) does not apply if the public official or election official engaged in the conduct described by Subsection (a)(2) by providing access to an application to vote by mail from a publicly accessible Internet website.

(d) Subsection (a)(4) does not apply if the public official or election official engaged in the conduct described by Subsection (a)(4) while lawfully assisting the applicant under Section 84.003.

(e) Subsection (a) does not apply if the public official or election official:

- (1) provided general information about voting by mail, the vote by mail process, or the timelines associated with voting to a person or the public; or
- (2) engaged in the conduct described by Subsection (a) while acting in the official's capacity as a candidate for a public elective office.

(f) The remedy provided under this chapter is cumulative, and does not restrict any other remedies provided by this code or by law. A violation of this section is subject to injunctive relief or mandamus as provided by this code.

Added by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 7.04, eff. Dec. 2, 2021.

**Sec. 276.017. UNLAWFUL DISTRIBUTION OF EARLY VOTING BALLOTS AND BALLOTING MATERIALS.** (a) The early voting clerk or other election official commits an offense if the clerk or official knowingly mails or otherwise provides an early voting ballot by mail or other early voting by mail ballot materials to a person who the clerk or official knows did not submit an application for a ballot to be voted by mail under Section 84.001.

(b) An offense under this section is a Class A misdemeanor.

Added by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 7.04, eff. Dec. 2, 2021.

**Sec. 276.018. PERJURY IN CONNECTION WITH CERTAIN ELECTION PROCEDURES.** (a) A person commits an offense if, with the intent to deceive, the person knowingly or intentionally makes a false statement or swears to the truth of a false statement:

- (1) on a voter registration application; or
- (2) previously made while making an oath, declaration, or affidavit described by this code.

(b) An offense under this section is a state jail felony.

Added by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 7.04, eff. Dec. 2, 2021.

**Sec. 276.019. UNLAWFUL ALTERING OF ELECTION PROCEDURES.** A public official or election official may not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.

Added by S.B. 1, 87<sup>th</sup> Leg., 2<sup>nd</sup> C.S., Sec. 7.04, eff. Dec. 2, 2021.

## **CHAPTER 277. PETITION PRESCRIBED BY LAW OUTSIDE CODE**

**Sec. 277.001. APPLICABILITY OF CHAPTER.** This chapter applies to a petition authorized or required to be filed under a law outside this code in connection with an election.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 81, eff. Sept. 1, 1993; Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 25, eff. September 1, 2009.

**Sec. 277.002. VALIDITY OF PETITION SIGNATURES.** (a) For a petition signature to be valid, a petition must:

- (1) contain in addition to the signature:
  - (A) the signer's printed name;
  - (B) the signer's:
    - (i) date of birth; or
    - (ii) voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration;
  - (C) the signer's residence address; and
  - (D) the date of signing; and
- (2) comply with any other applicable requirements prescribed by law.
  - (b) The signature is the only information that is required to appear on the petition in the signer's own handwriting.
  - (c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.
  - (d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. The omission of the zip code from the address does not invalidate a signature.
  - (e) A petition signature is invalid if the signer signed the petition earlier than the 180th day before the date the petition is filed.
  - (f) The signer's residence address and the address listed on the signer's registration are not required to be the same if the signer is eligible to vote under Section 11.004 or 112.002.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 82, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 73, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1316, Sec. 43, eff. Sept. 1, 2003; Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.25(a), eff. Sept. 1, 2005; H.B. 3107, 87th Leg., R.S., Sec. 97, eff. Sept. 1, 2021.

**Sec. 277.0021. MEANING OF QUALIFIED VOTER.** A reference in a law outside this code to "qualified voter" in the context of eligibility to sign a petition means "registered voter."

Added by Acts 1989, 71st leg., ch. 483, Sec. 1, eff. Sept. 1, 1989.

**Sec. 277.0022. WITHDRAWAL OF SIGNATURE.** (a) A signer may not withdraw the signature from a petition on or after the date the petition is received by the authority with whom it is required to be filed. Before that date, a signer may withdraw the signature by deleting the signature from the petition or by filing with the authority with whom the petition is required to be filed an affidavit requesting that the signature be withdrawn from the petition.

(b) A withdrawal affidavit filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(c) The withdrawal of a signature nullifies the signature on the petition and places the signer in the same position as if the signer had not signed the petition.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 83, eff. Sept. 1, 1993.

**Sec. 277.0023. SUPPLEMENTING PETITION.** (a) Except as provided by Subsection (b), a petition may not be supplemented, modified, or amended on or after the date it is received by the authority with whom it is required to be filed unless expressly authorized by law.

(b) If a petition is required to be filed by a specified deadline, the petitioner may file one supplementary petition by that deadline if the original petition contains a number of signatures that exceeds the required minimum number by 10 percent or more and is received by the authority with whom it is required to be filed not later than the 10th day before the date of the deadline. The authority shall notify the petitioner as to the sufficiency of the petition not later than the fifth regular business day after the date of its receipt.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 83, eff. Sept. 1, 1993.

**Sec. 277.0024. COMPUTING NUMBER OF SIGNATURES.** (a) Except as provided by Subsection (b), if the minimum

number of signatures required for a petition is determined by a computation applied to the number of registered voters of a particular territory, voters whose names appear on the list of registered voters with the notation "S", or a similar notation, shall be excluded from the computation.

(b) The signature of a voter whose name appears on the list of registered voters with the notation "S", or a similar notation, is considered valid if the voter:

- (1) is otherwise eligible to vote in the territory; and
- (2) provides a residence address located in the territory.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 43, eff. Sept. 1, 1995; H.B. 3107, 87<sup>th</sup> Leg., R.S., Sec. 98, eff. Sept. 1, 2021.

**Sec. 277.003. VERIFYING SIGNATURES BY STATISTICAL SAMPLE.** If a petition contains more than 1,000 signatures, the city secretary or other authority responsible for verifying the signatures may use any reasonable statistical sampling method in determining whether the petition contains the required number of valid signatures, except that the sample may not be less than 25 percent of the total number of signatures appearing on the petition or 1,000, whichever is greater. If the signatures on a petition circulated on a statewide basis are to be verified by the secretary of state, the sample prescribed by Section 141.069 applies to the petition rather than the sample prescribed by this section.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987.

**Sec. 277.004. EFFECT OF CITY CHARTER OR ORDINANCE.** Any requirements for the validity or verification of petition signatures in addition to those prescribed by this chapter that are prescribed by a home-rule city charter provision or a city ordinance are effective only if the charter provision or ordinance was in effect September 1, 1985.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 16(c), eff. Sept. 1, 1987.

## **CHAPTER 278. VOTER INFORMATION GUIDE FOR JUDICIAL ELECTIONS**

**Sec. 278.001. APPLICABILITY OF CHAPTER.** This chapter applies to each candidate whose name is to appear on the ballot or a list of declared write-in candidates in a judicial election.

Added by Acts 2001, 77th Leg., ch. 1285, Sec. 1, eff. Sept. 1, 2001.

**Sec. 278.002. INTERNET VOTER INFORMATION GUIDE.** The secretary of state may implement a voter information service program to:

- (1) compile information on candidates for election in the form of a voter information guide; and
- (2) make the guide available to the public on the Internet.

Added by Acts 2001, 77th Leg., ch. 1285, Sec. 1, eff. Sept. 1, 2001.

**Sec. 278.003. STATEMENT FILED BY CANDIDATE.** If the secretary of state implements a voter information service program, a candidate may file with the secretary not later than the 70th day before the date of the judicial election an informational statement, on a form prescribed by the secretary, to be included in the voter information guide for that election.

Added by Acts 2001, 77th Leg., ch. 1285, Sec. 1, eff. Sept. 1, 2001.

**Sec. 278.004. STATEMENT REQUIREMENTS.** (a) A candidate's statement must include a summary of the following information:

- (1) current occupation;
- (2) educational and occupational background;
- (3) biographical information; and
- (4) any previous experience serving in government.

(b) The secretary of state may prescribe the format and length of the candidate's statement.

Added by Acts 2001, 77th Leg., ch. 1285, Sec. 1, eff. Sept. 1, 2001.

**Sec. 278.005. REVIEW BY SECRETARY OF STATE.** (a) Not later than the fifth day after the date the candidate's statement is received, the secretary of state may review the statement to determine whether it complies with this chapter.

(b) If the secretary of state determines that the statement does not comply with the applicable requirements, the secretary may reject the statement and deliver written notice of the reason for the rejection to the candidate not later than the second day after the date of rejection.

(c) A candidate whose statement is rejected may resubmit the statement subject to the prescribed deadline.

Added by Acts 2001, 77th Leg., ch. 1285, Sec. 1, eff. Sept. 1, 2001.

**Sec. 278.006. PREPARATION OF GUIDE.** (a) The secretary of state may contract for the preparation of the voter information guide after soliciting bids for that work. The secretary may prepare the guide if the secretary determines that the costs of that preparation are less than or equal to the most reasonable bid submitted.

(b) The voter information guide must include the candidates' statements that comply with this chapter, with candidates for election and write-in candidates for election as separate groups. The order of the candidates' names within the groups is determined by a drawing conducted by the secretary of state.

(c) The secretary of state may prescribe appropriate explanatory material to be included in the voter information guide to assist the voters, including a statement that the guide may be used at the polls to assist the voters in marking their ballots.

Added by Acts 2001, 77th Leg., ch. 1285, Sec. 1, eff. Sept. 1, 2001.

**Sec. 278.007. AVAILABILITY OF GUIDE.** If the secretary of state implements a voter information service program, the secretary may make the voter information guide available to the public on the Internet not later than the 45th day before the date of each judicial election.

Added by Acts 2001, 77th Leg., ch. 1285, Sec. 1, eff. Sept. 1, 2001.

**Sec. 278.008. ADDITIONAL PROCEDURES.** The secretary of state may prescribe any additional procedures necessary to implement this chapter.

Added by Acts 2001, 77th Leg., ch. 1285, Sec. 1, eff. Sept. 1, 2001.

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## **CHAPTER 279. CYBERSECURITY OF ELECTION SYSTEMS**

**Sec. 279.001. DEFINITIONS.** In this chapter:

- (1) "County election officer" means an individual employed by a county as an elections administrator, voter registrar, county clerk, or other officer with responsibilities relating to the administration of elections.
- (2) "Election data" means information that is created or managed in the operation of an election system.
- (3) "Election system" means a voting system and the technology used to support the conduct of an election, including, the election data processed or produced in the course of conducting an election, such as voter registration information, ballot information, collected and tabulated votes, election management processes and procedures, and other election-related documents and election data.

Added by H.B. 1421, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 279.002. ELECTION CYBERSECURITY: SECRETARY OF STATE.** (a) The secretary of state shall adopt rules defining classes of protected election data and establishing best practices for identifying and reducing risk to the electronic use, storage, and transmission of election data and the security of election systems.

(b) The secretary of state shall offer training on best practices:

- (1) on an annual basis, to all appropriate personnel in the secretary of state's office; and
- (2) on request, to county election officers in this state.

(c) If the secretary of state becomes aware of a breach of cybersecurity that impacts election data, the secretary shall immediately notify the members of the standing committees of each house of the legislature with jurisdiction over elections.

Added by H.B. 1421, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.

**Sec. 279.003. ELECTION CYBERSECURITY: COUNTY ELECTION OFFICERS.** (a) A county election officer shall annually request training on cybersecurity from the secretary of state. The secretary of state shall pay the costs associated with the training with available state funds.

(b) A county election officer shall request an assessment of the cybersecurity of the county's election system from a provider of cybersecurity assessments if the secretary of state recommends an assessment and the necessary funds are available.

(c) If a county election officer becomes aware of a breach of cybersecurity that impacts election data, the officer shall immediately notify the secretary of state.

(d) To the extent that state funds are available for the purpose, a county election officer shall implement cybersecurity measures to ensure that all devices with access to election data comply to the highest extent possible with rules adopted by the secretary of state under Section 279.002.

Added by H.B. 1421, 86<sup>th</sup> Leg., Sec. 1, eff. Sept. 1, 2019.



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# TITLE 17. LOCAL OPTION ELECTIONS

## CHAPTER 501. LOCAL OPTION ELECTIONS ON SALE OF ALCOHOLIC BEVERAGES

### SUBCHAPTER A. GENERAL PROVISIONS

**Sec. 501.001. DEFINITIONS.** In this chapter:

(1) "Alcoholic beverage," "commission," "liquor," "malt beverage," "mixed beverage," and "wine and vinous liquor" have the meanings assigned by Section 1.04, Alcoholic Beverage Code.

(2) "Municipality" has the meaning assigned by Section 1.005, Local Government Code.

(3) "Premises" has the meaning assigned by Section 11.49, Alcoholic Beverage Code.

(4) "Political subdivision" includes a justice precinct.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. Sept. 1, 2005. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 41, eff. September 1, 2011; H.B. 1545, 86<sup>th</sup> Leg., Sec. 388, eff. Sept. 1, 2021.

**Sec. 501.002. REFERENCES IN OTHER LAW.** A reference in law to an election or a local option election held under Chapter 251, Alcoholic Beverage Code, means an election held under this chapter.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.003. ENFORCEMENT.** The enforcement provisions of the Alcoholic Beverage Code that relate generally to a violation of a provision of that code, including Chapter 101, Alcoholic Beverage Code, apply to a violation of a provision of this chapter.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

### SUBCHAPTER B. MANNER OF CALLING ELECTION

**Sec. 501.021. ELECTION TO BE HELD BY PETITION.** On proper petition by the required number of voters of a county, justice precinct, or municipality in the county, the commissioners court shall order a local option election in the political subdivision to determine whether the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be prohibited or legalized in the political subdivision.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 778 (S.B. 1034), Sec. 1, eff. September 1, 2009.

**Sec. 501.022. QUALIFICATIONS FOR NEW POLITICAL SUBDIVISION TO HOLD ELECTION.** (a) A political subdivision must have been in existence for at least 18 months before a local option election to legalize or prohibit the sale of liquor in the political subdivision may be held.

(b) The political subdivision must include substantially all the area encompassed by the political subdivision at the time of its creation and may include any other area subsequently annexed by or added to the political subdivision.

(c) This section does not apply to a municipality incorporated before December 1, 1971.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.023. APPLICATION FOR PETITION.** (a) If 10 or more qualified voters of any county, justice precinct, or municipality file a written application and provide proof of publication of notice in a newspaper of general circulation in that political subdivision, the county clerk of the county shall issue to the applicants a petition to be circulated among the qualified voters of the political subdivision for the signatures of those qualified voters who desire that a local option election be called for the purpose of determining whether the sale of alcoholic beverages of one or more of the various types and alcoholic contents shall be prohibited or legalized in the political subdivision. The notice must include:

(1) the individual or entity that is applying for the petition to gather signatures for a local option liquor election;

(2) the type of local option liquor election;

(3) the name of the political subdivision in which the petition will be circulated; and

(4) the name and title of the person with whom the application will be filed.

(b) Not later than the fifth day after the date the petition is issued, the county clerk shall notify the commission and

the secretary of state that the petition has been issued.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 42, eff. Sept. 1, 2011.

**Sec. 501.024. HEADING, STATEMENT, AND ISSUE ON APPLICATION FOR PETITION TO PROHIBIT.** (a) An application for a petition seeking an election to prohibit the sale of alcoholic beverages of one or more of the various types and alcoholic contents must be headed: "Application for Local Option Election Petition to Prohibit."

(b) The application must contain a statement just ahead of the signatures of the applicants, as follows: "It is the hope, purpose and intent of the applicants whose signatures appear hereon to see prohibited the sale of alcoholic beverages referred to in the issue set out above."

(c) The issue to be voted on must be:

- (1) clearly stated in the application; and
- (2) one of the issues listed in Section 501.035.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.025. HEADING, STATEMENT, AND ISSUE ON APPLICATION FOR PETITION TO LEGALIZE.** (a) An application for a petition seeking an election to legalize the sale of alcoholic beverages of one or more of the various types and alcoholic contents must be headed: "Application for Local Option Election Petition to Legalize."

(b) The application must contain a statement just ahead of the signatures of the applicants, as follows: "It is the hope, purpose and intent of the applicants whose signatures appear hereon to see legalized the sale of alcoholic beverages referred to in the issue set out above."

(c) The issue to be voted on must be:

- (1) clearly stated in the application; and
- (2) one of the issues listed in Section 501.035.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.026. PETITION REQUIREMENTS.** A petition must show the date the petition is issued by the county clerk and be serially numbered. Each page of a petition must bear the same date and serial number and the actual seal of the county clerk rather than a facsimile of that seal.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.027. HEADING AND STATEMENT ON PETITION TO PROHIBIT.** (a) Each page of the petition for a local option election seeking to prohibit the sale of alcoholic beverages of one or more of the various types and alcoholic contents must be headed "Petition for Local Option Election to Prohibit."

(b) The petition must contain a statement just ahead of the signatures of the petitioners, as follows: "It is the hope, purpose and intent of the petitioners whose signatures appear hereon to see prohibited the sale of alcoholic beverages referred to in the issue set out above."

(c) The issue to be voted on must be:

- (1) clearly stated in the petition; and
- (2) one of the issues listed in Section 501.035.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.028. HEADING AND STATEMENT ON PETITION TO LEGALIZE.** (a) Each page of the petition for a local option election seeking to legalize the sale of alcoholic beverages of one or more of the various types and alcoholic contents must be headed "Petition for Local Option Election to Legalize."

(b) The petition must contain a statement just ahead of the signatures of the petitioners, as follows: "It is the hope, purpose and intent of the petitioners whose signatures appear hereon to see legalized the sale of alcoholic beverages referred to in the issue set out above."

(c) The issue to be voted on must be:

- (1) clearly stated in the petition; and
- (2) one of the issues listed in Section 501.035.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.029. OFFENSE: MISREPRESENTATION OF PETITION.** (a) A person commits an offense if the person misrepresents the purpose or effect of a petition issued under this chapter.

(b) An offense under this section is a Class B misdemeanor.

**Sec. 501.030. COPIES OF PETITION.** (a) The county clerk shall supply as many copies of the petition as may be required by the applicants but not to exceed more than one page of the petition for every 10 registered voters in the county, justice precinct, or municipality. Each copy must bear the date, number, and seal on each page as required on the original petition.

(b) The county clerk shall keep a copy of each petition and a record of the applicants for the petition.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.031. VERIFICATION OF PETITION.** (a) The voter registrar of the county shall check the names of the signers of petitions and the voting precincts in which the signers reside to determine whether the signers were qualified voters of the county, justice precinct, or municipality at the time the petition was issued. The political subdivision may use a statistical sampling method to verify the signatures, except that on written request from a citizen of the political subdivision for which an election is sought, the political subdivision shall verify each signature on the petition. The citizen making the request shall pay the reasonable cost of the verification. The registrar shall certify to the commissioners court the number of qualified voters signing the petition.

(b) A petition signature may not be counted unless the signature is the actual signature of the purported signer and the petition:

(1) contains in addition to the signature:

(A) the signer's printed name;

(B) the signer's date of birth;

(C) if the territory from which signatures must be obtained is situated in more than one county, the county of registration;

(D) the signer's residence address; and

(E) the date of signing; and

(2) complies with any other applicable requirements prescribed by law.

(c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.

(d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. The omission of the zip code from the address does not invalidate a signature.

(e) The signature is the only entry on the petition that is required to be in the signer's handwriting.

(f) A signer may withdraw the signer's signature by deleting the signature from the petition or by filing with the voter registrar an affidavit requesting that the signature be withdrawn from the petition. A signer may not withdraw the signature from a petition on or after the date the petition is received by the registrar. A withdrawal affidavit filed by mail is considered to be filed at the time of its receipt by the registrar. The withdrawal of a signature nullifies the signature on the petition and places the signer in the same position as if the signer had not signed the petition.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.032. REQUIREMENTS TO ORDER ELECTION.** (a) The commissioners court, at its next regular session on or after the 30th day after the date the petition is filed, shall order a local option election to be held on the issue set out in the petition if the petition is filed with the voter registrar not later than the 60th day after the date the petition is issued and bears the actual signatures of a number of qualified voters of the political subdivision equal to at least:

(1) 35 percent of the registered voters in the subdivision who voted in the most recent gubernatorial election for a ballot issue that permits voting for or against:

(A) "The legal sale of all alcoholic beverages for off-premise consumption only.";

(B) "The legal sale of all alcoholic beverages except mixed beverages.";

(C) "The legal sale of all alcoholic beverages including mixed beverages."; or

(D) "The legal sale of mixed beverages.";

(2) 25 percent of the registered voters in the political subdivision who voted in the most recent general election for a ballot issue that permits voting for or against "The legal sale of wine on the premises of a holder of a winery permit."; or

(3) 35 percent of the registered voters in the political subdivision who voted in the most recent gubernatorial election for an election on any other ballot issue.

(b) Voters whose names appear on the list of registered voters with the notation "S," or a similar notation, shall be excluded from the computation of the number of registered voters of a particular territory.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. Sept. 1, 2005. Amended by: Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 5.002(a), eff. Sept. 1, 2007.

**Sec. 501.033. RECORD IN MINUTES.** The date a petition is presented, the names of the signers, and the action taken with respect to the petition shall be entered in the minutes of the commissioners court.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.034. ISSUES TO APPEAR IN ORDER FOR ELECTION.** (a) The election order must state in its heading and text whether the local option election to be held is for the purpose of prohibiting or legalizing the sale of the alcoholic beverages set out in the issue recited in the application and petition.

(b) The order must state the issue to be voted on in the election.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.035. ISSUES.** (a) In the ballot issues prescribed by this section, "wine" is limited to vinous beverages that do not contain more than 17 percent alcohol by volume and "malt beverages" are limited to malt beverages that do not contain more than 17 percent alcohol by volume. For local option purposes, those beverages, sold and dispensed to the public in unbroken, sealed, individual containers, are a separate and distinct type of alcoholic beverage.

(b) In an area where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more of the prohibited types or classifications, the ballot shall be prepared to permit voting for or against the one of the following issues that applies:

- (1) "The legal sale of malt beverages for off-premise consumption only."
- (2) "The legal sale of malt beverages."
- (3) "The legal sale of malt beverages and wine for off-premise consumption only."
- (4) "The legal sale of malt beverages and wine."
- (5) "The legal sale of all alcoholic beverages for off-premise consumption only."
- (6) "The legal sale of all alcoholic beverages except mixed beverages."
- (7) "The legal sale of all alcoholic beverages including mixed beverages."
- (8) "The legal sale of mixed beverages."
- (9) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."
- (10) "The legal sale of wine on the premises of a holder of a winery permit."

(c) In an area where the sale of any type or classification of alcoholic beverages has been legalized, the ballot for a prohibitory election shall be prepared to permit voting for or against the one of the following issues that applies:

- (1) "The legal sale of malt beverages for off-premise consumption only."
- (2) "The legal sale of malt beverages."
- (3) "The legal sale of malt beverages and wine for off-premise consumption only."
- (4) "The legal sale of malt beverages and wine."
- (5) "The legal sale of all alcoholic beverages for off-premise consumption only."
- (6) "The legal sale of all alcoholic beverages except mixed beverages."
- (7) "The legal sale of all alcoholic beverages including mixed beverages."
- (8) "The legal sale of mixed beverages."
- (9) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."
- (10) "The legal sale of wine on the premises of a holder of a winery permit."

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1045, Sec. 4, eff. September 1, 2009.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1045, Sec. 4, eff. September 1, 2009.

(f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1045, Sec. 4, eff. September 1, 2009.

(g) In an area where the sale of a particular type of alcoholic beverage has been legalized only for off-premise consumption, no alcoholic beverage may be consumed on any licensed premises and no type of alcoholic beverage other than the type legalized may be sold.

(h) Subject to Section 251.81, Alcoholic Beverage Code, a wine only package store permit may be issued for premises in an area in which the sale of wine has been legalized by a local option election under Subsection (b)(3) or (4).

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. Sept. 1, 2005. Amended by: Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 5.003(a), eff. Sept. 1, 2007; Acts 2009, 81st Leg., R.S., Ch. 1045 (H.B. 4498), Sec. 3, eff. Sept. 1, 2009; Acts 2009, 81st Leg., R.S., Ch. 1045 (H.B. 4498), Sec. 4, eff. Sept. 1, 2009; H.B. 1545, 86<sup>th</sup> Leg., Sec. 389, eff. Sept. 1, 2021.

**Sec. 501.036. ISSUE ON MIXED BEVERAGES.** (a) A local option election does not affect the sale of mixed beverages unless the proposition specifically mentions mixed beverages.

(b) In any local option election in which any shade or aspect of the issue submitted involves the sale of mixed beverages, any other type or classification of alcoholic beverage that was legalized before the election remains legal without regard to the outcome of that election on the question of mixed beverages. If the sale of mixed beverages by food and beverage certificate holders was legalized before a local option election on the general sale of mixed beverages, the sale of mixed beverages in an establishment that holds a food and beverage certificate remains legal without regard to the outcome of the election on the general sale of mixed beverages.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.037. EVIDENCE OF VALIDITY.** The commissioners court election order is prima facie evidence of compliance with all provisions necessary to give the order validity or to give the commissioners court jurisdiction to make the order valid.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.038. FREQUENCY OF ELECTIONS.** A local option election on a particular issue may not be held in a political subdivision until after the first anniversary of the most recent local option election in that political subdivision on that issue.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

## **SUBCHAPTER C. HOLDING OF ELECTION**

**Sec. 501.101. APPLICABILITY OF ELECTION CODE.** Except as provided by this chapter, the officers holding a local option election shall hold the election in the manner provided by the other provisions of this code.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.102. ELECTION PRECINCTS.** (a) County election precincts shall be used for a local option election to be held in an entire county or in a justice precinct.

(b) Election precincts established by the governing body of the municipality for its municipal elections shall be used for a local option election to be held in a municipality. If the governing body has not established precincts for its municipal elections, the commissioners court shall prescribe the election precincts for the local option election under the law governing establishment of precincts for municipal elections.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.103. POLLING PLACES; NOTICE.** (a) The election shall be held at the customary polling place in each election precinct. If the customary polling place is not available, the commissioners court shall designate another polling place.

(b) The notice for the election shall state the polling place for each election precinct and the precinct numbers of county precincts included in each municipal election precinct if the election is for a municipality.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.1035. ELECTION IN TERRITORY ANNEXED BY MUNICIPALITY.** A municipality that includes an area annexed to the municipality on or after the date on which a petition requesting a local option election in the municipality is filed may hold the election in the municipality only if the petition contains a sufficient number of signatures to meet the requirements of Section 501.032, based on the number of qualified voters in the municipality, including the annexed area. The qualified voters of the annexed area must be allowed to vote in the local option election. The results of the election shall determine the local option status of the municipality, including the annexed area.

Added by Acts 2011, 82nd Leg., R.S., Ch. 500 (H.B. 1401), Sec. 1, eff. September 1, 2011.

**Sec. 501.104. NUMBER OF BALLOTS FURNISHED.** If the election is conducted using printed ballots, the county clerk shall furnish the presiding judge of each election precinct with at least the number of ballots equal to the number of registered voters in the precinct plus 10 percent of that number of voters.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.105. ISSUE ON BALLOT.** (a) The issue ordered to appear on the ballot for an election ordered by the commissioners court must be the same as the issue applied for and set out in the petition.

(b) The issue appropriate to the election shall be printed on the ballot in the exact language stated in Section 501.035.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.106. TIME FOR VOTE TALLY.** The votes for a local option election shall be counted and the report of the election submitted to the commissioners court within 24 hours after the time the polls close.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.107. COUNTY PAYMENT OF ELECTION EXPENSES.** The county shall pay the expense of holding a local option election authorized by this chapter in the county, justice precinct, or municipality in that county except that:

- (1) if an election is to be held only within the corporate limits of a municipality located wholly within the county, the county may require the municipality to reimburse the county for all or part of the expenses of holding the local option election;
- (2) county payment of the expense of an election to legalize the sale of alcoholic beverages is limited to the holding of one election in a political subdivision during a one-year period; and
- (3) county payment of the expense of an election to prohibit the sale of alcoholic beverages is limited to the holding of one election in a political subdivision during a one-year period.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.108. DEPOSIT REQUIRED FOR CERTAIN ELECTIONS.** (a) If a county is not required to pay the initial expense, regardless of any authority to receive reimbursement, of a local option election under Section 501.107, the county clerk shall require the applicants for a petition for a local option election to make a deposit before the issuance of the petition.

(b) The deposit must be in the form of a cashier's check in an amount equal to 25 cents per voter listed on the current list of registered voters residing in the county, justice precinct, or municipality where the election is to be held.

(c) The money received shall be deposited in the county's general fund. A refund may not be made to the applicants regardless of whether the petition is returned to the county clerk or the election is ordered.

(d) The county clerk may not issue a petition to the applicants unless a deposit required by this chapter is made.

(e) A person who violates Subsection (d) commits an offense. An offense under this subsection is a misdemeanor punishable by:

- (1) a fine of not less than \$200 nor more than \$500;
- (2) confinement in the county jail for not more than 30 days; or
- (3) both the fine and confinement.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. Sept. 1, 2005. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 43, eff. Sept. 1, 2011.

**Sec. 501.109. ELECTION IN MUNICIPALITIES.** (a) This section applies only to an election to permit or prohibit the legal sale of alcoholic beverages of one or more of the various types and alcoholic contents in a municipality.

(b) An election to which this section applies shall be conducted by the municipality instead of a county. For the purposes of an election conducted under this section, a reference in this chapter to:

- (1) the county is considered to refer to the municipality;
- (2) the commissioners court is considered to refer to the governing body of the municipality;
- (3) the county clerk or voter registrar is considered to refer to the secretary of the municipality or, if the municipality does not have a secretary, to the person performing the functions of a secretary of the municipality; and
- (4) the county judge is considered to refer to the mayor of the municipality or, if the municipality does not have a mayor, to the presiding officer of the governing body of the municipality.

(c) The municipality shall pay the expense of the election.

(d) An action to contest the election under Section 501.155 may be brought in the district court of any county in which the municipality is located.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. Sept. 1, 2005. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 41, eff. Sept. 1, 2011.

## **SUBCHAPTER D. PROCEDURE FOLLOWING ELECTION**

**Sec. 501.151. DECLARATION OF RESULT.** (a) On completing the canvass of the election returns, the commissioners court shall make an order declaring the result and cause the clerk of the commissioners court to record the order as provided by law.

(b) In a prohibitory election, if a majority of the votes cast do not favor the issue "The legal sale...", the court's order must state that the sale of the type or types of beverages stated in the issue at the election is prohibited effective on the 30th day after the date the order is entered. The prohibition remains in effect until changed by a subsequent local option election held under this chapter.

(c) In a legalization election, if a majority of the votes cast favor the issue "The legal sale . . .," the legal sale of the type or types of beverages stated in the issue at the election is legal on the entering of the court's order. The legalization remains in

effect until changed by a subsequent local option election held under this code.

(d) The local option status of a political subdivision does not change as a result of the election if:

- (1) in an election described by Subsection (b), less than a majority of the votes cast do not favor the issue; and
- (2) in an election described by Subsection (c), less than a majority of the votes cast favor the issue.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.152. ORDER PRIMA FACIE EVIDENCE.** The order of the commissioners court declaring the result of the election is prima facie evidence that all provisions of law have been complied with in giving notice of and holding the election, counting and returning the votes, and declaring the result of the election.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.153. CERTIFICATION OF RESULT.** Not later than the third day after the date the result of a local option election has been declared, the county clerk shall certify the result to the secretary of state and the commission. The clerk may not charge a fee for this service.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.154. POSTING ORDER PROHIBITING SALE.** (a) A commissioners court order declaring the result of a local option election and prohibiting the sale of any or all types of alcoholic beverages must be published by posting the order at three public places in the county or other political subdivision in which the election was held.

(b) The posting of the order shall be recorded in the minutes of the commissioners court by the county judge. The entry in the minutes or a copy certified under the hand and seal of the county clerk is prima facie evidence of the posting.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.

**Sec. 501.155. ELECTION CONTEST.** (a) The enforcement of local option laws in the political subdivision in which an election is being contested is not suspended during an election contest.

(b) The result of an election contest finally settles all questions relating to the validity of that election. A person may not call the legality of that election into question again in any other suit or proceeding.

(c) If an election contest is not timely instituted, it is conclusively presumed that the election is valid and binding in all respects on all courts.

Added by Acts 2005, 79th Leg., Ch. 975 (H.B. 1799), Sec. 1, eff. September 1, 2005.



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# Texas Administrative Code-Title 1

## Chapter 81. ELECTIONS

### SUBCHAPTER A. VOTER REGISTRATION

**Sec. 81.1. SUPPLEMENTATION OF VOTER REGISTRATION APPLICATION.** (a) "Required information" in §13.072(e) shall mean the subsequent submission of a fully completed voter registration application.

(b) In order to proceed with the review of the application, the voter registrar must receive the required information not later than 10 days after notifying the applicant that a voter registration application is incomplete.

The provisions of this §81.1 adopted to be effective October 20, 2000, 25 TexReg 10513

**Sec. 81.2. USE OF OFFICIAL VOTER REGISTRATION APPLICATIONS FOR PURPOSES OF CHANGING INFORMATION OR REQUESTING A REPLACEMENT CERTIFICATE BY VOLUNTEER DEPUTY REGISTRARS.** Volunteer deputy registrars may distribute and collect official voter registration applications from registered voters in order to make a change of information or request a replacement certificate. The volunteer deputy must ensure that the voter indicated on the application which action is to be taken, change or replacement. On receipt of a completed application, the volunteer deputy registrar shall prepare a receipt in duplicate on a form supplied by the registrar. The receipt must contain the name of the person submitting the application and the date the completed application is submitted to the volunteer deputy registrar. The volunteer deputy shall sign the receipt in the presence of the person submitting the application and shall give the original to the applicant. The volunteer deputy shall deliver the duplicate receipt to the registrar with the application. The registrar shall retain the receipt on file with the application.

The provisions of this §81.2 adopted to be effective June 27, 1986, 11 TexReg 2740; amended to be effective March 28, 2002, 27 TexReg 2217

**Sec. 81.3. EFFECTIVE DATE OF CHANGED REGISTRATION.** The date of submission of a completed voter registration application form for purposes of a name or an address change to a volunteer deputy registrar is considered to be the date of submission to the volunteer deputy registrar for purposes of determining the effective date of the changed registration.

The provisions of this §81.3 adopted to be effective June 27, 1986, 11 TexReg 2740; amended to be effective March 28, 2002, 27 TexReg 2217

**Sec. 81.4. DELIVERY OF APPLICATION BY VOLUNTEER DEPUTY FOR PURPOSES OF CHANGING REGISTRATION INFORMATION OR REQUESTING DUPLICATE CERTIFICATE.** A volunteer deputy registrar shall deliver in person to the registrar each completed voter registration application submitted to the deputy for purposes of changing a voter's registration information or requesting a replacement certificate in accordance with the deadlines for delivery of voter registration applications provided for in the Texas Election Code, §13.042.

The provisions of this §81.4 adopted to be effective June 27, 1986, 11 TexReg 2740; amended to be effective March 28, 2002, 27 TexReg 2217

**Sec. 81.5. VOLUNTEER DEPUTY NOT TO PERFORM DUTIES OF REGISTRAR.** A volunteer deputy registrar may not perform any official duties of the voter registrar, except as expressly authorized by law or by these sections.

The provisions of this §81.5 adopted to be effective June 27, 1986, 11 TexReg 2740.

**Sec. 81.6. MATCHING CRITERIA.** (a) Deceased Matching criteria. In accordance with provisions of Texas Election Code §18.068(b), information received under Texas Election Code §16.001, shall be matched against the voter registration rolls to identify Strong Match and Weak Match records based on the following criteria:

(1) Strong Matched Deceased records are identified when the Last Name, Full Social Security Number (SSN) (9 digits), and Date of Birth (DOB) match between the voter record and the deceased record.

(2) Weak Match Deceased records are identified when one of the following combinations matches between the voter record and the deceased record are identified:

(A) First Name, Last Name, and DOB;

(B) Last Name and Full SSN (9 digits);

(C) Full SSN (9 digits) and DOB; or

(D) Last Four Digits of the SSN, DOB, and One or More Name Component(s):

(i) Last Name (in deceased file) to Last Name;

(ii) Last Name (in deceased file) to Middle Name;

(iii) First Name to First Name (excluding a Last Name included match); and/or

(iv) Middle Name or Middle Initial Match (excluding any additional name match).

(b) Duplicate Matching criteria. In accordance with provisions of Texas Election Code §18.0681(b), potential duplicate registrations shall be identified as Strong Match and Weak Match records based on the following criteria:

(1) Strong Matched Duplicate records are identified when one of the following combinations matches between voter records:

(A) Last Name, First Name, and Full Social Security Number (SSN) (9 digits);

(B) Last Name, First Name, and Texas Department of Public Safety (DPS)-Issued Driver License, Personal Identification Card, or Election Identification Certificate Number; or

(C) Last Name, First Name, Last Four Digits of the SSN, and Date of Birth.

(2) Weak Match Duplicate records are identified when one of the following combinations matches between voter records:

(A) Last Name, First Name, and Last Four Digits of the SSN; or

(B) Texas DPS-Issued Driver License, Personal Identification Card, or Election Identification Certificate Number.

(c) For all matching criteria involving a voter record, the voter's current and former Last Names are considered in the matching process where "Last Name" is designated.

The provisions of this §81.6 adopted to be effective September 28, 2017, 42 TexReg 4985

**Sec. 81.7. DIRECTIVE FOR HIGH SCHOOL DEPUTY REGISTRARS.** (a) The directive for high school deputy registrars dated July 31, 1998 is adopted. Copies are available from the Secretary of State's Elections Division, P.O. Box 12887, Austin, Texas 78711. The Elections Division shall provide a copy of this directive to each high school deputy registrar in the state.

(b) Summary and Purpose. In accordance with the provisions of Texas Election Code Annotated, §31.003, §13.046, and the National Voter Registration Act, this directive updates the March 15, 1995 directive and sets forth requirements for public and private high school principals to act as deputy voter registrars in registering high school students and employees of the high school.

(c) Definitions.

(1) High School Principal. The administrator of a public or private high school.

(2) Designated Representative. Any person employed at a public or private high school as an administrative staff member or teacher who is designated by the principal to act in lieu of the principal as a deputy voter registrar for the high school. The principal shall provide a designated representative with a form or card that identifies the designated representative as a high school deputy registrar.

(3) High School Student. Any individual enrolled full-time or part-time at a public or private high school as a student who is engaged in the study of standard curricula offered by the high school.

(4) Employee. A person who works for wages or a salary at a public or private high school.

(5) Final Month. The final month of each semester is the last 30 day period within the semester.

(d) Duties of High School Deputy Voter Registrar

(1) Obtaining Voter Registration Applications and Materials from School Board Administrator or Secretary of State. A high school principal or designated representative acting as a deputy voter registrar shall procure from the school board administrator or Secretary of State a sufficient supply of voter registration applications and notice forms. It is essential that high school deputy voter registrars contact the Secretary of State for registration applications and not the county voter registrar; the voter registrar's applications are not coded for use by high school deputy registrars.

(2) Distributing Voter Registration Applications and Materials to Eligible Students and Employees. A high school deputy registrar shall distribute voter registration applications during the final month of each semester to high school students who are or will be 18 years of age or older during that semester. Applications may also be distributed at any time during the school year to students and employees of the high school who request them. The application form must be accompanied by a notice which informs the high school student or employee that he or she may:

(A) deliver the application form in person to the voter registrar or elections administrator of the county in which the applicant resides;

(B) mail the application form to the voter registrar or elections administrator of the county in which the applicant resides; or

(C) deliver the application form in person to the high school deputy registrar or a volunteer deputy registrar for delivery to the voter registrar or elections administrator of the county in which the applicant resides.

(i) The student or employee may request assistance from the high school deputy registrar

in filling out the application. If the applicant cannot sign the application due to physical disability or illiteracy, another person may witness the applicant's mark. The witness must include an address, printed name, and signature on the application. If an applicant is physically unable to make a mark, the witness shall state this fact on the application.

(ii) On receipt of a registration application, the high school deputy registrar shall review it for completeness. The high school deputy registrar may review an application for completeness out of the applicant's presence. If the application does not contain all the required information and the required signature, the application shall be returned to the applicant for completion and resubmission.

(3) Returning Voter Registration Applications to Voter Registrar or Elections Administrator.

(A) The high school deputy registrar must deliver the completed applications to the voter registrar or elections administrator of the county in which the applicant resides as soon as possible after they are received. Completed applications shall be delivered to the county voter registrar or elections administrator by the high school deputy registrar in person, or by mail in an envelope or package. An application must be delivered to the county voter registrar or elections administrator no later than 5 p.m. of the fifth day after the date the application is submitted to the high school deputy registrar, except that an application submitted after the 34th day and before the 29th day before the date of an election in which any qualified voters of the county are eligible to vote must be delivered no later than 5 p.m. of the 29th day before election day. An application delivered by mail is considered to be delivered at the time of its receipt by the county registrar or elections administrator.

(B) Since a voter registration application will result in an effective voter registration on the 30th day after it is received by a high school deputy registrar, it is imperative that the high school deputy registrar confer with the county voter registrar or elections administrator of each county in which the students and employees of the high school reside before instituting a voter registration program in the high school in order to insure that the applications are received by the county in a timely manner.

(4) Criminal Sanctions. Inadvertent failure to deliver applications received by the high school deputy registrar by the deadline stated above is a Class C misdemeanor. Intentional failure to deliver applications is a Class A misdemeanor.

(e) Miscellaneous Provisions

(1) High Schools Serving More than One County. A high school deputy registrar shall serve as a deputy voter registrar for each county in which territory served by the high school is located without regard to the actual physical location of the high school.

(2) High School Deputy Registrar Transferring or Terminating Employment. A high school principal or designated representative who transfers from or terminates employment with a high school is immediately removed from the status of deputy registrar of that high school upon such transfer or termination. Upon the transfer or termination of a designated representative, all voter registration materials must be returned to the high school principal. Upon a principal's transfer or termination, all voter registration materials must be delivered to the new principal or newly designated representative.

(3) Removal of Designated Representative. A designated representative may be removed at any time by the high school principal, with or without cause. If a designated representative fails to implement this directive or otherwise fails in the performance of his or her duties, the high school principal shall relieve the designated representative of the role of high school deputy registrar. A removal must be in writing, and must clearly state the grounds for removal. A copy of the removal must be delivered to the designated representative. All voter registration materials, including notices and applications, must be returned to the high school principal or otherwise accounted for. The high school principal shall resume the duties of high school deputy registrar until a new representative is designated.

(4) Approval. Secretary of State approval issued this 31st day of July, 1998.

The provisions of this §81.7 adopted to be effective June 27, 1986, 11 TexReg 2740

**Sec. 81.8. DOCUMENTATION ESTABLISHING CITIZENSHIP.** (a) "Proof of citizenship" may take the form of a certified copy of the voter's passport, birth certificate, or certificate of naturalization papers.

(b) If a voter fails to provide proof of citizenship within the required 30 days, the voter registrar shall promptly send the voter a notice of cancellation that includes the date of and the reason for cancellation.

The provisions of this §81.8 adopted to be effective October 20, 2000, 25 TexReg 10514

**Sec. 81.9. DUTIES OF ELECTIONS ADMINISTRATOR.** Where a county has created the position of elections administrator and a statute outside the Texas Election Code requires a duty or function to be performed by the county clerk, the county clerk shall perform such function or duty, unless the function or duty is related to elections governed wholly or in part by the provisions of the Election Code, in which case the county elections administrator shall perform such duty or function. On request, the secretary of state shall determine, if it is unclear from the provisions of the election code and these sections, whether a duty or function required by a particular statute outside the Texas Election Code to be performed by the county clerk shall be performed by the elections administrator.

The provisions of this §81.9 adopted to be effective June 27, 1986, 11 TexReg 2740.

**Sec. 81.10. PRINTING OF NAME ON VOTER REGISTRATION CERTIFICATE.** (a) The phrase "(t)he voter's name in the form indicated by the voter" in Texas Election Code §15.001 shall not be read to include a former name provided by the voter on the voter registration application.

(b) The voter's name as it appears on the voter registration certificate shall reflect the information provided by the voter on the most recent application supplied by that voter to the voter registrar. The name on the voter registration certificate shall be restricted to first name, middle name (if any is supplied by the voter on the most recent application), and last name (including suffix, if any).

The provisions of this §81.10 adopted to be effective September 3, 2015, 40 TexReg 5455.

**Sec. 81.11. DEFINITIONS.** The following words and terms, when used herein, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Agency--The Office of the Secretary of State.

(2) Chapter 19--Texas Election Code Annotated, Chapter 19 (Vernon 2003 and Supplement 2004-2005).

(3) Chapter 19 funds--Funding available to a county voter registrar pursuant to Texas Election Code Annotated, §19.002 (Vernon 2003 and Supplement 2004-2005).

(4) NVRA (National Voter Registration Act)--42 U.S.C. §1973 et seq., Texas Election Code Annotated, §19.004, §31.007 (Vernon 2003).

(5) Rule--A rule adopted under Chapter 81 of the Texas Administrative Code, Title 1.

(6) Section--A section of Texas Election Code Annotated (Vernon 2003 and Supplemental 2004-2005).

(7) State Fiscal Year--September 1 through August 31.

(8) Textravel--Guide issued by the Comptroller of Public Accounts providing information on state travel laws and rules to state agencies.

The provisions of this §81.5 adopted to be effective June 27, 1986, 11 TexReg 2740.

**Sec. 81.12. APPLICABLE SECTIONS OF THE TEXAS ELECTION CODE.** (a) Chapter 19 provides, in pertinent part, as follows:

(1) The Commissioners Court may not consider the availability of state funds under this chapter in adopting the county budget for the office of voter registrar (§19.006);

(2) State funds disbursed under this chapter may be used only to defray expenses of the voter registrar's office in connection with voter registration (§19.004).

(b) The Secretary of State has interpreted §19.006 to mean that the county must provide for the normal operation of the voter registrar's office as defined in §81.14 of this title (relating to Normal Day-To-Day Operation--Defined). The Secretary of State has interpreted §19.004 to mean that Chapter 19 funds shall be expended on items intended to be used exclusively for voter registration. If an item purchased or service rendered is not exclusively related to voter registration, the cost must be prorated.

The provisions of this §81.12 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective October 7, 1999, 24 TexReg 8545; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.13. ALLOWABLE USES OF CHAPTER 19 FUNDS.** (a) Chapter 19 funds expenditures must comply with the criteria of "reasonable and necessary" as established by Uniform Grant Management Standards (UGMS) and may only be used for the following activities:

(1) Increase the number of registered voters in the state.

(2) Maintain and report an accurate list of the number of registered voters.

(3) Increase the efficiency of the voter registration office through the use of technological equipment.

(b) All Chapter 19 funding requests submitted to the Agency must identify which of these purposes the requested item(s) will benefit.

(c) All Chapter 19 requests must include a certification that the Commissioners Court did not consider the availability of Chapter 19 funds in adopting the county budget for the office of voter registrar.

(d) If there is a question regarding whether an item or service is payable from Chapter 19 funds, the Agency will review the eligibility prior to the purchase upon request by the county.

The provisions of this §81.13 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.14. NORMAL DAY-TO-DAY OPERATION--DEFINED.** (a) Consistent with the intent of §81.12 of this title (relating to Applicable Sections of the Texas Election Code) Chapter 19 funds may not be used to fund the normal day-to-day operation of the voter registrar's office, which include statutory duties required by the Election Code and general office operating costs.

(b) The normal day-to-day operation of the voter registrar's office must be funded by the Commissioners Court when adopting the budget for voter registration in their county.

(1) Duties required to be performed by counties under the Texas Election Code include but are not limited to the following:

(A) The physical acceptance and processing of voter registration certificates and renewals under Chapter 13.

(B) Notices and corrections made under Chapter 15 and Chapter 16.

(C) The processing and cost of supplying voter lists under §18.001.

(2) General office operating costs that are considered expenses incurred in the normal day-to-day operation of voter registrars' offices and not payable with Chapter 19 funds include but are not limited to the following:

(A) Office furniture, including file cabinets.

(B) Office supplies.

(C) Any phone line not dedicated to a computer modem.

(D) Printing of voter registration cards.

(E) Normal postage costs.

(c) The Agency has the sole authority to determine whether a requested item or service is a day-to-day expense and thus not payable with Chapter 19 funds..

The provisions of this §81.14 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.15. FUNDING PERIOD.** (a) After June 1 of each year funding becomes available to the counties as defined in §19.002 of the Election Code and remains available for 27 months, expiring on August 31.

(b) Except for travel reimbursement requests, Chapter 19 funding requests must be received within six (6) months of payment to vendor.

(c) Travel expense reimbursement requests must be submitted within 30 days of the completion of travel.

The provisions of this §81.5 adopted to be effective June 27, 1986, 11 TexReg 2740.

**Sec. 81.16. ELECTRONIC SUBMISSION OF CHAPTER 19 PURCHASE REQUEST REQUIRED FOR PAYMENT.**

(a) The Agency shall prescribe an electronic web-based application format for the submission of Chapter 19 Purchase Request for use by each county voter registrar.

(b) If a Chapter 19 Purchase Request is received by the Agency seeking funding which is not allowable under the Texas Election Code, Chapter 19, these rules, and Agency directives, the Agency shall so notify the voter registrar of receipt of such form via email, written notification or election response from the web-based system.

(c) All electronic requests must be submitted through the designated secured electronic web-based application designed solely for Chapter 19 purchases, located on the Office of the Secretary of State web site.

(d) All supporting documentation must be maintained in accordance with §81.21 of this title (relating to the Records Maintenance and Payment Reviews).

The provisions of this §81.16 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective September 8, 1997, 22 TexReg 8389; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective June 22, 2008, 33 TexReg 4663; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.17. COMPETITIVE BIDDING REQUIRED.** Except for the purchase of voter registration advertising and temporary staff the voter registrar shall submit bids for the purchase of items or services to be paid for with Chapter 19 funds according to the following guidelines:

(1) No competitive bids for individual purchases of less than \$5,000 are required. However, the voter registrar shall

take the steps necessary to insure that all charges are reasonable and competitive relative to the local market. (Note: A large purchase may not be divided into small lot purchases to circumvent the dollar limits established by this section. For example, expenditures for computer equipment to a single vendor that total more than \$5,000 are subject to the competitive bid requirement and may not be split between printers/scanner/computers.)

(2) For purchases of \$5,000 or more, competitive bidding procedures must be followed. Generally, a county must receive a minimum of three written bids from three different vendors stating the vendor's name, complete mailing address, telephone number, and the amount of the bid. A copy of the bids as well as the selection documentation, including the solicitation and the scoring tools, must be maintained by the county and made available to the Agency upon request.

(3) If a purchase is through the Texas Procurement and Support Services (TPASS) cooperative purchasing programs for state contract purchasing for the State of Texas, bids are not required. Proper documentations must be submitted to indicate the type of procurement service used and the source for those services.

(4) Sole source vendor purchases and situations when the lowest bid is not accepted are discouraged. In rare instances when this type of purchase is required, a justification must be signed by the county purchasing authority and be made available to the Agency upon request.

The provisions of this §81.17 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective September 8, 1997, 22 TexReg 8389; amended to be effective October 7, 1999, 24 TexReg 8545; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective June 22, 2008, 33 TexReg 4663; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.18. APPROVAL REQUIREMENTS FOR THE SECRETARY OF STATE.** A Chapter 19 Purchase Request shall not be processed for payment without the written or electronic approval of the Election Funds Manager and the Director of Elections.

The provisions of this §81.18 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective October 7, 1999, 24 TexReg 8545; amended to be effective October 9, 2005, 30 TexReg 6426; amended to be effective January 3, 2007, 31 TexReg 10755.

**Sec. 81.19. METHOD OF PAYMENT.** (a) All payments made from Chapter 19 funds will be issued on a reimbursement basis.

(b) Payments issued by the Comptroller of Public Accounts will be payable to the county, in the form of direct deposit to a new or pre-existing bank account as directed by the voter registrar.

(1) If the county establishes a new account, the county must budget funds to cover all setup fees, check orders and/or service charges associated with opening and maintaining the new account. Chapter 19 funds will not incur any fees or service charges associated with the setting up of a new account. Please note: our office encourages the county to use an existing account and develop a separate fund. Whether a separate Chapter 19 fund is created in an existing account or a separate account is established, it will be the county's responsibility to maintain a separate bookkeeping system to identify the debits and credits relating to all activities from the receipt of Chapter 19 funds.

(2) The county voter registrar will use such account for the purpose of depositing and/or expending Chapter 19 funds.

(3) The voter registrar shall not commingle Chapter 19 fund ledger accounts with any other county fund ledger account.

(4) Except for travel expenses authorized by §81.23 of this title (relating to Travel Using Chapter 19 Funds Authorized), no cash payments may be made from Chapter 19 funds. All disbursement payments of Chapter 19 funds must be made by check or state transfer drawn on the Chapter 19 prescribed bank account as described above.

The provisions of this §81.19 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective June 22, 2008, 33 TexReg 4663; amended to be effective December 30, 2010, 35 TexReg 11569..

**Sec. 81.20. OWNERSHIP OF EQUIPMENT PURCHASED WITH CHAPTER 19 FUNDS.** (a) Items and equipment purchased with Chapter 19 funds are the property of the county.

(b) The county is responsible for the upkeep and maintenance of such items and equipment through adequate property management practices.

(c) If items or equipment that were originally purchased with Chapter 19 funds are no longer needed or useful for voter registration purposes, the items or equipment may be transferred, with the voter registrar's approval, to other county uses.

(d) If the items or equipment are no longer needed by the county, they may be disposed of in the manner set by county guidelines.

(e) Proceeds received from the sale of items or equipment purchased with Chapter 19 funds may be used only for voter registration purposes in a manner consistent with these rules.

The provisions of this §81.20 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.21. RECORDS MAINTENANCE AND PAYMENT REVIEWS.** (a) All supporting documentation must be maintained at the county level and made available to the Agency upon request for three (3) state fiscal years after the fiscal year in which the funding lapses.

(b) Supporting documentation that must be maintained by the county includes but is not limited to the following documents:

(1) Invoices from the vendor and a copy of the county paid voucher, ledger or bank statement substantiating the payment. The signed timesheet required by §81.22 of this title (relating to Use of Chapter 19 Funds for Temporary Employees) will be considered a "vendor's invoice" for purposes of this rule.

(2) All procurement documentation including the solicitation, bids, scoring documents, selection criteria, sole source or best value justification, if applicable, and any other relevant records.

(3) Any documents relating to Chapter 19 requests.

(c) The Agency will develop and notify the counties of the review schedule for Chapter 19 payments.

(1) The schedule will identify the periods of review, e.g., quarterly, semiannually, or annually.

(2) A risk assessment may be developed by the Agency to determine a sampling of counties subject to review.

(3) Corrections resulting from reviews will be assessed against subsequent Chapter 19 reimbursement(s).

The provisions of this §81.21 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.22. USE OF CHAPTER 19 FUNDS FOR TEMPORARY EMPLOYEES.** The Commissioners Court must budget for the adequate staffing of the voter registrar's office. Chapter 19 funds may be used for temporary personnel when exigent circumstance arise beyond the staffing resources budgeted by the Commissioners Court.

(1) Permanent full-time and part-time county employees may not be compensated with Chapter 19 funds. The voter registrar may have Chapter 19 funded temporary staffing a maximum of any 39 weeks out of the 52-week state fiscal year (September 1 through August 31). For example, if Employee A works one week and Employee B works the next week, the county is allowed only 37 more weeks of Chapter 19 funded temporary personnel. However, if the county employs 15 temporaries in the same week, this would count as only one week of the 39-week allowance. For tracking purposes, working one day of one week counts the same as working an entire week. For example, if Employee C works Monday only, it will count as one week of the 39-week Chapter 19 allowance.

(2) The Agency does not issue tax forms to temporary employees funded with Chapter 19 funds. For this reason, the Agency recommends that temporary employment agencies be used if available.

(3) The voter registrar should discuss the tax implications of using temporary personnel with the county auditor.

(4) The fee or rate of pay to be paid to temporary employees must reflect the fee or rate prevailing in the locale for the same or similar services.

(5) Work related injuries to temporary personnel hired with Chapter 19 funds are not the liability of the Agency.

The provisions of this §81.22 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.23. TRAVEL USING CHAPTER 19 FUNDS AUTHORIZED.** (a) Chapter 19 funds may be used to pay travel expenses incurred by the voter registrar and full-time permanent voter registration staffers to attend voter registration and/or election administration seminars and demonstrations that directly advance voter registration efforts.

(b) All voter registrars who seek reimbursement from Chapter 19 funds should plan their travel to achieve maximum economy and efficient means of transportation.

(c) The following limitations apply to Chapter 19 travel:

(1) The lowest available rates and fares shall be utilized.

(2) Reimbursements will be made based on actual costs.

(3) Lodging, per diem, and mileage rates may not exceed those set by the Texas Comptroller of Public Accounts.

(4) Reimbursements for lodging, per diem (including partial per diem), and mileage rates may not be charged to Chapter 19 unless the employee conducts travel beyond 25 miles of his or her designated headquarters.

(5) Travel by personal car is reimbursable at the rate set by the Texas Comptroller of Public Accounts per mile with mileage computed using the originating county seat as the departure point and computing final mileage using the mapping tool on the Chapter 19 web-based application.

(6) If more than one person is traveling from the same headquarters to the same destination, the travelers are to ride together in a single automobile if practicable.



(7) The rental of luxury cars will be disallowed, except in special circumstances requiring the use of large cars, i.e., several employees are traveling together or large volumes of equipment or supplies are being transported.

(8) Chapter 19 funds will not cover expenses for first class accommodations, tips, gratuities, valet parking or alcoholic beverages.

(d) Chapter 19 travel reimbursements must be submitted for each traveler within 30 days of the completion of travel via the Chapter 19 web-based application.

(e) Travel reimbursement requests must include the itemized amounts for airfare, rental cars, mileage, meals, lodging, seminar registration fees, and miscellaneous expenses. All receipts must be maintained in accordance with §81.21 of this title (relating to Records Maintenance and Payment Reviews).

(f) Travel advances will be approved, on a case-by-case basis. Travel advance funding will not be made for meals, hotel taxes or miscellaneous expenses. Travel advance requests must be submitted through the web-based application in the form of a travel request and include a Chapter 19 Purchase Request for each traveler. No further Chapter 19 Purchase Request will be processed until the final accounting of any advanced travel is received.

The provisions of this §81.23 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective June 22, 2008, 33 TexReg 4663; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.24. MEMBERSHIP DUES DETAILED.** Membership dues to groups or associations are payable with Chapter 19 funds only if the group's or association's activities or mission directly involve voter registration.

The provisions of this §81.24 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.25. VOTER REGISTRATION DRIVES ENCOURAGED.** (a) Pursuant to §81.12 of this title (relating to Applicable Sections of the Texas Election Code), efforts to increase the number of registered voters in the county are payable with Chapter 19 funds.

(b) Voter registration drive efforts include but are not limited to mailouts of applications to households, insertion of applications into newspapers, distributing applications at public locations, and other forms of advertising.

(c) "Promotional items" are not payable with Chapter 19 funds. Examples of non-payable promotional items include but are not limited to memorabilia, models, gifts, souvenirs, and other such novelties or items of nominal value. Items purchased with Chapter 19 funds may include only the county and title of the voter registrar's office.

(d) Names of specific individuals may not be included on such materials. Chapter 19 funded voter registration drives must not promote a particular party, candidate, or issue. Chapter 19 funds may not be used for food and drink purchases, except for travel expenses allowed under §81.23 of this title (relating to Travel Using Chapter 19 Funds Authorized).

The provisions of this §81.25 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.26. TECHNOLOGY PURCHASES ENCOURAGED.** (a) Chapter 19 funds may be used for the purchase and initial installation of technological improvements for the voter registration office.

(b) "Technological improvements" include but are not limited to computer hardware, printers, and computer training. Computer programs and software that are necessary for the operation of the voter registration office are payable with Chapter 19 funds.

(c) Pursuant to §81.22 of this title (relating to Chapter 19 Funds for Temporary Employees), the county may not be reimbursed for the compensation of full or part-time county employees and programmers.

(d) The cost of providing the information required by §18.063 of the Texas Election Code is specifically payable with Chapter 19 funds.

(e) Pursuant to §81.20 of this title (relating to Ownership of Equipment Purchased with Chapter 19 Funds), the upkeep and maintenance of items purchased with Chapter 19 funds is the responsibility of the county.

(f) Pursuant to §81.12 of this title (relating to Applicable Sections of the Texas Election Code), the voter registrar must prorate the cost between the county and Chapter 19 funds, if the purchased item is not entirely related to voter registration. The provisions of this §81.26 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.27. ELECTRONIC OFFICE EQUIPMENT PURCHASES ENCOURAGED.** (a) Chapter 19 funds may be used for the purchase of electronic office equipment.

(1) Examples of "electronic office equipment" include but are not limited to copiers, fax machines, optical imaging systems, electronic retriever file systems and typewriters.

(2) Examples of office equipment that are considered general voter registration office operating expenses and not payable with Chapter 19 funds pursuant to §81.14 of this title (relating to Normal Day-To-Day Operation--Defined) include but are not limited to office furniture such as desks, chairs and file cabinets.

(b) Pursuant to §81.20 of this title (relating to Ownership of Equipment Purchased with Chapter 19 Funds), the upkeep and maintenance of items purchased with Chapter 19 funds is the responsibility of the county.

(c) Pursuant to §81.12 of this title (relating to Applicable Sections of the Texas Election Code), the voter registrar must prorate the cost between the county and Chapter 19 funds if the purchased item is not entirely related to voter registration. The provisions of this §81.27 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective January 3, 2007, 31 TexReg 10755; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.28. NVRA—EXPENSES PAYABLE.** The NVRA amends the Texas Election Code, §19.004, to allow expenses incurred by the voter registrar in implementing and conducting the duties required by this act to be payable with Chapter 19 funds. Examples of payable expenses under the NVRA include but are not limited to computer programming changes required by §15.081 and the printing and mailing of confirmation notices required by §§13.146, 14.023, 16.0921. The provisions of this §81.28 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective December 30, 2010, 35 TexReg 11569.

**Sec. 81.29. ADHERENCE TO RULES REQUIRED.** Failure to adhere to these rules may result in the denial of reimbursement from Chapter 19 funds.

The provisions of this §81.29 adopted to be effective October 1, 1995, 20 TexReg 7277; amended to be effective January 3, 2007, 31 TexReg 10755.

## **SUBCHAPTER B. EARLY VOTING**

**Sec. 81.30. MACHINES TO BE SEALED.** Where absentee voting is conducted on voting machines, the absentee voting clerk shall seal such machines at the close of each day's voting in the presence of poll watchers, if any, and such seal shall be broken by the clerk in the presence of poll watchers, if any, the following morning when absentee voting resumes. The authority conducting the election may provide for a written record to be made by the absentee voting clerk of the numbers registered on the public counter each time the machine is sealed or unsealed.

The provisions of this §81.30 adopted to be effective June 27, 1986, 11 TexReg 2739.

**Sec. 81.31. LIST OF DECLARED WRITE-IN CANDIDATES FOR MAIL BALLOTS.** A list of declared write-in candidates shall be mailed with the other balloting materials to voters voting early by mail in the general election for state and county officers and all other elections that require candidates to file a declaration of write-in candidacy in order to have a vote counted for that candidate.

The provisions of this §81.31 adopted to be effective June 27, 1986, 11 TexReg 2739; amended to be effective March 28, 2002, 27 TexReg 2218

**Sec. 81.32. LATE CONVENING OF EARLY-VOTING BALLOT BOARD IN ELECTIONS OTHER THAN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS.** The presiding judge of the early-voting ballot board shall convene the board between the third and fifth day after election day to count late early-voted ballots cast from outside the country and placed in delivery by 7:00 p.m. on election day, so that the governing body of the territory conducting the election can timely canvass the election returns no earlier than the third day or later than the sixth day after election day.

The provisions of this §81.32 adopted to be effective October 20, 2000, 25 TexReg 10514.

**Sec. 81.33. LATE CONVENING OF EARLY-VOTING BALLOT BOARD IN PRIMARY ELECTIONS.** The presiding judge of the early-voting ballot board shall convene the board to count late early-voted ballots cast from outside the country and placed in delivery by 7:00 p.m. on election day, at any time after the last mail delivery occurring two days after the election, or when the early voting clerk certifies that all early-voting ballots mailed from outside the United States have been received, whichever is earlier. The precise time for the convening of the board shall be within the discretion of the presiding judge, with a view toward allowing ample time for the board and the central counting station personnel (if applicable) to discharge its duties so that the county executive committee can timely convene at no later than 1:00 p.m. on the third day after election day.

The provisions of this §81.33 adopted to be effective October 20, 2000, 25 TexReg 10514.

**Sec. 81.34. SECURITY OF EARLY-VOTING BALLOTS UNDER ELECTION CODE, §85.032(F).** (a) If the early-voting ballot board convenes before election day, the presiding judge shall, upon each adjournment of the board, lock and seal each ballot box prior to returning the boxes to the custodian of records. The judge shall complete a ballot-box security form showing each serial number used to seal each box. The form shall be signed by the judge and another early-voting ballot board member who have witnessed the procedure. In a general election for state and county officers, the early-voting ballot board member must be from a different political party than the judge. The custodian of records shall also sign the form.

(b) The presiding judge shall retain the key(s) used to lock the ballot box(es). In the event that the judge is unwilling to retain the key, the key shall be retained by the authority designated in accordance with §66.060(a) of the Code.

(c) Upon reconvening the ballot board, the presiding judge shall ensure that each ballot box is intact. The presiding judge shall follow these procedures each day except upon final delivery to the custodian of records or delivery to the central counting station.

(d) If it is impracticable for the ballot-board judge to deliver the ballot boxes each day upon adjournment, the authority conducting the election shall submit to the Office of the Secretary of State an alternative plan for the security of the ballots for approval.

The provisions of this §81.34 adopted to be effective October 20, 2000, 25 TexReg 10515.

**Sec. 81.35. VOTING FROM OUTER SPACE.** (a) A person who meets the eligibility requirements of a voter under the Texas Election Code, Chapter 101, but who will be on a space flight during the early-voting period and on election day, may vote under this chapter. In order to vote by this method, the voter must apply by a Federal Postcard Application ("FPCA") and meet the requisite deadlines under state law. The FPCA may be submitted by fax or other electronic means.

(b) The National Aeronautics and Space Administration ("NASA") shall submit in writing to the Secretary of State a method of transmitting and receiving a secret ballot for persons on a space flight during an election period. The Secretary of State shall approve, deny, or request further information from NASA on the proposed method of transmission.

(c) Proposed changes to an approved ballot transmission method shall be submitted in writing to the Secretary of State for approval.

The provisions of this §81.35 adopted to be effective October 20, 2000, 25 TexReg 10515; amended to be effective March 5, 2012, 37 TexReg 1483.

**Sec. 81.36. COUNTING BALLOTS PRIOR TO ELECTION DAY IN COUNTIES WITH A POPULATION OF 100,000 OR MORE.** (a) The following procedure to count ballots before election day that were voted by mail or early in person may be used if the following conditions in paragraphs (1) - (7) of this subsection are met:

(1) the election is conducted by the county elections officer;

(2) the election is a county election ordered by the Governor, county judge, or commissioners court, a joint election between the county and another political subdivision using the same electronic ballot, or a primary election;

(3) the county has a population of 100,000 or more;

(4) electronic system ballots are used in the election;

(5) tabulation can be completed without revealing the vote count prior to the close of polls on election day;

(6) the 2nd and 3rd logic and accuracy test required by Texas Election Code, Chapter 127 can be performed before the count and after the count;

(7) a real time audit report can be produced immediately after the count to verify the number of ballots counted with the ballot transmittal form.

(b) The central counting station is authorized to convene to count the ballots early.

(c) The manager of the central counting station will determine whether to count the early voted ballots prior to election day.

(d) The manager must notify, in writing, the presiding judge of the early voting ballot board as to the time and place where the presiding judge must deliver the ballots voted early. The notice must be given at least eight days before convening the central counting station. The early voting clerk is sent a copy of the notice.

(e) The early voting clerk must post a notice of time and place on the bulletin board used for posting open meetings where the central counting station personnel will be meeting. The notice must be posted no later than the last day for early voting in person. In the general election for state and county officers, the notice must also be sent to each county chair that has a nominee on the general election ballot.

(f) All tests of the tabulating equipment must be conducted pursuant to the Texas Election Code, Chapter 127, Subchapter D. The testing authority must conduct the second test immediately prior to the count of the early voted ballots.

(g) Poll watchers are authorized to be present during the early count.

(h) The judge of the early voting ballot board must convene the ballot board after the close of early voting in person in order to qualify and prepare the ballots for counting prior to the convening of the central counting station. The presiding judge of the ballot board shall issue a notice of delivery prior to the meeting of the ballot board in the regular manner (Texas Election Code, §87.022 and §87.025). The early voting clerk must post notice of delivery of ballots to the ballot board in the regular manner (Texas Election Code, §87.023). These procedures do not supercede the regular procedures of notice, delivery, and processing of ballots voted by mail by the signature verification committee.

(i) After the count is concluded, the tabulation supervisor must store the vote tabulation on a tape or other electronic device (personal computer) without producing a printout or any other method of the vote count.

(j) The tabulation supervisor must run a report indicating the number of ballots counted for each precinct and do a comparison between those numbers and number of ballots indicated on the ballot transmittal form. This report is used to verify

the number of ballots counted since a report showing vote totals is not authorized to be produced prior to election day.

(k) The tabulation supervisor must zero the votes on the tabulation device and run the 3rd test. If the 3rd test is not successful, the count is void.

(l) The counted ballots must be locked in the ballot box and delivered to the custodian. The key to the ballot box must be delivered to the custodian of the key pursuant to the Texas Election Code, §66.060.

(m) The box containing the counted ballots may not be opened unless the count of the ballots stored on tape or other electronic means is blank or appears to be incorrect when the tabulation supervisor reloads those results on the computer or accumulator on election day. In that event, the manager of the central counting station shall direct the custodian of the box and the custodian of the key to the box to deliver those items to the central counting station.

(n) The Central Counting Station personnel may convene only once prior to election day to count early votes. Any ballots received after the ballot board judge delivered the ballots to the manager shall be counted on election day.

(o) The central counting station personnel will reconvene on election day at a time determined by the manager. Prior to the start of counting any ballots, the 2nd test must be conducted to determine the tabulating equipment is tabulating correctly. After a successful test has been conducted, the results of the early voting count shall be loaded into the tabulating equipment. The tabulation supervisor must run the same report showing the number of the ballots counted. This report must be compared with the report ran after the conclusion of counting before election day.

(p) If the two reports do not match, the count of the ballots prior to election day is void. The tabulation supervisor shall zero out the votes loaded on the tabulating machine. After a 2nd test is successfully conducted, all ballots counted prior to election day must be rerun.

(q) On election day, the counting of early votes and election day votes shall be conducted in accordance with the procedures set forth in the Texas Election Code..

The provisions of this §81.36 adopted to be effective March 28, 2002, 27 TexReg 2218.

#### **Sec. 81.37. COUNTING LATE BALLOTS.** (a) General provisions

(1) For general elections for state and county officers, the early voting ballot board shall reconvene on the 6th day after the election to count any late ballots received in accordance with the Texas Election Code, §86.007. For all other elections, the early voting ballot board may reconvene any time after the 2nd day after the election and prior to the official canvass.

(2) The presiding judge shall notify the early voting clerk of the time and place where the board will reconvene. The notice to the early voting clerk must be made in time so the early voting clerk may give proper notice of the delivery of the late ballots. The early voting clerk must post notice of delivery of jacket envelopes and any other accompanying papers to the ballot board at least twenty-four (24) hours prior to the delivery. The notice shall be posted at the main early voting polling place. For purposes of this provision, the Texas Election Code, §1.006 does not apply.

(3) The presiding judge shall send notice to the custodian of the key and the custodian of election records to redeliver the ballot box containing the counted ballots and the key to the box. After the late ballots have been counted, the presiding judge shall lock the late counted ballots in the ballot box. The presiding judge shall deliver the ballot box to the general custodian of election records and the key to the ballot box to custodian of the key.

(4) Poll watchers are entitled to be present for the late counting of ballots.

(5) If all mail ballots were received by the close of voting on election day or no ballots were received by the appropriate deadline for the election, the early voting clerk shall certify that fact and deliver the certification to the canvassing board before it convenes to canvass the votes.

#### (b) Provisions For Paper Ballots

(1) Once the ballots have been qualified, the presiding judge shall use the regular method of counting ballots by keeping three new tally sheets, counting the ballots by precinct, and having two members present per tally team. For purposes of this provision, the Texas Election Code, §87.1231(b) does not apply.

(2) Once the board has counted all the ballots, an original and three copies of the return sheet shall be prepared.

(3) The distribution of the tally sheets and return sheets shall be made in accordance with the Texas Election Code, Subchapter B, Chapter 66.

(4) The canvassing board shall add the returns from both early voting return sheets when canvassing the vote.

#### (c) Provisions for Electronic Voting Systems

(1) The manager of the central counting station shall decide whether the ballot board shall manually count the ballots and be manually added to the computer count for a canvass total or whether the central counting station shall reconvene.

(2) The manager shall send notice to the presiding judge of the ballot board prior to the reconvening the board as to whether the ballots are to be counted manually by the board or whether the ballots are merely to be prepared for delivery to the central counting station.

(3) If the ballots are to be counted by the central counting station, the manager must post notice at least twenty-four (24) hours prior to reconvening the central counting station. For purposes of this provision, Texas Election Code, §1.006 does not apply.

(4) A ballot transmittal form must be completed by the presiding judge of the ballot board. The transmittal form will accompany the qualified ballots.

(5) The manager must order a second test to be conducted prior to the count. The test must be successful.

(6) Poll watchers are entitled to be present at the central counting station.

(7) After the second successful test is conducted, the unofficial election results, preserved by electronic means, shall be loaded in the tabulating equipment.

(8) The tabulation supervisor shall print a status report before the count begins. This status report shall be compared with the report run on election night. If the two status reports do not match, the electronic ballots must be counted by hand and manually added to the returns printed on election night.

(9) If the status report matches the report run on election night, the tabulation supervisor may order the count to begin. The precinct returns from these counts may be included with the original precinct counts. The tabulation supervisor does not need to keep the precinct-by-precinct results of the late ballots separate from other early voted ballots.

(10) Once the ballots have been counted, results shall be prepared in the regular manner. The manager shall prepare a certification and attach it to the returns, then place the certification and returns in envelope #1 to be delivered to the presiding officer of the canvassing board indicating that the result supersedes any returns printed prior to the reconvening of the central counting station after election day.

(11) After the results have been prepared, a successful third test must be performed.

(12) The results, ballots, and distribution of ballots and all records shall be made in the regular manner.

The provisions of this §81.37 adopted to be effective March 28, 2002, 27 TexReg 2218.

**Sec. 81.38. ADMINISTRATION OF VOTER REGISTRATION ASSOCIATED WITH ADDRESS CONFIDENTIALITY PROGRAM.** (a) Definitions. For purposes of this section, the following words and phrases have the following meanings:

(1) Protected applicant--A certified participant or an eligible spouse or dependent of a certified participant in an address confidentiality program administered by the Office of the Attorney General as authorized by Chapter 56, Subchapter C, Texas Code of Criminal Procedure.

(2) Eligible household member--A person who is living in the same household or dwelling of a certified participant in an address confidentiality program administered by the Office of the Attorney General as authorized by Chapter 56, Texas Code of Criminal Procedure, and who is otherwise eligible to vote using a confidential ballot application, without regard to whether they are related to the certified participant.

(3) Early Voting Clerk--The election officer for a county, and any other local political subdivision, who bears responsibility for the administration of early voting, as specified in Chapter 83, Texas Election Code.

(4) Confidential application for ballot by mail--An application for a confidential ballot by mail completed and signed by a protected applicant. The confidential application for ballot by mail also acts as a temporary voter registration application while the applicant is in the address confidentiality program.

(5) Confidential roster of protected applicants--A list of voters who have voted by means of a confidential ballot by mail.

(6) Substitute post office box address--A post office box address supplied to a certified participant in an address confidentiality program administered by the Office of the Attorney General.

(7) True residence address--The address of the permanent fixed place of habitation of a certified participant in an address confidentiality program administered by the Office of the Attorney General.

(8) Confidential ballot--A ballot marked and voted by a protected applicant or any eligible household member of an applicant.

(b) Process for Completing the Confidential Application for Ballot by Mail. As required by §13.002(e) of the Texas Election Code, a protected applicant is not eligible to vote early by mail unless:

(1) the person submits by personal delivery a Confidential application for ballot by mail to the early voting clerk.

(2) To complete the application process and qualify to receive confidential ballots by mail, a protected

applicant must point to a specific location on an official map of the political subdivision if able to do so, or may orally describe the location in sufficient detail to permit identification of the political subdivisions in which the protected applicant resides. The protected applicant must then swear or affirm to the early voting clerk that the protected applicant's place of residence as defined in §1.015 of the Texas Election Code is located within that specifically identified location.

(3) Upon the protected applicant's indication or description of the geographic location of the voter's residence, the early voting clerk must record the jurisdictional codes for every political subdivision in which the protected applicant resides on the protected applicant's confidential application for ballot by mail.

(4) Components of a confidential application for ballot by mail.

(A) A confidential ballot application must include:

(i) the protected applicant's full name and former name, if any;  
(ii) the month, day, and year of the applicant's birth;  
(iii) a statement that the protected applicant is a United States citizen;  
(iv) a statement that the protected applicant is a resident of the county;  
(v) a statement that the protected applicant has not been determined by a final judgment of a court exercising probate jurisdiction to be mentally incapacitated or partially incapacitated without the right to vote;

(vi) a statement that the protected applicant has not been finally convicted of a felony, or if convicted, that the protected applicant is eligible to register to vote as authorized by §13.001, Texas Election Code;

(vii) a protected applicant's substitute post office box address (which for uniformity's sake may be pre-printed on an application form);

(viii) the protected applicant's Texas driver's license number, personal identification number, or last four digits of the protected applicant's social security number, or a statement that the protected applicant has not been issued either number; and

(ix) an affidavit of confidentiality stating, "I swear or affirm that I am a certified participant or eligible household member of a certified participant in an address confidentiality program administered by the Texas Attorney General as described in Chapter 56, Texas Code of Criminal Procedure. I understand that by completing this application, it is my responsibility to cancel my voter registration in any county in which I may have been registered to vote, if my voter registration was not previously canceled. It is also my responsibility to cancel any confidential application for ballot by mail that was filed in a county of previous residence. I understand that I am requesting a ballot by mail for every election conducted by the early voting clerk within the boundaries of the territories in which I reside until my address confidential certificate expires (three (3) years after the application is submitted) or your office receives notice that I am no longer in the program or my ballot by mail has been returned as undeliverable, whichever occurs first."

(B) The early voting clerk may not transcribe, copy, or otherwise record a confidential application for a ballot by mail. The application is not a public record, and must be stored in a secure manner that does not compromise the privacy of the information therein.

(C) Upon notification in writing from the Texas Attorney General that a particular protected applicant has not been re-certified for participation in the address confidentiality program or upon return of a protected applicant's ballot by mail as undeliverable, the early voting clerk may not mail additional mail ballots to the protected applicant until receipt of a new application filed by the applicant in person. Any confidential applications shall be preserved for the 22-month period following the expiration or cancellation of the confidential application in the same manner as precinct election records pursuant to §66.058, Texas Election Code. After the preservation period expires, the early voting clerk will destroy the application and any written reference to the jurisdictional codes assigned to the applicant.

(c) Confidential Status of Protected Applicant's Identity. In compliance with §56.88, Texas Code of Criminal Procedure, the true residence address of a protected applicant shall not be solicited and is not required as part of the application process. No record may be made of any accidental revelation of the true residence address (whether implied by the protected applicant's oral description of his or her residence within the county, revealed by the applicant's silent indication of residence location on a county map or as the result of some other disclosure furnished on a confidential application), and the applicant's true residence address is confidential and does not constitute public information for purposes of Chapter 552, Texas Government Code, or §1.012, Texas Election Code.

(d) Restriction on Voting by Personal Appearance. The confidential application for ballot by mail shall constitute the protected applicant's application to register to vote for so long as the protected applicant remains in the program, or until such time as the protected applicant's application for ballot by mail remains valid. A protected applicant shall not be permitted to vote by personal appearance either during early voting or on Election Day in any election for so long as the applicant's application for ballot by mail remains valid.

(e) Local Election Ballots. The county early voting clerk is responsible for providing ballots to the protected applicant for any elections conducted by the county. In order to receive a ballot for an election conducted by a local political subdivision other than a county, the protected applicant must appear in person at the office of the local political subdivision's early voting clerk and submit a confidential application for ballot by mail.

(f) Voting Procedure for Protected Applicant.

(1) On the later of either 45 days before any election conducted in the protected applicant's territory or as soon as ballots are available and ready to be mailed to any by mail, overseas citizen, or military voters, the early voting clerk shall mail a ballot for that election to the protected applicant at the substitute post office box address provided.

(2) The ballot, carrier envelope, and other by mail voting materials supplied to a protected applicant shall be the same as provided to voters who vote by mail due to absence from the county during early voting, except that the county early voting clerk shall number the carrier envelope with the number representing the protected applicant's place on the confidential roster of protected applicants.

(3) The early voting clerk shall also mark and initial the carrier envelope to indicate that the ballot is voted under this administrative rule.

(4) The protected applicant must mark and seal the ballot in the same manner as any voter voting by mail.

The protected applicant completes the carrier envelope in the regular manner.

(g) Confidential Roster of Protected Applicants. Upon acceptance of a confidential application for ballot by mail, the early voting clerk shall list the applicant's name on the early voting roster of protected applicants, the date the ballot was mailed out, and the date the voted ballot was received by the early voting clerk. A protected applicant to whom a ballot is provided is not included on the regular early voting roster.

(h) Confidential Roster Not Subject to Disclosure. In compliance with §56.88, Texas Code of Criminal Procedure, the names of protected applicants listed on the confidential roster of protected applicants are not available for public inspection or copying, and are categorized as confidential records that are not subject to public disclosure in reply to requests under the Texas Public Information Act.

(i) Processing Confidential Ballots Voted by Protected Applicants. Upon receipt of a carrier envelope containing a ballot from a protected applicant, the early voting clerk shall make a note on the confidential roster of protected applicants showing the date of receipt. The results shall be processed in accordance with the procedures applicable to processing early voting ballots voted by mail, except that the comparison of the signatures on the confidential ballot application and the carrier envelope shall be conducted by the early voting clerk. The early voting clerk shall record on the confidential roster all ballots accepted for counting after the signature review is completed. If the signature on the carrier envelope and signature on the confidential application are determined not to have been made by the same person, the clerk shall treat the ballot as not timely returned in accordance with §86.011, Texas Election Code and indicate this reason on the confidential roster. The carrier envelopes from voters in the Address Confidentiality Program shall be delivered to the early voting ballot board in an envelope designated as "Envelopes for Confidential Ballots" together with the Early Voting Roster of Protected Voters. The confidential applications for ballot by mail are not delivered to the board but are kept by the county early voting clerk. The early voting ballot board shall verify the carrier envelopes received with the early voting roster of Protected Applicants to ensure that the number of carrier envelopes do not exceed the number of names on the roster. If there is no date of receipt indicated on the roster, there will not be a carrier envelope for that person.

(j) Early Voting Ballot Board Review. Notwithstanding the absence of comparing signatures, the early voting ballot board shall treat as valid all carrier envelopes marked as containing confidential ballots voted pursuant to this section that were received in the envelope for confidential ballots. The carrier envelopes shall be opened and set aside, and the security envelopes containing the voted confidential ballots shall be set aside with all other accepted ballots by mail. The ballots shall be counted with the other accepted ballots by mail. The number of ballots voted and counted under this section would have already been recorded on the Confidential Roster of Protected Applicants pursuant to subsection (i) of this section.

The provisions of this §81.38 adopted to be effective September 11, 2008, 33 TexReg 7511.

**Sec. 81.39. E-MAILING AND TRACKING BALLOTING MATERIALS REQUIRED BY THE FEDERAL MILITARY AND OVERSEAS VOTER EMPOWERMENT ACT (MOVE).** (a) Authorization for e-mailing of unmarked ballots to absent uniformed services voters, including their spouse and dependents (collectively "uniformed services voters"), absent from their county of residence and overseas voters in elections for federal office.

(1) Pursuant to §578(a) of the MOVE Act, uniformed services voters, temporarily residing outside their county of residence and United States citizens currently residing overseas ("overseas citizen") may request by e-mail the e-mail transmission of blank balloting materials from the appropriate county early voting clerk for an election in which a federal office is on the ballot. The request may be submitted to the early voting clerk by e-mail or, if the e-mail is different from the one shown on the federal postcard application (FPCA) on file, on a newly-submitted FPCA.

(2) If no preference for ballot transmittal is indicated, the early voting clerk shall send the balloting materials to the applicant via regular mail.

(3) E-mail addresses are not subject to public disclosure to the extent provided by §552.337 of the Texas Government Code. Early voting clerks shall ensure that the applicant's e-mail address is excluded from public disclosure.

(4) The e-mail transmission of ballots shall be limited to elections in which an office of the federal government is on the ballot. Ballots for other elections shall be mailed to the applicant in the usual manner, unless the election is part of a joint election ballot containing a federal office.

(b) Voter's are eligible to request ballots via e-mail if the following conditions in paragraphs (1) - (8) of this subsection are met:

(1) The voter meets the eligibility requirements of voting by mail pursuant to §101.001 of the Texas Election Code (hereinafter referred to as applicant);

(2) The applicant has submitted a valid FPCA;

(3) If the applicant is an overseas citizen, he/she must provide a current mailing address that is located outside of the United States, and the applicant must be voting from outside of the United States;

(4) If the applicant is an absent uniform services voter, he/she must provide a mailing address that is located outside his or her county of residence, and he/she must be voting from outside the county of residence;

(5) The applicant must provide an e-mail address to which the unmarked ballot shall be transmitted that corresponds to the e-mail address provided on his or her previously filed FPCA. If the applicant wishes the unmarked e-mail ballot to be transmitted to an e-mail address other than the one provided on his or her FPCA on file at the time of the request, the applicant must submit a new, signed FPCA which contains that e-mail address;

(6) The applicant submits the request that his or her ballot be e-mailed on or before the 7th day before election day;

(7) A marked voted ballot for the requested election has not yet been received from the applicant by the early voting clerk; and

(8) The request is received on or after October 28, 2009, the effective date of the MOVE Act.

(c) Balloting materials which must be transmitted via e-mail include:

(1) the appropriate ballot;

(2) ballot instructions, including instructions that informs applicants that their ballots must be returned by mail in order to be counted;

(3) Office of the Secretary of State instructions on about how to print a return envelope from the Federal Voting Assistance Program (FVAP) website;

(4) Office of the Secretary of State instructions explaining how to create a carrier envelope for the ballot; and

(5) the list of certified write-in candidates, if applicable.

(d) Approved methods of e-mailing the ballot and accompanying materials include the following:

(1) an attached copy of the ballot in PDF format and accompanying materials;

(2) a scanned copy of the ballot and accompanying materials; or

(3) any other method of transmitting the ballot and accompanying materials approved in writing by the Office of the Secretary of State.

(4) The Office of the Secretary of State recommends that the ballot be transmitted in an 8 1/2 x 11 format, if possible.

(e) If the initial e-mail transmission is unsuccessful, the clerk should print out the bounced e-mail and file it with the applicant's original FPCA form. The early voting clerk then shall at least twice attempt to send the applicant a notice without the ballot attachment to notify the applicant the ballot was not successfully transmitted. In forwarding the notice, the early voting clerk shall take additional care to re-review the applicant's indicated e-mail address on the original FPCA document. If the early voting clerk is able to verify a mistake on his or her part in the original e-mail transmission, or receives an acknowledgement from the applicant that the e-mail address is correct, the clerk shall attempt to re-send the ballot to the correct address. If the early voting clerk is ultimately unable to forward the ballot e-mail to the applicant, the clerk shall submit a notice by mail to the applicant's FPCA mailing address or contact the applicant by phone if the applicant has provided a telephone



number. The notice shall apprise the applicant of his or her ability to submit a new FPCA either with a valid e-mail address or requesting the ballot to be sent by mail. The early voting clerk must provide a uniform level of contact with FPCA applicants. A failed e-mail transmission does not by itself authorize the clerk to forward the ballot to the applicant by mail. To change the transmission method to mail, the applicant would have to submit a new FPCA to the clerk by the appropriate deadline.

(f) Permissible method of returning ballot sent to applicant via e-mail.

(1) Applicants who receive balloting materials from the early voting clerk via e-mail must return their marked ballots by regular mail, unless eligible to return the ballot by facsimile under Chapter 105, Texas Election Code, which is limited to military voters in war zones and/or receiving hostile fire pay.

(2) Marked ballots may not be returned via e-mail. Any ballot returned via e-mail must be treated as a ballot not timely returned and is not forwarded to the early voting ballot board for processing.

(3) The deadline for a ballot to be received by the early voting clerk is the same as set out in §86.007, Texas Election Code.

(g) Processing and qualifying ballots.

(1) Upon receipt of a voted ballot provided to the applicant via e-mail, the early voting clerk shall place the carrier envelope containing the marked ballot into a jacket envelope, in which the applicant's FPCA should already be included. If the applicant's ballot was returned by facsimile under Chapter 105, Texas Election Code, the signature sheet shall also be included in the jacket envelope.

(2) The early voting clerk shall note on the early voting by mail roster any ballots e-mailed to absent uniformed services voters and overseas citizens under this rule.

(3) All jacket envelopes containing marked ballots voted in compliance with this rule must be delivered to the early voting ballot board.

(4) The board should make sure that each jacket envelope contains:

(A) a copy of the applicant's FPCA;

(B) the envelope in which the applicant returned their ballot; and

(C) the carrier envelope containing the marked ballot.

(5) The board must compare the applicant's signature as it appears on the carrier envelope (or the signature sheet if the ballot was returned by facsimile under Chapter 105, Texas Election Code) with the applicant's signature as it appears on the FPCA. If the board determines that the signatures could have been written by the same person, the ballot shall be accepted.

(6) The early voting clerk must allow all applicable deadlines to expire before sending either an original mail ballot or an e-mailed ballot to the early voting ballot board. If within the applicable deadlines, an applicant returns both an original mail ballot and an e-mailed ballot, only the e-mail ballot may be accepted. The original mail ballot is not forwarded to the early voting ballot board, but instead treated as a ballot not timely returned, and but is retained for the elections retention period.

(7) If the applicant returned only the mail ballot by the applicable deadline, the mail ballot may be accepted.

(h) Counting ballots. The qualified, accepted ballot is handled in the following manner:

(1) Open the carrier envelope and remove the ballot envelope.

(2) Place the unopened ballot envelope in a ballot box.

(3) Enter the applicant's name on the poll list for early voters.

(4) Place the copy of the applicant's FPCA, the carrier envelope, the signature sheet, and any accompanying papers back in the jacket envelope.

(5) Count the ballot(s), either by hand counting or electronically, in the manner established for the election by the early voting clerk.

(i) Duplicating e-mailed ballots. At the discretion of the central counting station manager, after acceptance by the early voting ballot board, an e-mailed ballot may be duplicated under procedures set out in §127.126, Texas Election Code.

(j) Rejecting ballots.

(1) If the applicant's FPCA and carrier envelope do not meet all the requirements outlined in subsection (f) of this section, the ballot must be rejected and may not be counted.

(2) The rejected ballot should be processed by:

(A) Writing the word "Rejected" on the carrier envelope;

(B) Writing the word "Rejected" on the corresponding jacket envelope;

(C) Placing the unopened carrier envelope containing the rejected ballot in the large envelope or container marked "Rejected Early Ballots";

(D) Having the presiding judge sign and seal the "Rejected Early Ballot" envelope.

- (3) The presiding judge must also write the date and nature of the election on the envelope.
- (4) A record must be kept of the number of rejected ballots placed in the "Rejected Early Ballot" envelope.
- (5) A notation must be made on the carrier envelope of any ballot which was rejected after the carrier envelope was opened, stating the reason the carrier envelope was opened and rejected.
- (6) The applicant's FPCA, signature sheet, and any other accompanying papers and affidavits must be placed in the jacket envelope.

(7) The presiding judge of the board must forward a notice of the reason for the rejection to the e-mail address to which the ballot was originally transmitted in addition to the mailed notice of rejection to the applicant's residence address required under §87.0431, Texas Election Code.

(k) Tracking balloting materials. MOVE requires each state to develop a tracking system FPCA applicants may access to determine if their voted ballot has been received back by the early voting clerk. The Office of the Secretary of State will create a military and overseas voter ballot tracking website, and each county will be required to submit specific FPCA application and ballot status data, which will populate the FPCA tracking website.

(1) Submission of FPCA records. The early voting clerk must submit to the Office of the Secretary of State a voter record for each FPCA that is timely received for the November 2, 2010 general election. The three approved submission methods for submitting FPCA data are:

(A) Voter Import Method. The voter import is a prescribed, standard format issued and supported by the Office of the Secretary of State in which data may be submitted in mass to update the Texas Election Administration Management System ("TEAM"). The early voting clerk may submit the voter import or may work in cooperation with the county voter registrar to submit the voter import.

(B) TEAM Data Entry Method. The early voting clerk may directly input FPCA voters into the TEAM application.

(C) Spreadsheet Submission Method. The early voting clerk may submit a spreadsheet which contains required data for all effective FPCA applicants. The spreadsheet format will be prescribed by the Office of the Secretary of State and sent to all counties by July 31, 2010, and will contain the following fields:

- (i) County name;
- (ii) Election name;
- (iii) Voter last name;
- (iv) Voter first name;
- (v) Voter former name, if any;
- (vi) Voter date of birth;
- (vii) Voter residential zip code; and
- (viii) FPCA status (military or spouse or dependent of military, U.S. citizen temporarily residing outside of U.S., or U.S. citizen indefinitely residing outside of U.S.).

(2) Deadline to submit FPCA voter record.

(A) Records for all FPCAs on file as of September 1, 2010 must be submitted to the Office of the Secretary of State no later than September 7, 2010.

(B) Records for FPCAs that are submitted to the early voting clerk after September 1, 2010, must be submitted to the Office of the Secretary of State within 3 working days of receipt by the early voting clerk.

(3) Submission of voted ballot status. The early voting clerk must submit to the Office of the Secretary of State the following information concerning the ballot status for each FPCA record:

- (A) Date ballot mailed, e-mailed or both;
- (B) Date ballot(s) received; if applicable;
- (C) Date ballot returned by the post office, if applicable;
- (D) Whether the ballot(s) received was accepted or rejected.

(4) The early voting clerk may submit the ballot status data by one of the following three methods:

- (A) Voting History Import to TEAM.
- (B) Data entry directly into TEAM.
- (C) Updates to FPCA Spreadsheet.

(5) Deadline to submit ballot status data. The early voting clerk must submit the ballot status information required under paragraph (3) of this subsection within 3 business days of the status change..

The provisions of this §81.39 adopted to be effective August 1, 2010, 35 TexReg 6507.

**Sec. 81.40. FEDERAL POSTCARD APPLICATION AS APPLICATION FOR PERMANENT REGISTRATION AND FPCA ELIGIBILITY FOR ELECTRONIC TRANSMISSION OF IMAGE.** (a) Eligibility. Pursuant to §101.001 and

§101.006 of the Texas Election Code, a person is eligible to submit a Federal Postcard Application (an "FPCA") as an application for permanent registration if:

(1) the person is qualified to vote in this state or, if not registered to vote in this state, would be qualified if registered; and

(2) the person is:

(A) a member of the armed forces of the United States, or the spouse or a dependent of a member;

(B) a member of the merchant marine of the United States, or the spouse or a dependent of a member;

or

(C) domiciled in this state but temporarily living outside the territorial limits of the United States and the District of Columbia who is qualified to submit an FPCA.

(b) General Conduct of Voting. The FPCA serves simultaneously:

(1) as a request for a mail ballot from the early voting clerk for a period of two federal elections; and

(2) as a request for permanent registration in the county in which the voter resides, unless the voter states that he or she resides indefinitely outside the United States.

(c) Action on original FPCA by early voting clerk.

(1) The FPCA must be submitted to the early voting clerk for the election who serves the election precinct of the applicant's residence. The FPCA may be submitted by mail, telephonic facsimile (fax), or an electronic transmission of the image to an authorized recipient (for example, scanning and attaching to an email) to the address of the early voting clerk.

(2) The early voting clerk shall make a notation of the name of the office and date and time of receipt, then make a complete copy (front and back, and any accompanying envelopes or fax cover sheets) of the FPCA to retain for mail balloting purposes. The early voting clerk shall then forward the original FPCA (and any accompanying envelopes or fax cover sheets) to the county voter registrar for the county, in which the applicant's Texas residence address is located, as soon as practicable, but no later than within five days, so that the FPCA may be processed as an application for permanent voter registration, even if the FPCA is insufficient as a mail ballot request. This deadline does not supersede the deadlines to mail out ballots pursuant to §86.004, Election Code. The early voting clerk's copy functions as the official FPCA for all mail balloting purposes for elections, including purposes necessary during the early voting ballot board meeting, and the copy shall be maintained as an election record for 22 months after the last election in which the FPCA is processed for mail balloting purposes, pursuant to §66.058, Election Code. Once the early voting clerk makes a copy for early voting purposes, that copy is considered the "original" for purposes of public information requests made of the early voting clerk, including the rules concerning originals at §86.014, Election Code.

(3) The authorized recipient will notate the name of the office receiving the FPCA and the date and time of receipt on the face of the FPCA, before taking any action on the original FPCA. Failure to make these notations will not affect the overall validity of the FPCA, even if the calculation of the date of receipt is affected.

(4) Processing defective FPCAs.

(A) Incorrect territory. If the Texas residence address provided on the FPCA indicates an address outside the early voting clerk's territory, the clerk shall make a copy for his or her records, and immediately forward the original FPCA to the correct jurisdiction's early voting clerk not later than the day after it is received, pursuant to §101.004(d), Election Code. The (incorrect) early voting clerk shall send the voter a notice of rejection on behalf of his or her jurisdiction pursuant to §86.001(f), Election Code, and include a statement that the FPCA has been forwarded to the correct early voting clerk. If the early voting clerk cannot determine the correct jurisdiction based on the residence address, the early voting clerk shall seek assistance from the office of the county voter registrar or the secretary of state. Regardless of whether the early voting clerk's territory is incorrect, the early voting clerk shall forward a courtesy copy of the FPCA to the voter registrar for that clerk's territory (so that the voter registrar may provide a second review of the voter's address).

(B) Mail balloting errors other than voter registration. For any other voter errors resulting in an insufficient mail ballot request, the early voting clerk shall send the voter a notice of rejection pursuant to §86.001, Election Code, even though the FPCA is still forwarded to the voter registrar for purposes of an application for permanent voter registration.

(d) Action on FPCA by county voter registrar.

(1) Upon receipt of the original FPCA from the early voting clerk, the county voter registrar shall immediately review the FPCA to see if the voter's permanent residence address places the voter in their Texas county. The voter registrar shall process the FPCA in the same manner as a regular voter registration application. For any errors that

make the FPCA insufficient for voter registration, the voter registrar shall send the voter a notice of rejection or notice of incomplete, whichever is appropriate in accordance to §13.073, Election Code. The original shall be kept by the county voter registrar for the retention period applicable to applications for permanent voter registration.

(2) If the applicant states on the FPCA that he or she resides outside the United States indefinitely, the voter registrar shall not treat any such FPCA (which was incorrectly forwarded to the registrar) as an application for permanent voter registration and shall notify the early voting clerk that the FPCA was forwarded to the voter registration office in error.

(3) If the FPCA was sent to the wrong Texas county, the registrar shall make a notation of the date received by his or her office, notify immediately the early voting clerk in their county of the error so that a ballot is not sent for their county, then immediately forward the original FPCA to the correct early voting clerk so that the clerk can process the FPCA in accordance with subsection (c) of this section (unless the early voting clerk has already determined that his or her county is incorrect in accordance with subsection (c)(4)(A) of this section).

(4) Request for Return of Original FPCA. A voter registrar who records voter registration data for storage purposes on optical disk or other computer storage medium, shall, upon request of the early voting clerk, deliver the original FPCA to the early voting clerk before destroying the original FPCA.

(5) If the voter registrar receives a courtesy copy of an FPCA from an early voting clerk (based on initial determination of incorrect territory by the clerk), and the voter registrar has information that confirms that their county is the correct county, the voter registrar shall contact the original early voting clerk immediately to begin the processing of the FPCA in subsection (c) of this section. The early voting clerk shall notify the early voting clerk to whom the FPCA was forwarded of the mistake.

(e) Timeliness of FPCA for mail ballot request purposes.

(1) The FPCA is considered received for mail ballot request purposes on the date of actual receipt by the early voting clerk, pursuant to §§101.002, 101.004, 84.007(d), Election Code.

(2) If the FPCA is first received by the county voter registrar's office, the FPCA is considered received as a request for mail ballot for purposes of an election when the county voter registrar receives the FPCA on behalf of the county.

(3) Pursuant to §101.004(d), Election Code, a timely FPCA addressed to the wrong early voting clerk shall be forwarded to the correct early voting clerk not later than the day after it is received by the wrong early voting clerk.

(4) Pursuant to §101.004, Election Code, if an otherwise compliant FPCA is postmarked, or received without postmark within the prescribed dates, the applicant, who:

(A) is not otherwise permanently registered; and

(B) has not stated that he or she is residing outside the United States indefinitely, will receive a full ballot based on the temporary registration status obtained by using the FPCA; otherwise, the applicant will only receive a "federal ballot" (federal offices only) pursuant to §101.004(f), Election Code. If the applicant states that he or she is residing outside the United States indefinitely, the early voting clerk does not forward the FPCA to the voter registrar since the FPCA will not constitute a permanent voter registration application, and the FPCA will be treated as a temporary registration and request for mail ballot for a period of two federal elections in accordance with §101.005 and §101.006(a), Election Code.

(5) The statutes governing the method of transmission of a mail ballot request shall govern the method of transmission of an FPCA generally as provided by §101.002, Election Code and additionally as provided by §101.004, Election Code as amended.

(A) A scanned FPCA may be submitted to an early voting clerk whose office has e-mail available via an electronic transmission of an image, pursuant to §101.004, Election Code. The date of submission of the scanned FPCA is determined by the date and time the electronic transmission of an image (e.g., e-mail) was sent by the applicant.

(B) If the FPCA is submitted by telephonic facsimile (fax) pursuant to §84.007, Election Code, the date of submission is determined by the date and time of receipt as reflected by the time of receipt on the faxed document (unless the authorized recipient can verify that the fax machine is in error and the receipt is personally witnessed as being timely).

(f) Timeliness of FPCA for voter registration purposes.

(1) The FPCA is considered submitted for purposes of an application for permanent voter registration for any FPCA received by an authorized recipient on or after September 1, 2009, pursuant to §13.002, Election Code as amended by House Bill 536 (2009).

(2) The FPCA is considered submitted for purposes of an application for permanent voter registration based

on the "date of submission" to the first authorized recipient (e.g., an early voting clerk or county voter registrar), regardless of whether the FPCA was received in the correct county, pursuant to §13.072, Election Code.

(3) The date of submission of the FPCA for purposes of an application for permanent voter registration is defined as:

- (A) the date of the postmark, if any, in accordance with §13.143(d), Election Code; or
- (B) indicia of the time and date the voter deposited the FPCA with the common or contract carrier;

or

(C) if the FPCA submitted by mail or common or contract carrier has no postmark or other indicia of the time and date the voter deposited the FPCA with the common or contract carrier, the date of submission is then determined by the date of actual receipt by the first authorized recipient; or

(D) if the FPCA is submitted by electronic transmission of an image (e.g., e-mail), the date of submission of the scanned signed FPCA is determined by the date and time the electronic transmission of an image (e.g., e-mail) was sent by the applicant; or

(E) if the FPCA is submitted by telefacsimile (fax), the date of receipt as reflected by the time of receipt on the faxed document (unless the authorized recipient can verify that the fax machine is in error and the receipt is personally witnessed as being timely).

(4) This rule does not authorize the e-mailing, faxing, or other electronic transmission of an image of a regular (non-FPCA) voter registration application.

(g) Jury Lists. Voters whose temporary registrations are based on an FPCA will not form the basis for the jury lists. Voters whose permanent registrations are based on an FPCA will not form the basis for the jury lists until the FPCA ceases to function as a basis for sending the voter a ballot by mail (either because of expiration or cancellation of the mail ballot request by the voter). When an FPCA voter later renews or otherwise creates a registration status based on a regular voter registration application, that registration status will be the basis for the jury lists.

(h) Petition Signatures. The FPCA voters with temporary or permanent registration status are not included in the number of registered voters of a territory when calculating the number of signatures needed for a petition. This does not bar an FPCA voter with permanent registration status (who is otherwise eligible to sign a petition) from signing a petition.

(i) Definitions.

(1) ABBM--Application for Ballot by Mail.

(2) Authorized recipient--An early voting clerk or county voter registrar. A volunteer deputy registrar is not an authorized recipient of a Federal Postcard Application.

(3) Early voting clerk--The early voting clerk for a county election or a non-county election in which the county early voting clerk is the early voting clerk by joint election agreement or election services contract; or, the early voting clerk for a local political subdivision election (Example: city, school district, water district).

(4) E-mail--For purposes of these rules refers to a signed hardcopy FPCA which is scanned and attached to an e-mail.

(5) FPCA--Federal Postcard Application.

(6) Permanent voter registration--The registration status equivalent to a voter who applies with a regular application for voter registration.

(7) Temporary voter registration--The type or types of registration status based on the FPCA alone under the Texas Election Code and Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), before the permanent voter registration is effective.

The provisions of this §81.40 adopted to be effective November 22, 2009, 34 TexReg 8025.

## **SUBCHAPTER C. VOTING SYSTEMS**

**Sec. 81.42. PAPER BALLOTS FOR PRECINCT CHAIRMAN.** In primary elections where voting for precinct chairman is to be conducted on separate paper ballots pursuant to the Texas Election Code, §172.090, the form of the paper ballot used must conform to the requirements of the Texas Election Code, Chapter 52, for paper ballots. Where voting for the party office of precinct chairman is to be conducted on separate paper ballots at polling places using electronic voting systems, pursuant to the Texas Election Code §172.090, the form of the separate paper ballot used must conform to the requirements of the Texas Election Code, Chapter 52, for paper ballots.

The provisions of this §81.42 adopted to be effective June 27, 1986, 11 TexReg 2739; amended to be effective March 28, 2002, 27 TexReg 2218.

**Sec. 81.43. OPTICAL SCANNER BALLOTS.** Optical scanner ballots may be divided into parts and printed upon two or

more pages. When party columns appear on the ballot, there shall be printed at the head of the ballot the names of the parties and spaces for voting a straight party ticket, so that a voter may cast a straight ticket vote for all of a party's nominees on the ballot by making a single mark on the first page of the ballot. Where all candidates for the same office cannot be placed on the same face of the same page, the candidates may be carried on more than one page, but in such event the first page of the sequence shall contain a statement that the names of other candidates appear on the following page or pages. If the ballot is printed on more than one page, different tints of paper other than yellow, or some other suitable means may be used to facilitate the sorting of ballots. Each page shall bear the same ballot number, and other appropriate provision may be made for identifying the related parts of the ballot. For a mark-sense optical scanner voting system to be in compliance with the requirement of the Texas Election Code, §1.005(20) and §122.001(a)(10), it must provide for a single ballot card capable of containing all the candidates in an election in which candidates run by party, or alternatively, be programmed to permit straight party voting by means of a single mark, regardless of the number of ballot cards utilized. A system providing for straight party voting by means of a single mark on each of two or more separate ballot cards is not in compliance with the Election Code.

The provisions of this §81.43 adopted to be effective June 27, 1986, 11 TexReg 2739; amended to be effective March 28, 2002, 27 TexReg 2219.

**Sec. 81.45. PAPER BALLOTS FOR PRECINCT CHAIRMAN.** (a) Before voting machines are delivered to polling places for use in an election, they must be inspected, and a written record made of the inspection, pursuant to the Texas Election Code, §125.031.

(b) Other voting or tabulating equipment to be delivered to polling places must be inspected by the authority responsible for delivering supplies for the election and put in proper working order prior to delivery. A punch-card device must be tested by such authority to ensure that the device permits the accurate recording of votes for each race and/or proposition on the ballot. Test ballot cards should be used for this purpose.

(c) Electronic tabulating equipment which is to be used at polling places must be tested by the authority to ensure that the equipment accurately counts ballots, distinguishes and separates ballots which require manual tabulation, and otherwise functions properly. Such test must be conducted in accordance with the provision of the Texas Election Code, §127.094(b) and (c).

The provisions of this §81.45 adopted to be effective June 27, 1986, 11 TexReg 2739.

**Sec. 81.46. DELIVERY OF VOTING SYSTEM EQUIPMENT.** The authority responsible for distributing election supplies for an election shall arrange for the delivery of voting systems equipment to the polling places. Delivery of such equipment must be made by such authority, by the presiding judge of the polling place, by the sheriff or constable for an election ordered by the governor or a county authority, or by the sheriff or constable or a police officer having jurisdiction over the territory in which the polling place is located for an election ordered by other authority. Mechanical voting machines must be delivered in a locked and secured condition. The keys to such voting machines shall be delivered to the presiding judge at least 30 minutes before the polls open, in a sealed envelope on which there is recorded the number on the protective counter, the seal number, and the serial number of the voting machine the key is for.

The provisions of this §81.46 adopted to be effective June 27, 1986, 11 TexReg 2739.

**Sec. 81.47. INSTALLATION OF VOTING SYSTEM EQUIPMENT.** Voting systems equipment shall be installed at the polling place in accordance with the instructions of the authority responsible for distributing election supplies for the election. During the absence of election officers or the custodian of the premises, polling places to which voting systems equipment has been delivered must remain locked and secured.

The provisions of this §81.47 adopted to be effective June 27, 1986, 11 TexReg 2739.

**Sec. 81.49. IRREGULARITIES IN SEALS OR SEAL NUMBERS.** If irregularities are discovered in the seals or the serial numbers of containers of voted ballots received at the central counting station, pursuant to the Texas Election Code, §127.038(d) or §127.068(c), the presiding judge of the central counting station shall make and sign a memorandum in duplicate setting forth the nature of the irregularities. One copy of the memorandum shall be attached to the copy of the returns delivered in envelope number one for the presiding officer of the canvassing authority. The presiding judge shall deliver the other copy of the memorandum to the district attorney of the county in which the voted ballots placed in such box were voted. The district attorney shall investigate the irregularities and take further action as appropriate. If more than one container of voted ballots was delivered to the central counting station from the election precinct from which the container in which irregularities were discovered was delivered, the judge shall include in the memorandum a record of the total number of ballots in the container in which irregularities were discovered, and such container shall be returned to the custodian of election records after the ballots are counted containing only the ballots delivered to the central counting station in that container. In all cases, the ballots in a container in which irregularities are discovered shall be counted and returns made as for the other ballots received at the central

counting station.

The provisions of this §81.49 adopted to be effective June 27, 1986, 11 TexReg 2739.

**Sec. 81.50. TEST PROGRAM.** Where a program is prepared for the automatic tabulating equipment to be used for counting ballots at a central counting station, the program shall be used in the tests of such tabulating equipment provided for in the Texas Election Code, Chapter 127, Subchapter D. After the completion of the first test provided for in the Texas Election Code, §127.096, the program shall be sealed with the test materials in the container provided for by the Texas Election Code, § 127.099. After the completion of the second test, as provided for in the Texas Election Code, §127.097, the program shall be used for the count of ballots voted in the election. The program shall then be used in the third test, provided for in the Texas Election Code, §127.098, and then sealed with the test materials in the container provided for in the Texas Election Code, § 127.099.

The provisions of this §81.50 adopted to be effective June 27, 1986, 11 TexReg 2739.

**Sec. 81.51. MALFUNCTION IN TABULATING EQUIPMENT.** After the discovery of a malfunction in the tabulating equipment at a central counting station, which malfunction caused the results to be incorrect as provided for in the Texas Election Code, §127.129, the presiding judge of the central counting station shall follow the procedures set out in §127.098(c) and (d). If the presiding judge determines that obtaining a valid automatic count is impracticable, the ballots shall be counted manually, and the presiding judge shall execute and attach a certificate to the returns stating that the ballots were counted manually and stating the nature of the equipment malfunction which led him to the determination that the ballots would be counted manually.

The provisions of this §81.51 adopted to be effective June 27, 1986, 11 TexReg 2739.

**Sec. 81.52. PRECINCT BALLOT COUNTERS.** (a) Where an electronic voting system that does not entail the counting of ballots at central locations established under the Texas Election Code, Chapter 127, Subchapter A, is to be used at an election, the election results shall be processed in accordance with this section.

(b) If the tabulating equipment is capable of separating damaged ballots, irregularly marked ballots, and write-in ballots for manual processing, the equipment may be arranged so that voters deposit their marked ballots directly into the tabulator. The tabulator must be provided with a sealed container such that ballots deposited by voters are counted by the tabulator or separated for manual counting, as the case may be, and then placed by the device directly into the sealed container.

(c) In addition to the procedures provided herein and in §127.157 of the Texas Election Code (the "Code"), compliance with the following voting procedures is required for the proper processing of ballots to be tabulated by voting systems specifically designed as electronic precinct ballot counters ("precinct counters").

(1) The voter may deposit a ballot directly into a precinct counter. If the machine returns the ballot to the voter because the ballot is blank, mismarked, damaged, or otherwise spoiled, the voter may either attempt to correct the ballot, request another ballot once the spoiled ballot is returned to the election officer, or request the election official to override the rejection so that the precinct counter accepts the ballot, and outstacks the write-in, if necessary.

(2) The voter is not entitled to receive more than three ballots. The procedures for handling a spoiled ballot provided by §64.007 of the Code must be followed.

(3) The precinct counter must be set up to reject and return the ballot to the voter rather than outstack the ballot if it is blank, mismarked, undervoted, or overvoted.

(4) If the precinct counter rejects the ballot for any reason and the voter has received the maximum number of ballots or does not wish to make further changes to the ballot, the election official must override the rejection so that the precinct counter accepts the ballot and outstacks the write-in, if necessary.

(5) While the polls are open or as soon as practicable after the polls close, the counted ballots shall be removed from the ballot box and examined for irregularly marked ballots for processing in accordance with §127.157(b) - (e) of the Code.

(d) If the tabulating equipment is not capable of separating damaged, irregularly marked, and write-in ballots for manual counting, a container meeting the specifications of the Code for ballots boxes number one and number two must be provided for the deposit of ballots by voters after the ballots have been marked. At the direction of the presiding judge, the election officials shall unlock the ballot container and process the ballots in accordance with the provisions of the Texas Election Code, §127.034(b) and (c), and then pass the ballots to be counted electronically through the tabulator for counting.

(e) In either case, the damaged and irregularly marked ballots shall be counted manually or duplicated for automatic tabulation pursuant to §127.126 of the Code. Write-in ballots shall be counted manually, and the results added to those for ballots counted by the tabulating equipment. The results entered on the returns shall reflect the totals obtained from the count of the ballots tabulated on the tabulating equipment and from the manual count of damaged, irregularly marked, and write-in

ballots.

(f) In this section, "damaged ballot" means a ballot that is damaged such that it may not be accurately counted by the tabulating equipment.

(g) The returns, ballots, and other records of the election shall then be distributed in accordance with the provisions of Chapter 66 of the Code. Ballots must be returned to the appropriate authority in a container meeting the specifications of the Code for ballot box number three.

(h) If a precinct ballot counter is to be used during early voting by personal appearance, it must have a real-time audit log. In addition, the counter must be secured to prevent tampering by the following procedure.

(1) Immediately prior to the opening of the polls on the first day of early voting by personal appearance, a zero tape shall be run. If the tape properly reads "0" for all candidates and propositions, voting may begin.

(2) At the close of each day's voting, the precinct counter's doors must be locked and sealed with a numbered paper seal. The precinct counter must be unplugged and secured for the evening.

(3) Prior to voting on each day of the period, the precinct counter must be plugged back in and a tape run to indicate that the counter has not been disturbed since the previous day's voting and that voting may continue.

(4) At the conclusion of early voting by personal appearance, the precinct counter shall be locked, sealed, and secured by the Early Voting Clerk until Election Day.

(5) At the proper time designated for tabulation, the paper seal must be inspected to determine that it is intact. The audit log must also be inspected to determine that there has been no unauthorized access to the precinct counter.

(6) If the seal is intact and the log appears in order, the seal should be broken and the ballots removed to a separate container. The polls are closed on the counter and a "totals" printout is printed. The electronic media should be removed and transferred to the accumulator.

(7) If the seal is not intact, the early voting results may not be used and the early voting ballots must be re-counted using the standard election day procedure.

(8) If the audit log indicates unauthorized activity, the early voting results may not be used and the early voting ballots must be re-counted using the standard election day procedure.

(9) The Early Voting Clerk shall place a notice on the bulletin board of the hour and location of the seal breaks and running of totals.

(10) The audit log shall be preserved for 60 days after election day, or 22 months following election day in an election involving a federal office.

(11) Any deviation from this procedure must be approved in writing by the Secretary of State.

The provisions of this §81.52 adopted to be effective June 27, 1986, 11 TexReg 2739; amended to be effective March 5, 1996, 21 TexReg 1526; amended to be effective October 16, 2002, 27 TexReg 9565; amended to be effective September 28, 2017, 42 TexReg 4985.

**Sec. 81.55. ADOPTION OF ACCESSIBLE VOTING SYSTEMS.** A political subdivision may use more than one type of voting system in a single polling place in order to provide a person with physical disabilities with a method of casting a secret ballot.

The provisions of this §81.55 adopted to be effective September 17, 2000, 25 TexReg 8843; amended to be effective April 9, 2006, 31 TexReg 3019.

**Sec. 81.57. REQUIREMENTS FOR VOTING SYSTEM ACCESSIBILITY.** (a) A voting system shall be accessible to voters with physical disabilities including no vision, low vision (visual acuity between 20/70 and 20/200, and/or 30 degree or greater visual-field loss), no hearing, low hearing, limited manual dexterity, limited reach, limited strength, no mobility, low mobility, or any combination of the foregoing (except the combination of no hearing and no vision, see subsection (b) of this section), by providing voters with physical disabilities with a practical and effective means to cast an independent and secret ballot in accordance with each of the following, assessed independently and collectively:

(1) The voting system shall provide a tactile-input or speech-input device, or both; and

(2) The voting system shall provide a method by which voters can confirm any tactile or audio input by having the capability of audio output using synthetic or recorded human speech, which is reasonably phonetically accurate; and

(3) The voting system shall provide a means for a voter to change the voter's selection prior to the voter casting the ballot; and

(4) Any operable controls on the input device that are needed for voters without vision shall be discernable tactilely without actuating the keys. (Note: All the buttons on the device would not have to be discernable tactilely, only those buttons that are actually required for the individual to use the "operation without vision" mode.); and

(5) Any audio and non-audio access approaches shall be able to work both separately and simultaneously; and



(6) If a non-audio access approach is provided, the system shall not require color perception; the system shall use black text or graphics, or both, on white background or white text or graphics, or both, on black background, unless the office of the Secretary of State approves other high-contrast color combinations that do not require color perception; and

(7) Any voting system that requires any visual perception shall offer the election official who programs the system, prior to its being sent to the polling place, the capability to set the font size to a level that can be read by voters with low vision. (Note: Although there is no standard font size for this situation, a san-serif font of 18 points as printed on a standard 8.5 x 11 piece of paper will allow the most universal access.); and

(8) The voting system shall provide audio information, including any audio output using synthetic or recorded human speech or any auditory feedback tones that are important for the use of the audio approach, through at least one mode (e.g., by handset or headset) in enhanced auditory fashion (i.e., increased amplification), and shall provide incremental volume control with output amplification up to a level of at least 97 dB SPL, with at least one intermediate step of 89 dB SPL; and

(9) For transmitted voice signals, the voting system shall provide a gain adjustable up to a minimum of 20 dB with at least one intermediate step of 12 dB of gain; and

(10) For the safety of others, if the voting system has the possibility of exceeding 120 dB SPL, then a mechanism shall be included to reset the volume automatically to a safe level after every use (e.g., when handset is replaced) but not before; and

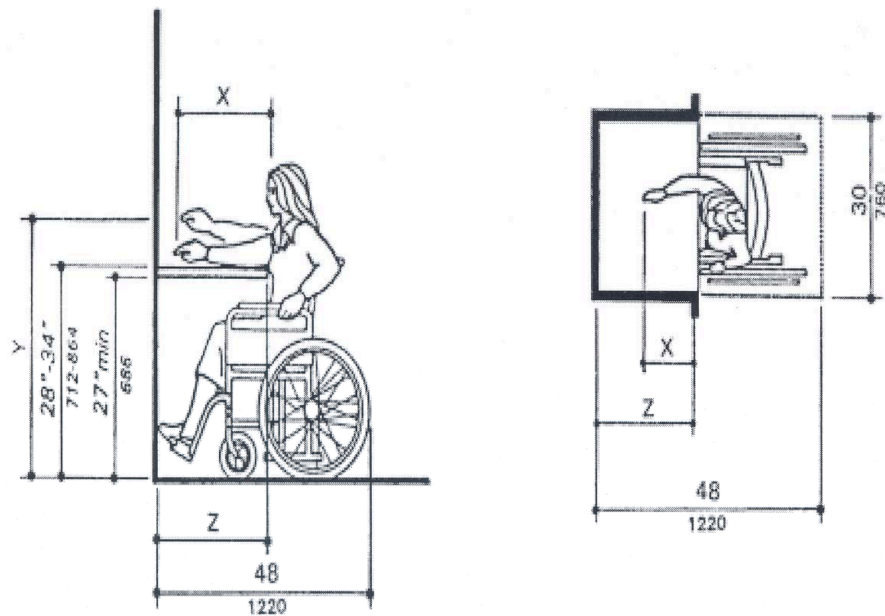
(11) If sound cues and audible information, such as "beeps" are used, there shall be simultaneous corresponding visual cues and information; and

(12) If a non-audio approach is used in conjunction with an audio counterpart, any spoken text shall also be presented on screen, with the exception that any auditory confirmation of a voter's selection as required by subsection (b) of this section shall not be printed in text on the screen (Note: A graphic representation of a ballot with a check, "X," etc. beside a candidate or proposition is allowed.); and

(13) All controls and operable mechanisms shall be operable with one hand, including with a closed fist, and operable without tight grasping, pinching, or twisting of the wrist; and

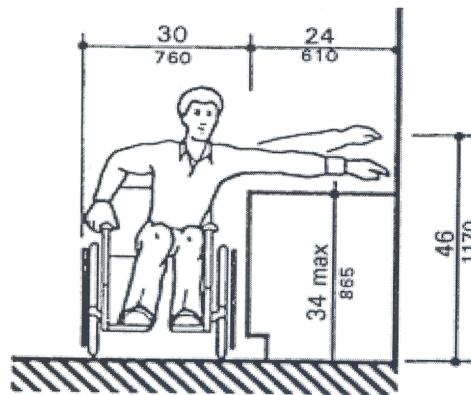
(14) The force required to operate or activate the controls shall be no greater than 5 lbf (pounds per square foot); and

(15) If a forward approach by a person in a wheelchair to a voting system is necessary, the maximum high-forward reach allowed shall be 48 inches (1220 mm) and the minimum low-forward reach shall be 15 inches (380 mm). If the high-forward reach is over an obstruction, reach and clearances shall be as shown in the figure below or otherwise in accordance with the ADAAG, as written at the time the system is certified for use in the state of Texas; and



NOTE: x shall be  $\leq 25$  in (635 mm); z shall be  $\geq x$ . When  $x < 20$  in (510 mm), then y shall be 48 in (1220 mm) maximum. When x is 20 to 25 in (510 to 635 mm), then y shall be 44 in (1120 mm) maximum.

(16) If a side or parallel approach by a person in a wheelchair to a voting system is necessary, the maximum side reach allowed shall be 54 inches (1370 mm) and the low side reach shall be no less than 9 inches (230 mm) above the floor. If the side reach is over an obstruction, reach and clearances shall be as shown in the figure below or otherwise in accordance with the ADAAG, as written at the time the system is certified for use in the state of Texas; and



(17) The highest operable part of controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges outlined in paragraphs (15) and (16) of this subsection.

(b) Although we strongly encourage voting system vendors to strive to develop systems that will provide a secret ballot for all individuals, this office recognizes that the technology available at the time of the adoption of this section will not accommodate voters who have a combination of no hearing and no vision. A voting system may be considered accessible and in compliance with state law without allowing voters with a combination of no hearing and no vision to cast a secret ballot. The provisions of this §81.57 adopted to be effective September 17, 2000, 25 TexReg 8843.

**Sec. 81.58. USE OF ELECTRONIC SIGNATURE CAPTURE DEVICE FOR SIGNATURE ROSTER.** (a) Pursuant to §63.002(d), Election Code, a voter's signature may be captured by an electronic device for the signature roster.

(b) An "Electronic Signature" is defined as a digitized image of a handwritten signature. An "Electronic Signature Device" is defined as a device that permits a voter to make an electronic signature.

(c) To be used in an election in the State of Texas, electronic signature devices must be approved by the Secretary of

State.

(1) A vendor who wishes to seek approval of an electronic signature capture device used in conjunction with a particular software must submit the request in writing to the Secretary of State.

(2) The request must include information regarding:

(A) type of device;

(B) name of device;

(C) any associated model numbers;

(D) the software it will be used with; and

(E) the information the device can display with respect to subsection (d)(3) and (4) of this section.

(3) Upon reviewing the request, the Secretary of State may request a demonstration of the electronic signature capture device.

(4) After completing the review, the Secretary of State will issue either an approval or a rejection in writing within 30 days of receiving initial request.

(5) The Secretary of State will maintain a list of approved electronic signature capture devices on their website.

(d) To be used in an election in the State of Texas, electronic signature capture devices must meet the following standards.

(1) The name of the voter must appear on the electronic signature device at the same time in which the voter is marking a signature, pursuant to §63.002(d), Texas Election Code.

(2) After marking signature, voter must be able to:

(A) indicate they are accepting the digitized image; or

(B) reject the digitized image, and be given another opportunity to mark their signature.

(3) If the electronic signature device only displays the voter's name and a place for the voter's signature, then the entity using the device must print out a copy of the signature and affix the printed signature to a hard copy of the signature roster.

(4) If the electronic signature device displays the voter's name, a place for the voter's signature, and a way for a voter to accept and initial any required affidavits on the device screen, the entity using the device may maintain their signature roster electronically.

(A) If an entity maintains their signature roster electronically, the entity must be able to produce a hard copy of the signature roster that contains the electronic signature of the voters on that list.

(B) If the signature roster used by an entity is not one of the official forms prescribed by the Secretary of State, then the alternative form must be submitted to the Secretary of State for approval.

(e) Entities using electronic signatures must retain the electronic signature file in accordance with the preservation period for the election records of that election.

The provisions of this §81.58 adopted to be effective March 19, 2014, 39 TexReg 1925.

## **SUBCHAPTER D. VOTING SYSTEM CERTIFICATION**

**Sec. 81.60. VOTING SYSTEM CERTIFICATION PROCEDURES.** In addition to the procedures prescribed by the Texas Election Code, Chapter 122, compliance with the following procedures is required for certification of a voting system.

(1) Application for Certification.

(2) The entity applying for certification must deliver seven copies of their completed application forms (Form 100, Form 101, and if applicable, Form 100 Schedule A), user operating and maintenance manuals, training material, nationally accredited voting system test laboratory reports, and a change log detailing changes from any previously certified system or component, to the Secretary of State no later than 45 days prior to examination. At least, six of the seven copies must be in electronic form.

# The State of Texas



Elections Division  
 P.O. Box 12060  
 Austin, Texas 78711-2060  
 www.sos.state.tx.us

Phone: 512-463-5650  
 Fax: 512-475-2811  
 TTY: 7-1-1  
 (800) 252-VOTE (8683)

## Application for Texas Certification of Voting System - Form 100

Name of Company	
Voting System Name and Release #	
Street Address, City, State, Zip	
Contact Name & Title	
Phone Number	
Fax Number	
E-Mail Address	

	Component Submitted for Certification	Version/ Firmware #	Previous Texas Certification Date*	EAC/NASED Qualification Date for this Version	EAC/NASED Qualification Number for this Version
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					

\*For the most recent certification, or state "None"

**Materials Checklist (Indicate materials submitted with an "X")**

7 copies of the following (5 copies in electronic format and 2 hard copies):	
	Completed application Forms 100 and Form 101
	If applicable, attach Form 100 - Schedule A, listing recommendations/issues made from previous Texas examination. List how they have been corrected or addressed. If they have not, explain why.
	If component has been modified, include log detailing changes from the previously Texas certified version
	Nationally accredited voting system test laboratory reports of all tests (including summary) conducted on items submitted
	Operating Manual(s)
	Maintenance Manual(s)
	Training Manual(s)
	Technical Specifications
	Operational Specifications
	List all COTS hardware/software used with the system and their version numbers – If listed in a nationally accredited test laboratory reports, state where
	List all configurations that will be marketed and sold in Texas - indicate if the optical scan will be used as a precinct count, central count, or both
	Provide complete step-by-step installation instructions for all software installs and configurations specific to Texas
	List of other election jurisdictions where system is in use or has been in use

**Acknowledge which voting system test laboratory has been notified to send a copy of the software and source code and expected delivery date to our office.**

Nationally accredited voting system test laboratory Name	Delivery Date

Signature of Person Making Request	Title	Date

Please submit the certification fee and all relevant materials to:

Elections Division  
P.O. Box 12060  
Austin, Texas 78711-2060

# The State of Texas



Elections Division  
 P.O. Box 12060  
 Austin, Texas 78711-2060  
 www.sos.state.tx.us

Phone: 512-463-5650  
 Fax: 512-475-2811  
 TTY: 7-1-1  
 (800) 252-VOTE (8683)

Office of the Secretary of State

## VOTING SYSTEM CERTIFICATION – FORM 100 SCHEDULE A

	Component	Issue *	How Addressed
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

\* From previous Texas examination(s)

Use additional sheets as necessary

# The State of Texas



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Austin, Texas 78711-2060  
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Office of the Secretary of State

## VOTING SYSTEM CERTIFICATION – FORM 101

The following questions must be answered with regard to each voting system being certified. Answers should be set forth on a separate sheet of paper and attached to this form. Explain how the voting system:

1. Preserves the secrecy of the ballot;
2. Is suitable for the purpose for which it is intended;
3. Operates safely, efficiently, and accurately;
4. Is safe from fraudulent or unauthorized manipulation;
5. Permits voting on all offices and measures to be voted on at an election;
6. Prevents counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevents counting votes by the same voter for more than one candidate for the same office, and prevents counting votes for more than the number of candidates for which the voter is entitled to vote;
8. Prevents counting a vote on the same office or measure more than once;
9. Permits write-in voting;
10. Is capable of permitting straight-party voting;
11. Is capable of providing records from which the operation of the voting system may be audited; and
12. Is capable of producing a summary screen to allow voters to examine their choices before the ballot is finally cast; and
13. Is capable of producing a real-time audit log (Texas Administrative Code (TAC) § 81.62); and
14. Is capable of casting a blank ballot; and
15. (Electronic Ballot Image Systems (EX: DRE) only) List procedure for provisional voting or reference where this is in your documentation. (TAC § 81.176); and
16. (Electronic Ballot Image Systems (EX: DRE) only) List procedure for a recount (printing of electronic ballot images and audit logs); and
17. (Electronic Ballot Image Systems (EX: DRE) only) List procedure to backup electronic files created from the election (EX: electronic ballot images and audit logs, etc.)
18. Procedures on how to properly shutdown equipment during early voting or reference where this is in your documentation; and
19. (Precinct Optical Scanners only) Can two locks be placed on the ballot box to make it legal to use at an early voting site? If so, please list how a jurisdiction can have this done; and
20. Are your manufacturers ISO 9000 compliant? If not, explain quality control.

(3) The applicant must have the nationally accredited voting system test laboratory (VSTL) deliver a copy of all nationally qualified software/firmware and source codes for the system and/or system components requested for Texas certification, directly to the Secretary of State no later than 45 days prior to examination.

(4) The applicant must authorize the nationally accredited voting system test laboratory to deliver all the applicable executable and installation files to the National Software Reference Library (NSRL) within 30 days after receiving federal certification.

(5) The certification fee for a new election management system, tabulation device, electronic ballot marker, and other complex component of a system is \$3,000 each and must be received by the Secretary of State 45 days prior to examination. The certification fee for a modification of a voting system shall be determined by the Secretary of State according to the complexity of the modification, and must be received by the Secretary of State 45 days prior to the examination.

(6) Each application shall include authorizations for release of information along with the application for certification in the form of the following set of letters:

(A) a blanket letter addressed to the Secretary of State authorizing the release of information about the system being tested from any local, state or federal official or from any VSTL that has tested their system, upon request;

(B) a copy of a specific letter sent to the VSTL and to the federal Elections Assistance Commission (EAC) or equivalent federal commission or agency which authorizes the organizations to release information about the system being tested to the Texas Secretary of State upon the Secretary of State's request; and

(C) a list, by state, of users of their voting systems, especially those similar or identical to the system being submitted and copies of letters sent to each user which authorizes them to release any information requested to the Secretary of State.

(7) Examination Dates and Location.

(A) Certification examinations will be scheduled by the Secretary of State three times a year during the months of January, June, and September, unless extenuating circumstances provide otherwise.

(B) The time and date of each examination will not be scheduled until after the entity applying for certification has delivered all required documentation and fees to the Secretary of State.

(C) All physical examinations of voting systems will take place at the Office of the Secretary of State, Elections Division, in Austin, unless extenuating circumstances provide otherwise.

(8) Procedures.

(A) The applicant must demonstrate that the voting system meets the applicable standards outlined in the Texas Election Code and the Texas Administrative Code.

(B) The applicant must demonstrate an installation and configuration of the software/firmware on each system and system component using the Secretary of State's copy of the software/firmware received from the nationally accredited voting system test laboratory.

(C) The applicant shall furnish a sufficient number of sample ballots, designed from the templates provided by the Secretary of State, at least two weeks prior to the examination for use during the certification process.

(D) At the completion of the in-person examination period, if the Secretary of State determines that additional information is needed for the examiners to complete their examination report, the Secretary of State may:

(i) Request additional written information from the applicant; or

(ii) Request additional demonstrations of the voting system or voting system equipment submitted for examination.

(9) Voting System Examiners.

(A) Examiners must submit a written report to the Secretary of State stating his or her findings for each voting system no later than the 30th day after examination, unless written notice provided by the Secretary of State in accordance with subparagraph (C) of this paragraph provides an extended deadline.

(B) Examiner reports shall be posted on the Secretary of State's website before the public hearing held in accordance with paragraph (10) of this section.

(C) If the Secretary of State determines that due to extenuating circumstances, the examiners need more than 30 days to complete their examiner reports, the Secretary of State will provide written notice of the extended deadline to the examiners and the vendor.

(D) The Secretary of State must also post notice of the extended deadline on the Secretary of State's



website from the date the extension is issued until the examiner reports are posted on the Secretary of State's website.

(E) An examiner appointed by the Secretary of State will be compensated after he or she files his or her written report.

(10) Public Hearing.

(A) A public hearing shall be held no later than 60 days from the date the examiners submit a written report to the Secretary of State.

(B) The notice for the public hearing shall be posted in accordance with Chapter 551, Government Code.

(C) Those wishing to participate in the public hearing will be required to sign in with a representative of the Secretary of State.

(D) Each person desiring to speak will be allotted 5 minutes to make their public comments.

(E) Each person desiring to provide comments in writing shall provide those written comments to the Secretary of State's representative.

(11) Written Comment Period.

(A) The Secretary of State shall accept written public comments on the voting system for a period of 10 days after the date of the public hearing.

(B) Comments shall be accepted by email at [elections@sos.texas.gov](mailto:elections@sos.texas.gov), or by regular mail at: Elections Division, Secretary of State, P.O. Box 12060, Austin, Texas 78711-2060.

(12) The Secretary of State must approve or disapprove the voting system(s) within 30 days of the required public hearing, unless there are extenuating circumstances. If the Secretary of State determines that due to extenuating circumstances, the Secretary of State needs more than 30 days, the Secretary of State will provide written notice of the extended deadline to the examiners and the vendor.

The provisions of this §81.60 adopted to be effective January 8, 2007, 32 TexReg 41; amended to be effective March 5, 2012, 37 TexReg 1483; amended to be effective May 25, 2015, 40 TexReg 2745.

**Sec. 81.61. CONDITION FOR APPROVAL OF ELECTRONIC VOTING SYSTEMS.** For any voting machine, voting device, voting tabulation device and any software used for each, including the programs and procedures for vote tabulation and testing, or any modification to any of the above, to be certified for use in Texas elections, the system shall have been certified, if applicable, by means of qualification testing by a Nationally Recognized Test Laboratory (NRTL) and shall meet or exceed the minimum requirements set forth in the Performance and Test Standards for Punch Card, Mark Sense, and Direct Recording Electronic Voting Systems, or in any successor voluntary standard document developed and promulgated by the Federal Election Commission. This section applies only to systems and modifications to previously certified systems submitted after the effective date of this rule.

The provisions of this §81.61 adopted to be effective July 27, 1998, 23 TexReg 7549; amended to be effective January 9, 2001, 26 TexReg 89.

**Sec. 81.52. AUDIT LOGS FOR AN ELECTION MANAGEMENT SYSTEM'S CENTRAL ACCUMULATOR.** (a) For any Election Management System's central accumulator to be certified for use in Texas elections, the central accumulator shall include a real-time audit log. All significant election events and their date and time stamps shall be maintained in the audit log.

(b) The definition of "significant election events" in subsection (a) of this rule includes but is not limited to:

- (1) error and/or warning messages and operator response to those messages;
- (2) number of ballots read for a given precinct;
- (3) completion of reading ballots for a given precinct;
- (4) identity of the input ports used for modem transfers from precincts;
- (5) users logging in and out from election system;
- (6) precincts being zeroed;
- (7) reports being generated;
- (8) diagnostics of any type being run; and
- (9) change to printer status.

(c) The audit logs for an election shall be retained by the custodian of election records for the appropriate preservation period.

(d) The "Election Management System" as used in this rule is defined as a system that consists of any or all of the following elements: functions and databases within a voting system that define, develop and maintain election databases, perform election definition and setup functions, format ballots, count votes, consolidate and report results, and maintain audit trails.

- (e) The "central accumulator" as used in this rule is the part of an Election Management System that tabulates and/or consolidates the vote totals for multiple precincts/devices.
- (f) An Election Management System that uses a central accumulator may not be used in an election unless the central accumulator creates in real time an audit log that includes a date and time stamp of each significant election event.
- (g) An audit log produced by a central accumulator is considered part of the election records.
- (h) A poll watcher may request a printed copy of an audit log produced by a central accumulator:
  - (1) before any votes are tabulated;
  - (2) after early voting results are tabulated; and
  - (3) immediately following the completion of the vote tabulation.
- (i) After the automatic counting of ballots for each precinct is completed, the manager of a central counting station shall print a copy of the entire audit log to retain with other election records.

The provisions of this §81.62 adopted to be effective January 31, 1999, 24 TexReg 553; amended to be effective March 25, 2003, 28 TexReg 2303; amended to be effective January 9, 2008, 33 TexReg 75; amended to be effective November 7, 2017, 42 TexReg 6129.

**Sec. 81.54. NOTICE OF VOTING SYSTEM MALFUNCTION REQUIRED; SUBMISSION OF EXPLANATORY REPORT BY VENDOR REQUIRED UPON REQUEST OF SECRETARY OF STATE.**

(a) A vendor (or the political subdivision, if no private vendor supports their system) must give notice to the Secretary of State within 24 hours of a malfunction of its voting system software or equipment in an election held in this state. The notice may be verbal or in writing.

(b) Following the notice, the Secretary of State shall determine whether further information on the malfunction is required. At the request of the Secretary of State, a vendor (or the political subdivision, if no private vendor supports their system) must submit a report to the Secretary of State's office detailing the reprogramming (or any other actions) necessary to redress a voting system malfunction in an election held using the vendor's system. The report shall address whether permanent changes are necessary to prevent similar malfunctions in the future.

(c) The report shall be submitted within 30 days after the date of the request by the Secretary of State.

(d) Failure to submit a report within the required period shall be grounds to decertify the system.

(e) The authority holding the election in which the voting system malfunction occurred may submit the report in lieu of a report from the system's vendor.

(f) A copy of this report will be attached to the system's most recent certification on file in the Secretary of State's Office.

(g) The Secretary of State's Office will distribute a copy of this report to all counties using the voting system in question.

The provisions of this §81.64 adopted to be effective February 23, 2003, 28 TexReg 1377.

**Sec. 81.65. PROCEDURE FOR ADMINISTRATIVE CERTIFICATION OF MINOR MODIFICATIONS TO PREVIOUSLY-CERTIFIED VOTING SYSTEMS.**

(a) A voting system vendor who wishes to request administrative certification of minor modifications to a previously certified voting system shall submit the request to the Secretary of State in writing. The request also may be submitted by e-mail. The submission must contain sufficient information to identify the changes to the system's most recently certified version. The submission must contain either a statement from an independent testing authority (ITA) approving the proposed minor modifications or that the proposed minor modifications do not warrant examination by the ITA. The Secretary of State shall retain sole discretion in making the determination if the proposed minor modification qualifies for the administrative certification process described herein.

(b) In the event that the Secretary of State deems the proposed minor modification qualifies for the administrative certification process described herein, the Secretary of State shall forward a copy of the submitted materials to its employee voting systems examiner and one of the non-employee voting systems examiners, requesting an opinion on whether the proposed minor modifications warrant additional examination. The response from the two examiners must be in writing.

(c) Upon receipt of the two voting system examiners' responses, the Secretary of State shall make a prompt determination of whether or not to certify the proposed minor modifications without further examination. If the Secretary of State determines the proposed minor modifications may be certified without further examination, a letter to that effect shall be forwarded to the vendor. If the Secretary of State determines that the proposed minor modifications warrant further examination, the vendor shall be notified in writing or by e-mail.

(d) The Secretary of State shall forward a copy of the vendor's original request and the Secretary of State's final determination with respect to the vendor's request for administrative certification pursuant to the terms of this rule to the remaining voting systems examiners.

(e) A copy of the vendor's request for administrative certification shall be posted on the agency website immediately upon receipt. The Secretary of State shall accept written public comment on applications for administrative certification

submitted in accordance with this rule. Comments shall be accepted by e-mail at elections@sos.state.tx.us or by regular mail at: Elections Division, Secretary of State, P.O. Box 12060, Austin, Texas 78711-2060.

(f) Copies of the examiners' reports related administrative certification shall be posted on the agency's website immediately upon receipt.

(g) A copy of the Secretary of State's final determination with respect to the vendor's request for administrative certification shall be posted on the agency's website within 5 business days after it is signed.

The provisions of this §81.65 adopted to be effective September 29, 2005, 30 TexReg 6039..

## **SUBCHAPTER E. ELECTION DAY PROCEDURES**

**Sec. 81.42. APPROVAL OF VOTING BOOTHS BY SECRETARY OF STATE.** (a) The secretary of state has determined that a voting booth designed to be placed on a table top that meets or exceeds the following specifications may be used without individual approval by the secretary of state.

(1) The booth must be constructed of opaque material and have three sides.

(2) The top of the booth must reach at least 54 inches from the floor or 24 inches from the table top, whichever is less.

(3) The booth must be at least 22 inches wide and 19 inches deep at the writing surface.

(4) At the highest point, the booth may be no more than two inches shallower than the depth of the booth at the writing surface.

(5) The booth must be so constructed as to be reasonably sturdy and to withstand expected use.

(b) A table on which such a booth is placed must meet the following specifications:

(1) The table must have a clear knee space underneath that is at least 27 inches high, 30 inches wide, and 19 inches deep; and

(2) The table top must be between 28 and 30 inches above the floor.

(c) A booth designed for table top use that does not meet or exceed each of the specifications in subsection (a) of this section must be submitted for individual approval by the secretary of state.

(d) Variances from statutory standards for voting booths designed to be used by a standing voter will be considered on a case-by-case basis.

(e) A voting booth that is free-standing (i.e., not placed on a table top), but is designed for use by a voter in a wheelchair or otherwise in a sitting position must meet the following specifications:

(1) The writing surface of the booth must have a clear knee space underneath that is at least 27 inches high, 30 inches wide, and 19 inches deep; and

(2) The writing surface of the voting booth must be between 28 and 30 inches above the floor.

(f) All booths designed for use with punch-card voting systems that have been approved by the secretary of state for use in Texas may be used as voting booths for punch-card voting, regular paper ballot voting, optical scan ballot voting, or direct recording electronic voting devices without further approval by the secretary of state.

(g) Vendors wishing to sell voting booths which do not comply with the Texas Election Code, §51.032, or with subsections (a) or (e) of this section to political subdivisions for use in elections must obtain approval in writing for such booths pursuant to the Texas Election Code, §51.031, before offering the booths for sale.

The provisions of this §81.70 adopted to be effective June 27, 1986, 11 TexReg 2739; amended to be effective March 28, 2002, 27 TexReg 2219.

**Sec. 81.42. SUBSTANTIALLY SIMILAR NAME STANDARDS AND IDENTITY VERIFICATION.** (a) When a voter offers to vote at a polling place using a form of identification described by §63.0101 of the Texas Election Code ("presented ID document") and the voter's name on the presented ID document does not match exactly the voter's name as it appears on the official list of registered voters, the voter's name on the presented ID document must be "substantially similar" to the voter's name as it appears on the official list of registered voters.

(b) In determining whether a voter's name on the presented ID document is substantially similar to the voter's name as it appears on the official list of registered voters, the reviewing early voting clerk, deputy early voting clerk, election judge or election clerk (collectively included in the term "election worker") shall refer to the standards in subsection (c) of this section.

(c) A voter's name on the presented ID document is considered substantially similar to the name on the official list of registered voters and a voter's name on the official list of registered voters is considered substantially similar to the name on the presented ID document if one or more of the circumstances in paragraphs (1) - (4) of this subsection are present. In determining whether one or more of those circumstances are present, election workers should consider whether information on the presented ID document matches elements of the voter's information on the official list of registered voters such as the voter's

residence address or date of birth, which may be strong indicators that the name on the presented ID document is substantially similar to the name on the official list of registered voters and vice versa if:

(1) The name on the presented ID document is slightly different from one or more of the name fields on the official list of registered voters or one or more of the name fields on the official list of registered voters is slightly different from the name on the presented ID document;

(2) The name on the presented ID document or on the official list of registered voters is a customary variation of the formal name such as, for illustrative purposes only, Bill for William, or Beto for Alberto, that is on the document or list that must match, as the case may be;

(3) The voter's name on the presented ID document contains an initial, a middle name, or a former name that is not on the official list of registered voters or the official list of registered voters contains an initial, a middle name, or a former name that is not on the presented ID document; or

(4) A first name, middle name, former name, or initial of the voter's name that occupies a different field on the presented ID document than a first name, middle name, former name, or initial of the voter's name on the official list of registered voters.

(d) If the reviewing election worker makes a determination that the voter's name on the presented ID document and the official list of registered voters are substantially similar, the voter shall be accepted for voting if the voter accepts the "Similar Name Affidavit" prescribed by the Secretary of State stating that the voter offering the presented ID document is the same person on the official list of registered voters.

(e) After the determination is complete, the presented ID document must be returned to the voter immediately.

(f) The completed Similar Name Affidavit, included in the signature roster or combination form, shall be placed in Envelope No. 4 (or other designated container) to be delivered to the county voter registrar.

(g) If the reviewing election worker makes a determination that the voter's names on the presented ID document and the official list of registered voters are not substantially similar, the voter shall be offered a provisional ballot. The voter shall be processed as a provisional voter in accordance with the provisional voter process established under Texas law, at the time of voting.

(h) If the voter casts a provisional ballot due to a determination by the election worker that the name on the presented ID document was not substantially similar to the name on the official list of registered voters, the voter is eligible to submit a form of identification described by §63.0101 of the Texas Election Code, including the presented ID document that the voter presented at the polling place, in person to the voter registrar's office within six days of election day pursuant to Texas law. The voter shall be informed of this procedure at the time the voter casts his or her provisional ballot.

(i) In addition to the procedure described under subsection (h) of this section, if the voter casts a provisional ballot due to a determination by the election worker that the name on the presented ID document was not substantially similar to the name on the official list of registered voters, or the voter's identity cannot be verified from the provided identification, the voter is eligible to submit official documentation to the voter registrar to verify their identity. Official documentation includes:

(1) a marriage license;

(2) a court order reflecting change of name;

(3) a letter from licensed physician; or

(4) affidavit stating that the person is the same person named on the identification provided.

(j) In determining whether an ID document presented to the voter registrar under subsection (h) of this section is substantially similar to the voter's name on the official list of registered voters, the voter registrar shall utilize the processes outlined in subsections (c) and (d) of this section.

The provisions of this §81.71 adopted to be effective November 20, 2011, 36 TexReg 7655; amended to be effective April 3, 2014, 39 TexReg 2263.

## **SUBCHAPTER F. PRIMARY ELECTIONS**

**Sec. 81.101. PRIMARY AND RUNOFF ELECTION COST REPORTING; RECEIPT OF STATE FUNDS.** (a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) SOS--Office of the Secretary of State.

(2) Primary--An election held by a political party under Chapter 172 of the Texas Election Code to select its nominees for public office, and, unless the context indicates otherwise, the term includes a presidential primary election.

(3) Runoff--An election held to determine the nomination if no candidate for nomination to a particular office receives the vote required for nomination in the general primary election.

(4) County election officer--County election administrator, county clerk, or county tax assessor-collector, depending on the county, responsible for election duties in the county.

(5) Vendor--Any company with a voting system certified for use in Texas by the SOS.

(b) This subchapter applies to the use and management of all primary funds.

(c) Approval by the Secretary of State (SOS) of a primary cost estimate does not relieve the recipient of primary funds including, but not limited to, the state chair of a political party, the county chair of a political party, the county election officer, or a voting system vendor, of their responsibility to comply with administrative rules issued by the SOS, or with any statute governing the use of primary funds.

(d) The SOS shall provide a primary cost estimate for each county political party broken into three categories, as applicable:

(1) The SOS will provide an estimate for each expense incurred by the county chair based on 75% of the final approved "non-contracted" costs less non-state appropriated financing sources (e.g., filing fees) for the most recent comparable election for which data is available as determined by the SOS. In order to receive the primary estimate payment, the chair must submit to the SOS a primary cost estimate via the online primary finance system prescribed by the SOS. If data is not available to create a pre-populated cost estimate or if the chair wishes to amend the pre-populated estimate, the chair may enter the appropriate data in the SOS online primary finance system.

(2) The SOS will provide an estimate for each expense incurred by the county election officer based on 75% of the final approved "contracted" costs for the most recent comparable election for which data is available as determined by the SOS. In order to receive the primary estimate payment, the county election officer must submit to the SOS a primary cost estimate via the online primary finance system prescribed by the SOS. If data is not available to create a pre-populated cost estimate or if the county election officer wishes to amend the pre-populated estimate, the county election officer may enter the appropriate data in the SOS online primary finance system.

(3) Pursuant to §173.0833 of the Texas Election Code, vendors that provide services and materials for use in a primary election shall bill the SOS directly if the vendor opts to receive an estimate payment. The submission shall comply with the following requirements:

(A) In October preceding the March primary election, vendors shall submit, in the electronic format prescribed by the SOS, data for each county primary election for which the vendor is providing services or materials.

(B) Only expenses that are billable to the primary fund may be included. Expenses including, but not limited to, early voting kits and supplies, "I Voted" stickers, and party convention supplies, must appear on a separate invoice billed to the county election officer or the party, as appropriate.

(C) If a cost is to be split between both parties, the split costs must be reported separately.

(D) The vendor must identify whether the county chair or the county election officer is ordering the service. The county chair earns five (5) percent calculated against the cost of the services ordered by the chair, which is paid out by the SOS to the county chair as part of the final cost report, and the county election officer earns ten (10) percent of the cost of the services ordered by the county election officer, which is included in the estimate and final payments issued by SOS.

(E) The SOS will not make estimates available to the county chairs or the county election officers until the SOS receives the vendor submission described in this section.

(e) If a runoff election is conducted, the estimate payments will be calculated and paid following the same process prescribed in subsection (d) of this section with the following exceptions:

(1) Filing fees are not factored into the calculation.

(2) The vendor must provide the estimated runoff costs in the electronic format prescribed by the SOS within five (5) days after the date of the canvass of the primary election results.

(f) After the primary or runoff election, as applicable, the actual expenditures must be reported to SOS as follows:

(1) The vendors must submit data in the electronic format prescribed by the SOS that identifies the final costs and includes all applicable fields prescribed by the SOS.

(A) Only expenses that are billable to the primary fund may be included. Expenses including, but not limited to, early voting kits and supplies, "I Voted Stickers", and party convention supplies, must appear on a separate invoice billed to the county election officer or the party, as appropriate.

(B) If a cost is to be split between both parties, the split costs must be reported separately.

(C) The vendor must identify whether the county chair or the county election officer is ordering the service. The county chair earns five (5) percent calculated against the cost of the services ordered by the chair, and the county election officer earns ten (10) percent of the cost of the services ordered by the county

election officer.

(D) The SOS will not make final payments to the county chairs or the county election officers until the SOS receives the vendor submission described in this section.

(2) The county chair and the county election officer, if an election service contract is executed between the county executive committee and the county election officer, must submit actual expenditures in the electronic format prescribed by the SOS.

(A) Costs incurred by the county chair shall be reported to the SOS by the county chair. Those costs will be calculated consistent with §81.119 of this chapter (relating to County Chair's Compensation).

(B) Costs incurred by the county election officer shall be reported to the SOS by the county election officer. Those costs will be calculated consistent with §81.131 of this chapter (relating to Contracting with the County Election Officer).

(g) Section 173.0832 of the Texas Election Code provides for direct payment from the SOS to a county election officer who conducts a primary election under an election services contract. The SOS requires all county election officers conducting election services for a primary election to receive direct payment from the SOS.

(h) Pursuant to §173.0341 of the Texas Election Code, a state chair, or the designee of a state chair, may enter into an agreement with a county chair, utilizing a form prescribed by the SOS, under which the state chair will act as a fiscal agent for the county party.

The provisions of this §81.101 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853; amended to be effective December 29, 2019, 44 TexReg 7884.

**Sec. 81.102. PRIMARY FUNDS DEFINED.** (a) Pursuant to §173.031 and §173.032 of the Texas Election Code, a primary fund is created for each executive committee of a political party holding a primary election. The primary fund consists of:

- (1) all filing fees accompanying an application for a place on the ballot filed with the chair ;
- (2) state funds paid to the chair;
- (3) contributions made to the executive committee for the purpose of defraying primary election expenses;

and

- (4) the income earned by the fund.

(b) Any refund of money expended from a primary fund is considered part of the primary fund..

The provisions of this §81.102 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.103. BANK ACCOUNT FOR PRIMARY-FUND DEPOSITS AND EXPENDITURES.** (a) The county chair shall establish and maintain a bank account for the sole purpose of depositing and expending primary funds; any interest earned in such an account becomes part of the primary fund.

(b) Payments issued by the Comptroller of Public Accounts will be payable to the county party chair, not the individual's name, preferably in the form of direct deposit. Direct deposit forms may be obtained from the Comptroller of Public Accounts.

(c) The county chair, or any employee paid from the primary fund, shall not commingle primary funds with any other fund or account.

(d) Each payment issued from a primary-funds account must include a statement regarding the payment being void after a period of time, such as "VOID AFTER 180 DAYS."

(e) The county chair shall complete bank reconciliations on a monthly basis.

(f) After all primary expenditures have been paid, the primary bank account may be retained with a sufficient minimum balance, generally \$50. All bank account information must be transferred to the incoming county chair in accordance with §81.108 of this chapter (relating to Transfer of Records to New County Chair).

(g) Revenue received for a primary may not be used to pay expenses for a previous primary.

The provisions of this §81.103 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209.

**Sec. 81.104. SIGNATURE ON CHECKS; AUTHORIZATION OF PRIMARY-FUND EXPENDITURES.** (a) Except as provided by this section, the county chair, or an authorized agent of the county chair, shall sign all checks drafted on the primary-fund account.

(b) The county chair must authorize all primary-fund expenditures.

(c) The county chair or an authorized agent shall not sign a check drawn on a primary-fund account with a rubber stamp or other facsimile of the signature.

The provisions of this §81.104 adopted to be effective November 18, 2003, 28 TexReg 10201; amended to be effective December 29, 2019, 44 TexReg 7884.

**Sec. 81.105. PAYEE OF CHECKS FROM PRIMARY-FUND ACCOUNT RESTRICTED.** (a) Except as provided by this section, an individual, who is authorized to draft primary-fund checks, shall make checks payable to an entity or a person. An individual, who is authorized to draft primary-fund checks, may draft a check payable to "cash" or "bearer" only to establish a petty-cash fund, for county chair seminar travel reimbursement, personal loans to the primary fund to cover eligible expenses approved by the SOS, and county chair compensation consistent with §81.119 of this chapter (relating to County Chair's Compensation).

(b) An individual authorized to draft primary-fund checks shall not make checks payable to the county party as contributions or to election judges for reimbursement for payments to election clerks.

The provisions of this §81.105 adopted to be effective November 18, 2003, 28 TexReg 10201; amended to be effective January 9, 2014, 39 TexReg 209.

**Sec. 81.106. DEPOSITS.** (a) The county chair, or an authorized agent of the county chair, shall:

(1) deposit all filing fees, contributions, and miscellaneous receipts into the primary fund; and

(2) maintain an itemized list detailing the source of all funds deposited into the primary fund including, but not limited to, all candidate filings.

(b) The SOS will verify the itemized list of candidate filings against the data reported pursuant to §172.029 of the Texas Election Code and §81.112 of this chapter (relating to List of Candidates and Filing Fees).

The provisions of this §81.106 adopted to be effective November 18, 2003, 28 TexReg 10201; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.107. PRIMARY-FUND RECORDS.** (a) The county chair shall preserve all records relating to primary-election expenses until the later of:

(1) 22 months following the primary elections; or

(2) the conclusion of any relevant litigation or official investigation.

(b) In order to receive approval of a final cost report, the county chair shall transmit copies of receipts, bills, invoices, contracts, competitive bids, petty-cash receipts for items and services and copies of all monthly bank statements, electronic bookkeeping records (i.e., Quicken or Quickbooks) or check register, and any other related materials documenting primary-fund expenditures. Purchase requisitions are not considered receipts and may not be remitted as such. The SOS reserves the right to request all receipts and related documentation.

(c) Unless otherwise provided by the SOS, not later than August 31 of the year in which the primary elections occur, the county chair shall:

(1) comply with all final cost reporting requirements;

(2) return all unexpended and uncommitted primary funds upon SOS approval of the final cost report.

(d) Failure to comply with subsection (c) of this section may result in forfeiture of county chair compensation as stipulated in §81.119 of this chapter (relating to County Chair's Compensation).

(e) If the chair does not file a final cost report, the matter may be reported to the Attorney General's Office for misappropriation of funds in accordance with §81.113 of this chapter (relating to Misuse of State Funds)..

The provisions of this §81.107 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective October 29, 2017, 42 TexReg 5853; amended to be effective December 29, 2019, 44 TexReg 7884.

**Sec. 81.108. TRANSFER OF RECORDS TO NEW COUNTY CHAIR.** (a) The chair shall transfer in an orderly manner to his or her successor or the appropriate county committee all primary-election records, including financial records listed under §81.107 of this chapter (relating to Primary-Fund Records), required by law to be maintained or within the 30th day after the date the term of office of a new county chair begins, whichever comes first (in accordance with Texas Election Code §171.028).

(b) Texas Election Code §171.028 provides a criminal penalty for failure to transfer records to the new county chair.

(c) If a vacancy occurs in the office of county chair, the county executive committee shall appoint an individual to serve as the custodian of primary-election records until a new county chair is appointed or elected.

(d) If the final cost report has not been finalized at the time the records are transferred or a vacancy occurs, it is the responsibility of the incoming chair or the appointed custodian and the outgoing chair to determine how best to complete the primary finance process, including the disbursement of the county chair compensation.

(e) Payments issued by the Comptroller of Public Accounts will be payable to the county party chair, not the individual's name, as described in §81.103(b) of this chapter (relating to Bank Account for Primary-Fund Deposits and Expenditures). Therefore, it is the responsibility of the individual with access to the primary fund established pursuant to

§81.102 of this chapter (relating to Primary Funds Defined) and §81.103 of this chapter to ensure final payment(s) from the primary fund are issued properly to close-out the financing of the Primary.  
The provisions of this §81.108 adopted to be effective November 18, 2003, 28 TexReg 10201; amended to be effective December 9, 2007, 32 TexReg 9105; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811.

**Sec. 81.109. COSTS NOT PAYABLE WITH PRIMARY FUNDS.** (a) Pursuant to §173.001 of the Texas Election Code, only expenses necessary for and directly related to the conduct of primary elections are payable from primary funds.

(b) Political expenses and expenses for any activity forbidden by statute or rule are not payable from the primary fund. Examples of non-payable expenses include, but are not limited to, the following:

- (1) expenses incurred in connection with a convention of a political party;
- (2) any food or drink items;
- (3) stationery not related to the conduct of the primary election;
- (4) costs associated with voter-registration drives or get-out-the-vote campaigns;
- (5) election notices, except for public testing announcements;
- (6) early voting costs, except for ballots and early voting ballot board costs;
- (7) a public building used as a polling place or central counting station if the building is normally open the day of the election, including a charge for personnel, utilities, or other expenses incurred before or after regular business hours;
- (8) election worker compensation to attend training;
- (9) costs for training material available through the SOS;
- (10) duties a county election officer is statutorily required to perform as well as salaries of county personnel during regular business hours;
- (11) voting by mail kits and postage related to mail ballots;
- (12) purchases of MBBs/PEBs or other voting system items transferable to other elections;
- (13) voting booths and ballot boxes owned by the county and other county-owned equipment where there is no statutory authority to charge for said equipment including, but not limited to, electronic poll books, removable voting system components, vehicles, etc;
- (14) a sign that is used to indicate a location of a polling place for a primary election or primary runoff election that violates any of the following criteria:
  - (A) a sign that refers to a candidate or measure on the ballot;
  - (B) a sign in which the size and format is not coordinated between the political parties holding a primary election or primary runoff election in the same county..

The provisions of this §81.109 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.110. FIDELITY BOND PURCHASE.** (a) An individual with responsibilities that include the receipt or expenditure of primary funds may purchase a fidelity bond with money from the primary fund.

(b) An individual purchasing a bond under this section shall base the amount of the bond on the anticipated total amount of primary funds that the individual will collect and disburse from November 1 immediately preceding the primary elections to the last day of the month in which the final primary election occurs. The amount used for the purpose of determining the amount of the bond shall not exceed \$50,000, unless a higher amount is approved by the SOS.

The provisions of this §81.110 adopted to be effective November 18, 2003, 28 TexReg 10201; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811.

**Sec. 81.111. INTEREST ON START-UP LOAN TO OPEN PRIMARY FUND IS NOT REIMBURSABLE.** A county chair may acquire a start-up loan to defray the cost of the primary elections, prior to receiving reimbursement from the state. A county chair may not use primary funds, which are subsequently approved by the SOS, to pay interest on loans used to defray operating expenses incurred prior to the receipt of such funds.

The provisions of this §81.111 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209.

**Sec. 81.112. LIST OF CANDIDATES AND FILING FEES.** a) Submission of information.

(1) Submission of filed application. Pursuant to §§172.029, 172.117, and 172.122 of the Texas Election Code, for each general primary election, all state and county chairs shall electronically submit information about each candidate who files with the chair an application for a place on the ballot, including an application for the office of a



political party, and shall certify the returns and the final list of candidates by electronic affidavit through the electronic submission service prescribed by SOS referenced in paragraph (2) of this subsection.

(2) Method of submission. The chair shall submit candidate information through an electronic submission service prescribed by the SOS. The SOS shall maintain the submitted information in an online database, in accordance with §172.029(b) of the Texas Election Code. The SOS is not responsible for the accuracy of the information submitted by the chair; the SOS is responsible only for providing the electronic submission service, displaying the information publicly on its website, and maintaining the online database.

(3) Information required for submission. The electronic submission service will notate the types of information that must be inputted for a complete submission of candidate information. However, the chair must submit any and all information on the candidate's application for which there is an applicable entry field on the electronic submission service.

(4) Submission deadline. A chair shall submit a candidate's information and a notation of each candidate's status not later than 24 hours after the chair completes the review of the candidate's application, in accordance with §172.029 of the Texas Election Code. By not later than the 8th day after the regular filing deadline, the chair shall submit a candidate's information and a notation concerning the candidate's status for all candidates who filed, in accordance with §172.029 of the Texas Election Code. The county chair will not be able to make modifications to the submitted information or notations on or after the 9th day after the regular filing deadline. If modifications to a candidate's information or notation are required on or after the 9th day after the regular filing deadline, such changes must be made by the state chair after notifying the SOS.

(5) Submission of nominee by executive committee. If a candidate is nominated by the appropriate executive committee for a place on the general election ballot in accordance with §145.036 or §202.006 of the Texas Election Code, the appropriate county chair shall notify the state chair who shall submit the candidate's information and notation through the electronic submission service prescribed by the SOS, in accordance with §172.029 of the Texas Election Code. The submission of the candidate's information and notation shall be completed not later than 5 p.m. on the 71st day before general election day to allow for the preparation of the general election ballot by the authority printing the ballots.

(6) Time for notations. For candidates not updated automatically after the canvass results are recorded in the electronic submission service prescribed by the SOS, the county chair will be able to update notations to describe the status of each candidate after the canvass. If modification to the notation is needed, the appropriate chair will update the candidate information to reflect the candidate's status from the list of notations available. The notations must be complete and accurate not later than 5 p.m. on the 71st day before general election day to allow for the preparation of the general election ballot by the authority printing the ballots.

(b) Notification of filing.

(1) County chair: delivery of candidate list. Upon submission of information for all candidates who filed and whose applications have been reviewed and accepted for a place on the ballot, the county chair shall notify the applicable county election officer that candidate information has been submitted for all candidates, in accordance with §172.029 of the Texas Election Code. Notification may be sent by email, regular mail, or personal delivery, so long as it is delivered by no later than the 9th day after the regular filing deadline.

(2) State chair: notification of submission. Upon submission of information for all candidates who filed and whose applications have been reviewed and accepted for a place on the ballot, the state chair shall notify the applicable county chairs that candidate information has been submitted for all candidates, in accordance with §172.028 and §172.029 of the Texas Election Code. Notification may be sent by email, regular mail, or personal delivery, so long as it is delivered by no later than the ninth day after the regular filing deadline.

(3) Extended Filing Notification. Pursuant to §172.055 of the Texas Election Code, the applicable filing authority shall provide the necessary extended filing notifications, including sending the notice to post on the county's website or the Secretary of State's website, as applicable. Pursuant to §172.056(b) of the Texas Election Code, for races in which the state chair is the filing authority, the state chair shall notify the applicable county chairs and the applicable county election officers that a candidate filed an application that complied with the applicable requirements during the extended filing period, and the candidate information has been submitted in accordance with §172.029 of the Texas Election Code. For races in which the county chair is the filing authority, the county chair shall notify the applicable state chair and the applicable county election officer that a candidate filed an application that complied with the applicable requirements during the extended filing period, and the candidate information has been submitted in accordance with §172.029 of the Texas Election Code. Notification shall be made by email, regular mail, or personal delivery.

(4) Court order. If a court orders a candidate's name to be placed on the ballot or removed from the ballot, the chair shall immediately notify the state chair.  
(c) Public display and failure to submit.

(1) Public display of information. The SOS will publicly display on its website a limited portion of the information submitted by the chair. For candidates for public office, the SOS will publicly display, via its website, the candidate's name, any public mailing address and any electronic mail address at which the candidate receives correspondence relating to the candidate's campaign provided by the candidate pursuant to §141.031(a)(4)(M) of the Texas Election Code, and office sought, along with the office's corresponding precinct, district or place. For candidates for the office of a political party, the website will publicly display the name of the chair and, if applicable, the corresponding numeric identifier.

(2) Failure to submit information. If a county chair fails to electronically submit candidate information for all candidates who filed and whose applications have been reviewed and accepted for a place on the ballot, the chair is directly responsible for delivering a certified list of all candidates to the state chair to comply with the electronic submission requirements of §172.029 of the Texas Election Code on behalf of the county chair.

(d) County executive committee. In the case of a vacancy on a county executive committee, the county chair shall submit the replacement member's name through the electronic submission service prescribed by the SOS pursuant to §171.024 of the Texas Election Code..

The provisions of this §81.112 adopted to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853; amended to be effective December 29, 2019, 44 TexReg 7884.

**Sec. 81.113. MISUSE OF STATE FUNDS.** The SOS shall refer any misuse or misappropriation of primary funds to the appropriate prosecuting authority for the enforcement of all civil and/or criminal penalties. Prosecuting authority includes but is not limited to Office of the Attorney General. Misuse of funds includes not complying with reporting requirements prescribed by the Texas Election Code or this title.

The provisions of this §81.113 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.114. CONFLICTS OF INTEREST.** (a) No disbursements may be made from the primary fund to the county chair personally, or to an entity or business in which the party, the county chair, the county chair's spouse, or the county chair's family has a financial interest, except for payments for:

- (1) election day workers;
- (2) incidental administrative costs; or
- (3) the county chair's compensation.

(b) For the purposes of this section, "family" is defined as individuals related within the third degree of consanguinity (blood) or the second degree of affinity (marriage).

	1st Degree	2nd Degree	3rd Degree
Consanguinity	Father	Grandfather	Aunt
Blood Relation	Mother	Grandmother	Uncle
	Son	Grandson	Great-grandson
	Daughter	Granddaughter	Great-granddaughter
		Brother	Great-grandfather
		Sister	Great-grandmother
			Niece
			Nephew
Affinity	Father	Spouse's Grandfather	
Relation by	Mother	Spouse's Grandmother	
Marriage	Daughter	Spouse's Granddaughter	
	Son	Spouse's Grandson	
		Spouse's Sister	
		Spouse's Brother	

(c) Discounted expenditures, such as a reduced rate for leasing space, does not exempt the cost from this section.

The provisions of this §81.70 adopted to be effective June 27, 1986, 11 TexReg 2739; amended to be effective March 28, 2002, 27 TexReg 2219.

**Sec. 81.115. REQUIREMENT FOR COMPETITIVE BIDS FOR SERVICES OR PRODUCTS.** (a) This section does not apply to expenditures of \$2,000 or less. (Note: A large purchase may not be divided into small lot purchases to circumvent the dollar limits established by this section. For example, expenditures for computer equipment to a single vendor that total more than \$2,000 are subject to the competitive bid requirement and may not be split between printers/scanner/computers.)

(b) The county chair must purchase all services and products using competitive bids from no less than three sources. Proper documentation must be submitted with the final cost report to indicate the type of procurement service used and the source for those services.

(c) The county chair must document or otherwise provide an explanation regarding the lack of available bids from vendors (sole source). This documentation or explanation must be submitted with the final primary election cost report.

(d) If the county chair contracts with the county election officer who has a term contract for election supplies or services or utilizes the Texas Cooperative Purchasing Program, then competitive bids are not required.

The provisions of this §81.115 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209.

**Sec. 81.116. ESTIMATING VOTER TURNOUT.** (a) The county chair shall use the formula set out in the following figure, with necessary modifications as determined by the chair, to determine the estimated voter turnout for each precinct for the primary elections. This formula is a guideline and must be adjusted if the local political situation indicates a higher voter turnout than that derived by the formula.

The formula for estimating turnout for the primary elections is:

$$A \times (B + C) = D$$

Where:

A = the percentage of voter turnout for the office that received the most votes in the most recent comparable party primary election (percentage is the sum of all votes cast for the office that received the most votes in the most recent comparable party primary election divided by the number of registered voters).

B = the number of registered voters as of October preceding the primary.

C = 25% of the number resulting when you multiply A x B.

D = Preliminary Estimated Turnout.

(b) After estimating the voter turnout for each precinct, the county chair shall use the guidelines set forth in §§81.117, 81.124, and 81.125 of this chapter (relating to the Number of Election Workers per Polling Place, Number of Ballots per Voting Precinct, and Number of Direct Record Electronic (DRE) Units or Precinct Ballot Counters per Voting Precinct) to determine the necessary personnel, supplies, and equipment for each precinct (i.e., ballots, election judges and clerks, voting devices, or machines).

(c) After estimating the need for personnel, supplies, and equipment for each precinct, the county chair shall combine all precinct data to determine the total countywide estimate.

(d) The county chair may use the estimate calculated under subsection (c) of this section to determine the estimated cost of the election.

The provisions of this §81.116 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811.

**Sec. 81.117. NUMBER OF ELECTION WORKERS PER POLLING PLACE.** The county chair shall use the formula set out in the following figure to determine the number of election workers allowable for each polling place.

**Number of Election Workers Per Voting Precinct**  
(Includes one judge and one alternate judge who serves as a clerk)

Estimated Turnout Per Polling Location	Paper Ballot/Optical Scan (primary voting method)	Electronic Voting System (primary voting method)
200 or fewer	3	3
201 - 400	5	4
401 - 700	6	5
701 - 1,100	8	6
1,101 or more	12	8

The provisions of this §81.117 adopted to be effective December 13, 2009, 34 TexReg 8665.

**Sec. 81.118. FLEX SCHEDULING OF PRECINCT WORKERS.** The presiding judge may hire individuals to work in

shifts. The county chair may assign clerks to work in shifts that end before the examination or counting of the ballots begins. The provisions of this §81.118 adopted to be effective November 18, 2003, 28 TexReg 10201; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.119. COUNTY CHAIR'S COMPENSATION.** (a) Pursuant to §173.004 of the Texas Election Code, a county chair may receive compensation for administering primary elections.

(b) The SOS shall not authorize payment under this section until the county party's final cost report has been received, including the necessary supporting documentation required in §81.107 of this chapter (relating to Primary-Fund Records), and approved by the SOS. The SOS shall notify the county chair of the approval via email. The chair may view the approved costs by line item in the online primary finance system prescribed by SOS.

(c) After all other expenses have been paid and the final cost report has been approved by SOS, the county chair shall be paid with a check drawn on the county's primary-fund account.

(d) The SOS may deny compensation to county chairs who file delinquent final-cost reports.

(e) Legal fees and county election service contract costs incurred and reported to SOS by the county election officer will not be included in the formula for determining the county chair's compensation.

The provisions of this §81.119 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.120. COMPENSATION FOR ELECTION-DAY WORKERS.** (a) Except as provided by subsection (b) of this section, the compensation paid to polling-place judges, clerks, early-voting-ballot board members, or persons working at the central counting station for the general-primary and primary-runoff elections shall be equal to the hourly rate paid by the county for such workers in county elections up to not exceed \$12 per hour from the primary fund. All workers must attend a training class certified by the SOS. Online pollworker training classes are available on the SOS website.

(b) The county chair may pay technical support personnel at the central counting station (appointed under Texas Election Code §§127.002, 127.003, or 127.004) compensation which is more than \$12 per hour, but costs may not exceed those paid to county staff for comparable work.

(c) Except as provided by this section, a judge or clerk may be paid only for the actual time spent on election duties performed in the polling place or central counting station. If an election worker elects to donate his or her compensation to the county party, signed documentation referencing that fact, by the election worker and chair, must be placed in the primary records.

(d) The county chair may allow one election worker from each polling place up to one hour before election day to annotate the precinct list of registered voters.

(e) The county chair is authorized to pay members of the early voting ballot board.

(1) Members of the early voting ballot board may only be compensated for the actual number of hours worked up to \$12 per hour from the primary fund.

(2) Additionally, members may reconvene to process provisional or late ballots. The provisional ballot/late counting process must be completed not later than the 7th day after the primary or runoff primary elections.

(f) Compensation for the election judge or clerk who delivers and picks up the election supplies on election day may not exceed \$25 per polling place location.

(g) Except as provided by subsection (f) of this section the county chair may not pay an election-day worker for travel time, delivery of supplies, or attendance at the precinct convention.

The provisions of this §81.120 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective December 29, 2019, 44 TexReg 7884.

**Sec. 81.121. NO COMPENSATION FOR ATTENDING ELECTION SCHOOLS FOR JUDGES OR CLERKS.** (a) Training materials may be ordered free of charge from the SOS.

(b) The county chair may not be reimbursed for materials published and provided by the SOS.

(c) Costs associated with attending an election school are not an allowable cost subject to primary reimbursement.

The provisions of this §81.121 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483.

**Sec. 81.122. PERSONNEL PAYROLL TAXES AND BENEFITS.** (a) The county chair shall follow all applicable federal and state laws with respect to payroll taxes, including election day judges and clerks.

(b) The county chair may not use primary funds to pay penalties or interest resulting from a failure to file required tax returns or from failure to pay the employer's portion of employment taxes.

(c) The county chair shall maintain copies of all federal and state payroll tax returns and forms, and keep such copies with the primary records. (The county chair shall also transmit copies of these records to the SOS at the SOS's request.)

(d) The county chair may not pay for group medical, dental, life insurance or retirement benefits with primary funds. The provisions of this §81.122 adopted to be effective November 18, 2003, 28 TexReg 10201; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.123. ADMINISTRATIVE PERSONNEL AND OVERALL ADMINISTRATIVE COSTS LIMITED.** (a) "Administrative Personnel" means a non-election-day worker.

(b) The employment of administrative personnel is not required for the conduct of the primary elections.

(c) Pursuant to §81.114 of this chapter (relating to Conflicts of Interest), no member of the county chair's family may be paid an administrative salary from primary funds.

(d) If administrative personnel are utilized, salaries or wages for such personnel are payable from the primary fund for a period beginning no earlier than November 1 immediately preceding the primary election and ending no later than the last day of the month in which the primary election or runoff primary election, if applicable, is held.

(e) If the county chair contracts with third parties or the county election officer for election services, the overall administrative personnel costs to be submitted to the SOS for reimbursement cannot include administrative expenses provided by third parties or a county election officer. (Administrative personnel costs include, but are not limited to, polling location services, ballot ordering, and secretarial services.)

(f) The SOS may disallow full payment for administrative personnel if it is determined that the contracting county election officer substantially performed the conduct of the election.

(g) Other administrative costs chargeable to the primary fund include office rental, telephone and utilities, office furniture and equipment rental, computer purchase, office supplies, and bank fees.

(h) In addition to the limitations set forth in the Texas statutes and Subchapters F and G of this chapter of the Texas Administrative Code, including but not limited to §§81.127, 81.128, and 81.129 of this chapter (relating to Office Equipment and Supplies, Telephone and Postage Charges, and Office Rental), the funding caps illustrated in Figure: 1 TAC §81.123(h) apply to the total administrative expenses a county chair may charge to the primary fund.

<b>Administrative Costs</b>		
<b>Number of Registered Voters</b>	<b>Costs Allowed Thru March 31</b>	<b>Costs for Runoff</b>
10,000 or less	\$300	\$75
10,001 - 25,000	\$1,500	\$375
25,001 - 50,000	\$3,000	\$750
50,001 - 140,000	\$12,000	\$3,000
140,001 - 325,000	\$24,000	\$6,000
325,001 - 500,000	\$40,000	\$10,000
Over 500,000	\$52,000	\$13,000

The provisions of this §81.123 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853; amended to be effective December 29, 2019, 44 TexReg 7884.

**Sec. 81.124. NUMBER OF BALLOTS PER VOTING PRECINCT.** (a) The county chair shall determine the minimum number of ballots to be furnished to each polling place based on the estimated voter turnout formula established pursuant to §81.116 of this chapter (relating to Estimating Voter Turnout). The county chair shall not distribute to a polling place fewer ballots than the amount indicated by the formula provided by §81.116 of this chapter.

(b) If the chair determines that more ballots than the minimum are necessary, he or she may order a maximum number of ballots up to an amount that is equal to the number of registered voters in the precinct.

(c) In no event should a polling place ballot supply be limited so as to impede the voting process or jeopardize voting rights.

The provisions of this §81.70 adopted to be effective June 27, 1986, 11 TexReg 2739; amended to be effective March 28, 2002, 27 TexReg 2219.

**Sec. 81.125. NUMBER OF DIRECT RECORD ELECTRONIC (DRE) UNITS OR PRECINCT BALLOT COUNTERS PER VOTING PRECINCT.** (a) The county chair shall use the table set out in the following figure to determine the number of precinct ballot counters and DRE units allowable for each precinct.

**Number of Direct Record Electronic (DRE) Units  
and/or Precinct Ballot Counters Estimated**

<b>Voter Turnout Per Voting Precinct</b>	<b>DRE Units</b>	<b>Precinct Ballot Counters</b>
300 or fewer	2	1
301 - 450	3	1
451 - 600	4	1
601 - 750	5	1
751 - 900	6	1
For each additional 300 voters:	2	0

(b) If a county chair determines that the number of precinct ballot counters and/or DRE units authorized under the formula is inadequate, he or she must acquire permission from the SOS to obtain additional machines, counters, or devices.

(c) Pursuant to federal and state law, there must be at least one accessible voting unit in each precinct. If the county has insufficient accessible voting units to allow each party to conduct a separate primary in all county election precincts, then each party will need to consolidate county election precincts in accordance with §42.009 of the Texas Election Code in order to accommodate the number of accessible voting units that can be allocated to each party by the county election officer in accordance with §51.035 of the Texas Election Code. Alternatively, the parties, with the agreement of a majority of the full membership of county commissioners court and the county election officer, may conduct a joint primary under §172.126 of the Texas Election Code.

(d) In precincts that are conducting a limited joint election for purposes of sharing a polling place and an accessible voting unit, the presiding election judge from the party whose candidate for governor received the highest number of votes in the precinct or consolidated precinct in the most recent gubernatorial general election shall deliver the device(s) containing the vote totals to the general custodian. The presiding judge of the party whose candidate for governor received the highest number of votes in the precinct or consolidated precinct in the most recent gubernatorial general election may designate the presiding judge or clerk of the other party to deliver the device(s) containing the vote totals to the general custodian.

The provisions of this §81.125 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.126. TRAINING REIMBURSEMENT TO ATTEND COUNTY CHAIRS ELECTION LAW SEMINAR.** (a) Except as provided by this section, the SOS shall reimburse from the state primary fund, the actual travel expenses for the county chair or the county chair's designee who will be responsible for the primary finance bookkeeping to attend the SOS Election Law Seminar for County Chairs. (The SOS shall provide travel reimbursement forms at the seminar.)

(b) The SOS shall reimburse the county chair or the county chair's designee for:

- (1) mileage (if driving personal vehicle);
- (2) airfare (coach only);
- (3) airport transfers;
- (4) airport parking;
- (5) lodging; and
- (6) any other reasonable expenses related to an individual's attendance at the Election Law Seminar for County Chairs.

(c) The SOS shall use an electronic mapping tool available on the internet (including, but not limited to, Mapquest, Google Maps, or Bing Maps) to determine distances traveled to attend the Election Law Seminar for County Chairs. The SOS shall reimburse mileage claims from the county seat to and from Austin using the mileage rate approved by the State Comptroller at the time of the seminar.

(d) The SOS shall reimburse actual lodging expenses in an amount not to exceed the rates approved by the state, plus applicable taxes.

(e) As provided by the Texas General Appropriations Act, the SOS shall not make reimbursements for gratuities or tips. In addition, the SOS will not reimburse for meals.

(f) The county chair or the chair's designee must submit actual receipts to the SOS in order to be reimbursed for airfare, lodging, parking, or airport transfers.

(g) The county chair shall submit request for reimbursement no later than 60 days after the seminar. If a request for

reimbursement is submitted after this date, the SOS may deny the request.

(h) Overnight lodging for two nights is approved for counties that are more than 200 miles distance from Austin; otherwise, prior approval for more than one night of lodging must be obtained from SOS.

The provisions of this §81.126 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.127. OFFICE EQUIPMENT AND SUPPLIES.** (a) Rental of office equipment is not required in order to conduct primary elections.

(b) The county chair may lease office equipment necessary for the administration of the primary elections for a period beginning November 1 immediately preceding the primary election and ending not later than the last day of the month in which the primary election or runoff election primary, if applicable, is held.

(c) The county party may not rent or lease equipment in which the party, the county chair, or a member of the county chair's family has a financial interest. (See definition of "family" at §81.114(b) of this chapter (relating to Conflicts of Interest).)

(d) The county chair or party shall rent equipment from an entity that has been in business for at least 18 months and has at least three other bona fide clients and is on file with the corporation department of the SOS or locally.

(e) The purchase of office supplies must be reasonable and/or necessary for the administration of the primary election to be payable from the primary fund.

(f) The county chair or party may be reimbursed for the cost of incidental supplies used in connection with the primary election. (Examples of reasonable incidental supplies include paper, toner, and staples.)

(g) The county chair may not use primary funds to purchase any single office-supply item or equipment valued at over \$1,500. These items are not considered the property of the party chair, rather the property of the county party, and must be transferred to the incoming party chair when a new chair takes office.

(h) The county chair may not pay notary public expenses from the primary fund.

(i) Computer serial numbers must be reported to SOS to ensure the asset can be tracked from one election to the next.

(j) Any computer purchased with primary funds is to be used for primary related functions. It is not considered the property of the party chair, rather the property of the county party, and must be transferred to the incoming party chair when a new chair takes office.

(k) A computer purchased with primary funds shall be used for two primary election cycles before a new computer may be purchased using primary funds.

The provisions of this §81.126 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.128. TELEPHONE AND POSTAGE CHARGES.** (a) The SOS shall reimburse necessary telephone and postage costs incurred with respect to the administration of the primary elections beginning no earlier than November 1 immediately preceding the primary election and ending no later than the last day of the month in which the primary election or runoff primary election, if applicable, is held.

(b) Personal landline and cellular phone charges will not be reimbursed with primary funds.

The provisions of this §81.128 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.129. OFFICE RENTAL.** (a) The rental of office space is not required for the conduct of the primary elections.

(b) The SOS shall reimburse necessary office space rental expenses incurred with respect to the administration of the primary elections for a period beginning no earlier than November immediately preceding the primary election and ending not later than the last day of the month in which the primary election or runoff primary election, if applicable, is held.

(c) If the rental of office space is necessary, the county party shall rent office space in a regularly rented commercial building. Office rent shall not exceed the fair market rate for comparable office space in the same area.

(d) Unless such services are required in accordance with the lease agreement, no payment may be made with primary funds for janitorial services, parking, or signage.

(e) The county party may not rent or lease office space in which the party, the county chair, the county chair's spouse, or the county chair's family has a financial interest. (See definition of "family" at §81.114(b) of this chapter (relating to Conflicts of Interest).) Discounted office space does not exempt the cost from §81.114 of this chapter, Conflicts of Interest.

(f) If the party leases space for the purpose of the primary only, the county chair shall transmit a copy of the three competitive bids obtained as well as the lease agreement to the SOS, along with a copy of the final cost report.

(g) If the party maintains a lease, unrelated to the conduct of the primary, the cost of that lease will not be reimbursed in excess of 30% of the monthly rental cost by the state as a primary expense, including utilities. In addition, if the party

maintains a lease unrelated to the primary, the SOS will not reimburse the party for a second lease without prior approval from the SOS.

The provisions of this §81.129 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.130. PAYMENT FOR USE OF COUNTY-OWNED AND NON-COUNTY-OWNED EQUIPMENT.** (a) Section 123.033 of the Texas Election Code provides for the rental rate that a county may charge for the use of its equipment. (The rental rates are \$5 for each unit of tabulating equipment and \$5 for each unit of electronic voting system equipment installed at a polling location.) Removable components, such as a flash drive or accessibility component, may not be charged separately.

(b) In addition to subsection (a) of this section, the primary fund may be used to pay the actual expenses incurred by the county in transporting, preparing, programming, and testing the necessary equipment, as well as for staffing the central counting station.

(c) The county chair shall submit all calculations for amounts charged for the use of county-owned and non-county-owned equipment to the SOS for review with the final cost report.

(d) The county chair shall not use primary funds to pay expenses related to the use of non-county-owned equipment, including, but not limited to, ballot boxes and voting booths pursuant to §51.035 of the Texas Election Code, without approval from the SOS.

(e) Pursuant to §51.035 of the Texas Election Code, counties may not charge the county parties for use of county-owned voting booths or ballot boxes and other county-owned equipment where there is no statutory authority to charge for said equipment; however, the primary fund may pay the actual expenses incurred by the county in transporting the equipment to and from the polling places if the county provides that service.

(f) Pursuant to the General Appropriations Act, 86th Texas Legislature, primary funds shall not be used to pay the costs of leasing non-county-owned equipment that is needed to conduct non-joint primary elections.

The provisions of this §81.130 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853; amended to be effective December 29, 2019, 44 TexReg 7884.

**Sec. 81.131. CONTRACTING WITH THE COUNTY ELECTION OFFICER.** (a) The SOS has prepared a Primary Election Services Contract and a Joint Primary Election Service Contract (the "Model Contract"). Copies of the appropriate Model Contract may be obtained from the SOS.

(b) The county chair may use the Model Contract when executing an agreement for election services between the county executive committee and the county elections officer. (Contractible election services are listed in Subchapter B of Chapter 31 of the Texas Election Code.)

(c) The Model Contract may be revised as necessary to accommodate the specific agreement between the county chair and county election officer; however, activities not required by law are not payable with primary funds. Accordingly, those activities should be identified in the contract, including a stipulation as to whether the county chair or the county election officer will be responsible for the cost. Each contracting entity shall report the costs for which it is responsible via the online primary finance system prescribed by SOS. The entity that reports said expense(s) will receive direct payment from SOS for those expense(s). Costs reported by the county election officer qualify for the ten percent "general supervision fee" authorized under §31.100 of the Texas Code. Expenses reported by the county chair qualify for the county chair compensation (see §81.119 of this chapter (relating to County Chair's Compensation)).

(d) The county election officer must submit to the county chair an accounting of the actual costs incurred in the performance of the election services contract. In addition, the county election officer shall report the primary-eligible expenses to SOS via the online primary finance system prescribed by SOS.

(e) The SOS may only pay actual costs incurred by the county and payable under provisions of the Texas Election Code, an election-services contract, or these administrative rules. Costs prohibited by this chapter that appear in the election service contract are not reimbursable with primary funds and must be articulated as such in the contract. Counties may not charge a flat fee for services unless the county can produce a methodology that demonstrates the fee is equal to or less than the actual costs incurred by the county, except when authorized by statute. Charges may be set at a rate of up to ten (10) percent of the annual license and maintenance fees for the software used to create the ballot style and program the electronic voting equipment.

(f) Salaries of personnel regularly employed by the county may not be paid from or reimbursed to the county from the primary fund even if the employee used their vacation time to perform the duties.

(g) A county election officer may not contract for the performance of any duty or service that he or she is statutorily obligated to perform.



(h) Section 31.100 of the Texas Election Code authorizes the election officer to assess a "general supervision fee" of up to 10 percent against the amount of the contract. The general supervision fee will not be applied to any services in which the county election officer subcontracts with another vendor that assesses a surcharge or administrative fee.

The provisions of this §81.131 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.132. COST OF EARLY VOTING TO BE PAID BY THE COUNTY.** (a) Pursuant to §173.003 of the Texas Election Code, the only expense to be paid from primary funds for early voting is ballot costs and the early voting ballot board.

(b) The county shall pay for voting-by-mail kits including, but not limited to, postage, early-voting workers, and all other costs incurred that are related to early voting.

(c) The county chair shall not include non-eligible expenses related to early voting in a primary-election-services joint resolution, county election services contract or a primary cost report.

The provisions of this §81.132 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811.

**Sec. 81.133. NO CHARGE FOR USE OF A PUBLIC BUILDING AS POLLING PLACE; POLITICAL CONVENTIONS.** (a) Pursuant to §43.033 of the Texas Election Code, no charge may be made for the use of a public building as a polling place if that building is normally open for business on election day.

(b) A central counting station is subject to subsection (a) of this section.

(c) Primary funds may not be used to pay any charge for the use of a building for a state or county political convention.

The provisions of this §81.133 adopted to be effective November 18, 2003, 28 TexReg 10201.

**Sec. 81.134. LEGAL EXPENSES.** (a) The party chair (all references to "party chair" in this section refer to both the state chair and the county chair) may contact the SOS Elections Division for advice and assistance in election matters in accordance with §31.004 of the Texas Election Code. (Attorneys with the Elections Division may be reached toll-free by calling 1-800-252-2216. There is no charge for this service.)

(b) The SOS shall not provide primary-fund reimbursement for legal expenses arising as a result of the negligent or wrongful acts of the party chair or a member of the state or county executive committee, or the failure of the party chair or a member of the state or county executive committee to comply with the Texas Election Code, the Texas Administrative Code, or advice provided by the Elections Division in accordance with §31.004.

(c) In addition to any other requirements or limitations under this section and Chapter 173 of the Texas Election Code, the SOS shall not provide primary-fund reimbursement for legal expenses unless the party chair complies with the following preconditions before any legal expenses are incurred subject to appropriation by the Texas Legislature:

(1) The party chair requests in writing by mail, fax, or email to the Director of the Elections Division of the SOS to retain legal counsel the cost of which shall may be paid for with primary funds and the Director approves such request for the expenditure of primary funds in writing.

(2) The request shall include the style and cause number of the lawsuit for which the party chair seeks to retain legal counsel, the name of the attorney he or she wishes to retain, a brief summary of the facts that are the subject of the lawsuit, the attorney's hourly rate, and an estimate of the legal expenses necessary for legal services rendered in defense of the party chair, on behalf of the chair, the executive committee, and the party.

(3) The SOS shall not reimburse legal expenses if the county chair fails to notify the SOS of litigation within thirty (30) business days following the receipt of service of process.

(d) By failing to obtain prior written approval as provided in subsection (c) of this section, the party chair, on behalf of the chair, the executive committee, and the party, waives any right to primary-fund reimbursement for any legal costs or expenses incurred.

(e) Subject to appropriation by the Texas Legislature, notwithstanding anything to the contrary in this chapter, and only if prior written approval is obtained as set forth in subsection (c) of this section, the SOS may provide primary-fund reimbursement for legal fees and expenses incurred by the party chair only for a lawsuit commenced against the chair which seeks to include a candidate's name on the Primary Election ballot after the chair either rejected the candidate's application or declared the candidate ineligible or which seeks to exclude a candidate's name from the Primary Election ballot after the chair declined to do so.

(f) The party chair seeking reimbursement for legal expenses shall provide to the SOS copies of all invoices related to legal expenses, along with all relevant pleadings, docket sheets, judgments and orders in the case, and any additional information requested by the SOS prior to approval or rejection of legal fee reimbursement from the primary fund.

(g) The SOS shall review all submitted documentation and invoices for legal expenses and make a determination as

to the compensability and reasonableness of the legal fees and expenses. Upon SOS approval and subject to appropriation by the Texas Legislature, the SOS shall reimburse legal expenses the lesser of the hourly rate submitted or the hourly rate reflected in the State Bar of Texas--Hourly Rates Report at the time the final invoice for reimbursement of legal expenses is submitted.

(h) All legal invoices, pleadings, correspondence, and any additional information requested by the SOS submitted to the SOS for reimbursement are subject to the Public Information Act (Chapter 552, Texas Government Code), and the party chair is advised not to submit any documents that are subject to attorney-client or work product privilege.

The provisions of this §81.134 adopted to be effective January 9, 2014, 39 TexReg 209.

**Sec. 81.135. PRIMARY PROCEDURE FOR COUNTIES WITHOUT COUNTY PARTY LEADERSHIP.** (a) The county election officer of a county where the county chair is vacant shall contract with the state chair of a political party under the following circumstances:

(1) There is an insufficient number of members serving on the county executive committee to fill a vacancy on the committee;

(2) The party is unable to establish a temporary executive committee under §171.027 of the Texas Election Code; and

(3) The election is required for the nomination of a political party to a statewide office, a multicounty district office, or a presidential primary election.

(b) The county election officer and the state chair shall enter into an election services contract consistent with §81.131 of this chapter (relating to Contracting with the County Election Officer), which, in accordance with §172.128 of the Texas Election Code, also provides that the county election officer shall be eligible to be reimbursed for primary election expenses in the same manner a county chair would be reimbursed under Subchapter D, Chapter 173.

(c) The state party shall report costs incurred consistent with this section to the SOS and receive funding consistent with this chapter.

The provisions of this §81.135 adopted to be effective November 9, 2015, 40 TexReg 7811; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.136. PRIMARY PROCEDURE UPON COUNTY CHAIR REQUEST OR FAILURE TO COMPLY WITH CERTAIN DUTIES.** (a) The state chair may, with the consent of the secretary of state and the county executive committee, if one exists for the county, accept money into the state primary fund on behalf of a county party. The state chair must keep records to track the money that is attributable to a county.

(b) The state chair of a party, or the state chair's designee, may submit cost reports prescribed under this chapter on behalf of a county chair if the county chair:

(1) requests the state chair to submit the statement on the county chair's behalf; or

(2) fails to submit the statement by the deadline.

(c) The state chair shall conduct the ballot drawing in accordance with §172.082 of the Texas Election Code if the county chair:

(1) requests that the state chair conduct the drawing; or

(2) fails to conduct the drawing by the deadline set in this section...

The provisions of this §81.136 adopted to be effective October 29, 2017, 42 TexReg 5853.

## SUBCHAPTER G. JOINT PRIMARY ELECTIONS

**Sec. 81.146. APPLICABILITY OF OTHER RULES.** Except for areas of conflict, the general-primary-finance rules of Subchapter F of this chapter (relating to Primary Elections) apply to the conduct of joint primaries.

The provisions of this §81.146 adopted to be effective November 18, 2003, 28 TexReg 10202.

**Sec. 81.147. COUNTY ELECTION OFFICER TO CONDUCT JOINT PRIMARY.** (a) Pursuant to §172.126(a) of the Texas Election Code, the county election officer shall supervise the overall conduct of joint primary elections.

(b) The county election officer is responsible for:

(1) appointing election judges and clerks;

(2) determining the ballot format and type of voting system for each precinct; and

(3) procuring election equipment and supplies.

(c) The decision to conduct a joint general primary election or runoff primary election, as applicable, must be made by majority vote of the full membership of the commissioners court and with the unanimous approval of the county election officer and the county chair of each political party required to nominate candidates by primary election.

The provisions of this §81.147 adopted to be effective November 18, 2003, 28 TexReg 10202; amended to be effective March 7, 2012, 37 TexReg 1483;

amended to be effective November 9, 2015, 40 TexReg 7811.

**Sec. 81.148. APPOINTMENT OF VARIOUS ELECTION OFFICIALS.** (a) Upon receipt of the lists of names of election judges and clerks from each county chair not later than the second Monday in December, the county election officer shall select co-judges, co-alternate judges, and appoint clerks (if applicable) for each precinct. (These selections are made in accordance with §172.126(c) of the Texas Election Code and §81.152 of this title (relating to Estimating Voter Turnout for Joint Primaries).)

(b) The county election officer shall determine the total number of election workers required and select from the party chairs' lists the individuals to be appointed as co-judges, members of the early voting ballot board, and presiding judge and clerks of central counting station. The county election officer shall ensure party balance in these selections.

(c) If the total number of individuals (presiding judge plus election clerks) serving on the early voting ballot board or at the central counting station is an odd number, the county election officer shall appoint an additional member from the party whose candidate for governor received the highest number of votes in the county in the most recent gubernatorial general election.

The provisions of this §81.147 adopted to be effective November 18, 2003, 28 TexReg 10202; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective November 9, 2015, 40 TexReg 7811.

**Sec. 81.149. NUMBER OF ELECTION WORKERS PER JOINT POLLING PLACE.** (a) The county election officer shall use the table set out in the following figure, to determine the number of election workers allowable for each joint polling place.

(b) Each polling place shall have no less than one co-judge from each party and one clerk from each party.

(c) If the total number of workers is an odd number, the county election officer shall appoint an additional worker from the list of the party whose candidate for governor received the highest number of votes in the precinct in the most recent gubernatorial general election. (If precincts have been consolidated or combined for the joint primary, then the highest number of votes is determined by adding together the votes from the consolidated or combined precincts.).

**Number of Election Workers Per Joint-Voting Precinct**  
(Includes two co-judges and two alternate judges who serve as a clerk)

Estimated Turnout Per Joint-Polling Location	Paper Ballot/Optical Scan (primary voting method)	Electronic Voting System (primary voting method)
200 or fewer	4	4
201 - 400	6	5
401 - 700	7	6
701 - 1,100	9	7
1,101 or more	13	9

The provisions of this §81.149 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483.

**Sec. 81.150. QUALIFICATIONS OF CO-JUDGES AND ALTERNATES CO-JUDGES.** The presiding co-judge and alternate co-judge must be a qualified voter of a precinct that is included in the consolidated or combined precincts in which they are serving.

The provisions of this §81.150 adopted to be effective November 18, 2003, 28 TexReg 10202.

**Sec. 81.151. AUTHORITY OF CO-JUDGE FOR JOINT PRIMARY POLLING PLACES, JOINT PRIMARY CENTRAL COUNTING STATION, AND JOINT PRIMARY EARLY VOTING BALLOT BOARD.** (a) A co-judge may only process provisional voters from the judge's own party. (This applies to the provisional process at the polling place.)

(b) A co-judge may only determine a voter's intent on an irregularly marked ballot cast by a voter from the co-judge's own party. (This limitation applies to individuals serving in a co-judge capacity at the polling place, early-voting-ballot board, or central counting station.).

The provisions of this §81.151 adopted to be effective December 13, 2009, 34 TexReg 8665.

**Sec. 81.152. ESTIMATING VOTER TURNOUT FOR JOINT PRIMARIES.**

(a) Each county chair shall estimate voter turnout for each precinct using the formula set out in the following figure.

The formula for estimating turnout for the joint primary elections is:

$$(A \times B) + C + D = E$$

Where:

A = the percentage of voter turnout for the office that received the most votes in the most recent comparable party primary election (percentage is the sum of all votes cast for the office that received the most votes in the most recent comparable party primary election divided by the number of registered voters).

B = the number of registered voters as of October preceding the primary.

C = 25% of the number resulting when you multiply A x B.

D = Other party's estimated turnout figure.

E = Preliminary Estimated Turnout for Joint-Primary Election.

(b) The county election officer shall combine the turnout estimates provided by each party chair for each joint-primary precinct.

(c) The county election officer shall enter this information in Section B of the Joint Primary Resolution.

The provisions of this §81.152 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective November 9, 2015, 40 TexReg 7811

**Sec. 81.153. DELIVERY OF ELECTION RECORDS AND SUPPLIES.** (a) In joint precincts using an electronic voting system in which only one ballot box or only one voting unit is used, the co-judge from the party whose candidate for governor received the highest number of votes in the precinct or consolidated precinct in the most recent gubernatorial general election shall deliver the election supplies, including the voting unit containing the vote totals. (Note: A county election officer may use separate ballot boxes for each party when using electronic voting systems, if applicable.)

(b) The co-judge of the party whose candidate for governor received the highest number of votes in the precinct or consolidated precinct in the most recent gubernatorial general election may designate the other co-judge or a clerk to deliver the ballot box and/or device containing the vote totals.

(c) In a jurisdiction using paper ballots, each co-judge shall deliver their party's ballot box and election returns.

The provisions of this §81.153 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209.

**Sec. 81.154. BALLOTS FOR JOINT PRIMARY ELECTIONS.** The county election officer shall prepare ballots in a joint primary so that each party's ballots are easily distinguishable. The county election officer may use different colors of paper in order to achieve this distinction. (Note: Yellow paper may not be used. Only sample ballots may be printed on yellow paper.)

The provisions of this §81.154 adopted to be effective November 18, 2003, 28 TexReg 10202; amended to be effective March 7, 2012, 37 TexReg 1483.

**Sec. 81.155. RETURNING SURPLUS FUNDS.** Following final payment of necessary expenses for conducting the joint primary elections, not later than August 31 of the year in which the primary elections occur, and upon the SOS approval of all final costs, surplus primary funds shall be remitted to the SOS. If a final cost report is not filed with the SOS, the matter may be reported to the Attorney General's Office in accordance with §81.113 of this chapter (relating to Misuse of State Funds).

The provisions of this §81.155 adopted to be effective December 13, 2009, 34 TexReg 8665; amended to be effective March 7, 2012, 37 TexReg 1483; amended to be effective January 9, 2014, 39 TexReg 209; amended to be effective October 29, 2017, 42 TexReg 5853.

**Sec. 81.156. LIABILITY OF COUNTY ELECTION OFFICER.** The county election officer is not liable, in his or her official or individual capacity, for debts related to the conduct of a joint primary incurred by the county executive committee or county chairs resulting from an insufficient legislative appropriation.

The provisions of this §81.156 adopted to be effective November 18, 2003, 28 TexReg 10202; amended to be effective March 7, 2012, 37 TexReg 1483.

**Sec. 81.157. JOINT-PRIMARY CONTRACT WITH COUNTY ELECTION OFFICER.** (a) If a joint primary is approved, the county election officer shall supervise the primary and runoff elections, as applicable, in accordance with §172.126 of the Texas Election Code.

(b) The county chair of each political party and election officer shall enter into an election services contract.

(c) The rules set forth in §81.131 of this chapter (relating to Contracting with the County Election Officer) apply to the contract.

The provisions of this §81.157 adopted to be effective November 9, 2015, 40 TexReg 7811.

## SUBCHAPTER H. SURPLUS ELECTION CONTRACT FUNDS

**Sec. 81.161. DISBURSEMENT OF SURPLUS FUNDS FROM ELECTION SERVICE CONTRACTS UNDER THE TEXAS ELECTION CODE, §31.003.** (a) The Election Code, §31.100(g), states that the commissioners court may not consider the availability of the election services contract fund in adopting the budget for the office of the county election officer. Pursuant to the above section, surplus election contract funds may not be used to fund the day to day operation of the office of the county election officer. Examples of day to day expenses include, but are not limited to, duties required by statute, such as the necessary administrative personnel, office space and equipment, ballots, election kits, poll lists, and early voting and election day workers.

(b) The Election Code, §31.100(f), requires that a surplus in the county election services contract fund may be used only to defray expenses of the county election officer's office in connection with election-related duties or functions. Examples of expense that may be paid with surplus contract funds include, but are not limited to, any duty which is election-related but not specifically required by statute, such as polling location mailouts, travel to election seminars, purchase of voting equipment changes or upgrades, and technology upgrades for the election office (computers).

(c) If the county election officer determines that a funding request qualifies under subsection (b) of this section and should be paid from surplus election service contract funds, said request shall be made in writing to the county commissioners court. The commissioners court shall handle the county election officer's request following normal county purchasing policies and guidelines and may either approve or deny the request. In no instance may the commissioners court approve the use of surplus election contract funds without the written approval of the county election officer.

The provisions of this §81.161 adopted to be effective July 29, 1993, 18 TexReg 4639.

## SUBCHAPTER J. VOTER EDUCATION

**Sec. 81.301. ORDERED STUDENT MOCK ELECTIONS.** The secretary of state shall prescribe any procedures necessary to implement this section and ensure that the conduct of a student mock election does not affect the proper and efficient conduct of a general, special, or primary election.

(1) A student mock election may be ordered by:

(A) the commissioners court, for a student mock election held in conjunction with an election ordered by the governor or a county authority;

(B) the governing body of a political subdivision, for a student mock election held in conjunction with an election of the political subdivision;

(C) the county executive committee, for a student mock election held in conjunction with a primary election.

(2) If a student mock election is ordered by the commissioners court, governing body of a political subdivision, or the county executive committee to be held in the adult polling place, it may only be held on election day or the day before the election, pursuant to the Election Code, §276.007. The restrictions set forth in §276.007 only apply to student mock elections held in conjunction with a general, special, or primary election.

(3) The authority ordering a student mock election shall specify in the order each grade that may participate in the election. A student in a specified grade may enter a designated polling place or specified locale for the purpose of casting an unofficial ballot in the student election on the same offices and measures that appear on the official ballot.

(4) The student mock election, if held in conjunction with a general, special, or primary election, shall not be disruptive nor infringe upon any rights provided a legal registered voter.

(A) The student mock election shall be implemented and conducted in accordance with the Election Code and laws of the State of Texas (whether or not conducted in the adult polling place), insofar as they are applicable, except as otherwise provided by these rules, or any directive from the secretary of state's office.

(B) An official polling place may be used to conduct a student mock election by an entity, provided that the entity has submitted an application to the secretary of state's office pursuant to the rules and guidelines hereby prescribed and has secured final approval from the local authority and the secretary of state before the 60th day before the day of the student election. (The application is available through the secretary of state's office.)

(C) A student mock election voting booth (or other voting system) shall not be within 50 feet of an adult voting booth that is located in the same room. The regular election judge may exercise his or her statutory authority to maintain order in the polling place to ensure that the mock election is not disruptive. Nothing in these rules shall be construed to lessen the authority of the regular election judge. Note: an exception to the distance requirement may be obtained with written permission from the secretary of state's office no later than 60 days before the day of the student

election.

(5) If it is not feasible to hold the student mock election in the same polling area as the regular election, an alternate location may be selected. The authority ordering the election shall determine the polling locations. The alternate sites should be selected to serve the convenience of the students and accompanying adults, without disrupting the adult voters. Recommended sites include the schools or other locations within the same building as the regular polling place.

(A) The student mock election may be held at any time during the hours of 7 a.m. to 7 p.m., but the mock election is not required to remain open the entire time.

(B) The student mock election is not required to use the same number of polling places or the same locations as the regular election.

(6) As practicable, the student mock election should adopt the voting system most prevalent in the students' community. If such a voting system is not available, any other voting system authorized by the election code may be used.

(7) Regardless of the location of the student mock election polling area, no unauthorized persons, telephones, or any type of mechanical or electronic recording equipment are allowed within the mock polling area.

(8) The election officers serving in the official election may not serve in the student mock election. The authority ordering the election shall appoint a separate set of election officers to conduct the student mock election. All student mock election officers and organizers must be community volunteers. No county or state funds may be used for payment of election judges and clerks.

(9) Tabulation of the results may begin at the time specified by the Election Code for the voting system used. Student mock election results may not be announced until after the adult polling places are closed on election day (7 p.m.).

The provisions of this §81.301 adopted to be effective June 25, 1992, 17 TexReg 4249.

## **SUBCHAPTER K. IMPLEMENTATION OF THE NATIONAL VOTER REGISTRATION ACT**

**Sec. 81.402. AGENCY BASED REGISTRATION AND REVIEW OF CITIZENSHIP.** (a) Only voter registration agencies which require clients to update citizenship status at each renewal of service, change of address, or other contact may use the updated file information on citizenship to make determinations of eligibility under the Texas Election Code (the "Code"), §20.006(b).

(b) "Voter Registration Agency" refers to those state and local agencies defined in the Code, §20.001.

The provisions of this §81.402 adopted to be effective March 24, 1997, 22 TexReg 2607.

## **SUBCHAPTER L. ELECTRONIC STORAGE MEDIUM STANDARDS**

**Sec. 81.412. OPTICAL STORAGE METHOD.** A voter registrar who records voter registration data for storage purposes on optical disk or other computer storage medium, shall follow the procedures for such storage as set forth in the rules of the Texas State Library and Archives Commission under Title 13 Texas Administrative Code, Chapter 7, Subchapter C, concerning Standards and Procedures for Management of Electronic Records. This rule is authorized and is pursuant to Chapter 205 of the Texas Local Government Code.

The provisions of this §81.412 adopted to be effective May 9, 2002, 27 TexReg 3753.

## **SUBCHAPTER M. IMPLEMENTATION OF THE MILITARY AND OVERSEAS VOTER EMPOWERMENT ACT**

**Sec. 81.420. MODIFICATIONS OF ELECTION DATES AND PROCEDURES UNDER SENATE BILL 100 AND THE MOVE ACT.** The Office of Secretary of State issues the following clarifications and adjustments to election procedures and deadlines pursuant to Act of May 31, 2011, 82nd Leg., R.S., Chapter 1318, §50.

(1) Notwithstanding §41.001(c), Texas Election Code, upon the approval of the Office of the Secretary of State, a runoff election under §2.025 may be ordered no earlier than twenty (20) days after the runoff primary held the fourth Tuesday in May under §41.007(b).

(2) Notwithstanding §202.006(a), Texas Election Code, if a vacancy in an office of the state or county government occurs after the 5th day before the date of the regular primary filing deadline, the political party's state, district, county or precinct executive committee, as appropriate, may nominate a candidate for the unexpired term.

The provisions of this §81.420 adopted to be effective September 29, 2011, 36 TexReg 6253; amended to be effective May 27, 2014, 39 TexReg 3981.

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## ***Selected Provisions, Texas Constitution – ARTICLE 1. BILL OF RIGHTS***

**Sec. 28. SUSPENSION OF LAWS.** No power of suspending laws in this State shall be exercised except by the Legislature.  
Feb. 15, 1876.

### **ARTICLE 3. LEGISLATIVE DEPARTMENT**

**Sec. 2. MEMBERSHIP OF SENATE AND HOUSE OF REPRESENTATIVES.** The Senate shall consist of thirty-one members. The House of Representatives shall consist of 150 members.  
Feb. 15, 1876. Amended Nov. 2, 1999.

**Sec. 3. ELECTION AND TERM OF OFFICE OF SENATORS.** The Senators shall be chosen by the qualified voters for the term of four years; but a new Senate shall be chosen after every apportionment, and the Senators elected after each apportionment shall be divided by lot into two classes. The seats of the Senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one half of the Senators shall be chosen biennially thereafter. Senators shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected.  
Feb. 15, 1876. Amended Nov. 8, 1966, and Nov. 2, 1999.

**Sec. 4. ELECTION AND TERM OF MEMBERS OF HOUSE OF REPRESENTATIVES.** The Members of the House of Representatives shall be chosen by the qualified voters for the term of two years. Representatives shall take office following their election, on the day set by law for the convening of the Regular Session of the Legislature, and shall serve thereafter for the full term of years to which elected.  
Feb. 15, 1876. Amended Nov. 8, 1966, and Nov. 2, 1999.

**Sec. 5. MEETINGS; ORDER OF BUSINESS.** (a) The Legislature shall meet every two years at such time as may be provided by law and at other times when convened by the Governor.

(b) When convened in regular Session, the first thirty days thereof shall be devoted to the introduction of bills and resolutions, acting upon emergency appropriations, passing upon the confirmation of the recess appointees of the Governor and such emergency matters as may be submitted by the Governor in special messages to the Legislature. During the succeeding thirty days of the regular session of the Legislature the various committees of each House shall hold hearings to consider all bills and resolutions and other matters then pending; and such emergency matters as may be submitted by the Governor. During the remainder of the session the Legislature shall act upon such bills and resolutions as may be then pending and upon such emergency matters as may be submitted by the Governor in special messages to the Legislature.

(c) Notwithstanding Subsection (b), either House may determine its order of business by an affirmative vote of four-fifths of its membership.  
Feb. 15, 1876. Amended Nov. 4, 1930, and Nov. 2, 1999.

**Sec. 6. QUALIFICATIONS OF SENATORS.** No person shall be a Senator, unless he be a citizen of the United States, and, at the time of his election a qualified voter of this State, and shall have been a resident of this State five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years.  
Feb. 15, 1876. Amended Nov. 2, 1999.

**Sec. 7. QUALIFICATIONS OF REPRESENTATIVES.** No person shall be a Representative, unless he be a citizen of the United States, and, at the time of his election, a qualified voter of this State, and shall have been a resident of this State two years next preceding his election, the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-one years.  
Feb. 15, 1876. Amended Nov. 2, 1999.

**Sec. 8. EACH HOUSE JUDGE OF QUALIFICATIONS AND ELECTION OF ITS MEMBERS; ELECTION CONTESTS.** Each House shall be the judge of the qualifications and election of its own members; but contested elections shall be determined in such manner as shall be provided by law.



Feb. 15, 1876.

**Sec. 9. PRESIDENT PRO TEMPORE OF SENATE; LIEUTENANT GOVERNOR VACANCY; SPEAKER OF HOUSE OF REPRESENTATIVES; OTHER OFFICERS.** (a) The Senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members President pro tempore, who shall perform the duties of the Lieutenant Governor in any case of absence or temporary disability of that officer. If the office of Lieutenant Governor becomes vacant, the President pro tempore of the Senate shall convene the Committee of the Whole Senate within 30 days after the vacancy occurs. The Committee of the Whole shall elect one of its members to perform the duties of the Lieutenant Governor in addition to the member's duties as Senator until the next general election. If the Senator so elected ceases to be a Senator before the election of a new Lieutenant Governor, another Senator shall be elected in the same manner to perform the duties of the Lieutenant Governor until the next general election. Until the Committee of the Whole elects one of its members for this purpose, the President pro tempore shall perform the duties of the Lieutenant Governor as provided by this subsection.

(b) The House of Representatives shall, when it first assembles, organize temporarily, and thereupon proceed to the election of a Speaker from its own members.

(c) Each House shall choose its other officers.

Feb. 15, 1876. Amended Nov. 6, 1984; Subsec. (a) amended Nov. 2, 1999.

**Sec. 10. QUORUM; ADJOURNMENTS FROM DAY TO DAY; COMPELLING ATTENDANCE.** Two-thirds of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each House may provide.

Feb. 15, 1876.

**Sec. 11. RULES OF PROCEDURE; PUNISHMENT OR EXPULSION OF MEMBER.** Each House may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offence.

Feb. 15, 1876.

**Sec. 12. JOURNALS OF PROCEEDINGS; RECORD VOTES.** (a) Each house of the legislature shall keep a journal of its proceedings, and publish the same.

(b) A vote taken by either house must be by record vote with the vote of each member entered in the journal of that house if the vote is on final passage of a bill, a resolution proposing or ratifying a constitutional amendment, or another resolution other than a resolution of a purely ceremonial or honorary nature. Either house by rule may provide for exceptions to this requirement for a bill that applies only to one district or political subdivision of this state. For purposes of this subsection, a vote on final passage includes a vote on third reading in a house, or on second reading if the house suspends the requirement for three readings, on whether to concur in the other house's amendments, and on whether to adopt a conference committee report.

(c) The yeas and nays of the members of either house on any other question shall, at the desire of any three members present, be entered on the journals.

(d) Each house shall make each record vote required under Subsection (b) of this section, including the vote of each individual member as recorded in the journal of that house, available to the public for a reasonable period of not less than two years through the Internet or a successor electronic communications system accessible by the public. For a record vote on a bill or on a resolution proposing or ratifying a constitutional amendment, the record vote must be accessible to the public by reference to the designated number of the bill or resolution and by reference to its subject.

Feb. 15, 1876. Subsecs. (a) and (c) amended, and (b) and (d) added Nov. 6, 2007.

**Sec. 13. VACANCY IN LEGISLATURE.** (a) When vacancies occur in either House, the Governor, or the person exercising the power of the Governor, shall issue writs of election to fill such vacancies; and should the Governor fail to issue a writ of election to fill any such vacancy within twenty days after it occurs, the returning officer of the district in which such vacancy may have happened, shall be authorized to order an election for that purpose.

(b) The legislature may provide by general law for the filling of a vacancy in the legislature without an election if only one person qualifies and declares a candidacy in an election to fill the vacancy.

Feb. 15, 1876. Amended Nov. 6, 2001.

**Sec. 18. INELIGIBILITY FOR OTHER OFFICES; VOTING FOR OTHER MEMBERS; INTEREST IN STATE OR COUNTY CONTRACTS.** No Senator or Representative shall, during the term for which he was elected, be eligible to (1) any civil office of profit under this State which shall have been created, or the emoluments of which may have been increased,

during such term, or (2) any office or place, the appointment to which may be made, in whole or in part, by either branch of the Legislature; provided, however, the fact that the term of office of Senators and Representatives does not end precisely on the last day of December but extends a few days into January of the succeeding year shall be considered as de minimis, and the ineligibility herein created shall terminate on the last day in December of the last full calendar year of the term for which he was elected. No member of either House shall vote for any other member for any office whatever, which may be filled by a vote of the Legislature, except in such cases as are in this Constitution provided, nor shall any member of the Legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he was elected.

Feb. 15, 1876. Amended Nov. 5, 1968.

**Sec. 19. INELIGIBILITY OF PERSONS HOLDING OTHER OFFICES.** No judge of any Court, Secretary of State, Attorney General, Clerk of any Court of Record, or any person holding a lucrative office under the United States, or this State, or any foreign government shall during the term for which he is elected or appointed, be eligible to the Legislature.

Feb. 15, 1876.

**Sec. 20. ELIGIBILITY OF COLLECTORS OF TAXES OR PERSONS ENTRUSTED WITH PUBLIC MONEY.** No person who at any time may have been a collector of taxes, or who may have been otherwise entrusted with public money, shall be eligible to the Legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, or for all public moneys with which he may have been entrusted.

Feb. 15, 1876.

**Sec. 23. VACANCY FOLLOWING REMOVAL FROM DISTRICT OR COUNTY FROM WHICH ELECTED.** If any Senator or Representative remove his residence from the district or county for which he was elected, his office shall thereby become vacant, and the vacancy shall be filled as provided in section 13 of this article.

Feb. 15, 1876.

**Sec. 24a. TEXAS ETHICS COMMISSION; LEGISLATIVE SALARIES AND PER DIEM.** (a) The Texas Ethics Commission is a state agency consisting of the following eight members:

(1) two members of different political parties appointed by the governor from a list of at least 10 names submitted by the members of the house of representatives from each political party required by law to hold a primary;

(2) two members of different political parties appointed by the governor from a list of at least 10 names submitted by the members of the senate from each political party required by law to hold a primary;

(3) two members of different political parties appointed by the speaker of the house of representatives from a list of at least 10 names submitted by the members of the house from each political party required by law to hold a primary; and

(4) two members of different political parties appointed by the lieutenant governor from a list of at least 10 names submitted by the members of the senate from each political party required by law to hold a primary.

(b) The governor may reject all names on any list submitted under Subsection (a)(1) or (2) of this section and require a new list to be submitted. The members of the commission shall elect annually the chairman of the commission.

(c) With the exception of the initial appointees, commission members serve for four-year terms. Each appointing official will make one initial appointment for a two-year term and one initial appointment for a four-year term. A vacancy on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointment. A member who has served for one term and any part of a second term is not eligible for reappointment.

(d) The commission has the powers and duties provided by law.

(e) The commission may recommend the salary of the members of the legislature and may recommend that the salary of the speaker of the house of representatives and the lieutenant governor be set at an amount higher than that of other members. The commission shall set the per diem of members of the legislature and the lieutenant governor, and the per diem shall reflect reasonable estimates of costs and may be raised or lowered biennially as necessary to pay those costs, but the per diem may not exceed during a calendar year the amount allowed as of January 1 of that year for federal income tax purposes as a deduction for living expenses incurred in a legislative day by a state legislator in connection with the legislator's business as a legislator, disregarding any exception in federal law for legislators residing near the Capitol.

(f) At each general election for state and county officers following a proposed change in salary, the voters shall approve or disapprove the salary recommended by the commission if the commission recommends a change in salary. If the voters disapprove the salary, the salary continues at the amount paid immediately before disapproval until another amount is recommended by the commission and approved by the voters. If the voters approve the salary, the approved salary takes effect

January 1 of the next odd-numbered year.  
Added Nov. 5, 1991.

**Sec. 25. SENATORIAL DISTRICTS.** The State shall be divided into Senatorial Districts of contiguous territory, and each district shall be entitled to elect one Senator.  
Feb. 15, 1876. Amended Nov. 6, 2001.

**Sec. 26. APPORTIONMENT OF MEMBERS OF HOUSE OF REPRESENTATIVES.** The members of the House of Representatives shall be apportioned among the several counties, according to the number of population in each, as nearly as may be, on a ratio obtained by dividing the population of the State, as ascertained by the most recent United States census, by the number of members of which the House is composed; provided, that whenever a single county has sufficient population to be entitled to a Representative, such county shall be formed into a separate Representative District, and when two or more counties are required to make up the ratio of representation, such counties shall be contiguous to each other; and when any one county has more than sufficient population to be entitled to one or more representatives, such representative or representatives shall be apportioned to such county, and for any surplus of population it may be joined in a Representative District with any other contiguous county or counties.  
Feb. 15, 1876.

**Sec. 27. ELECTIONS FOR LEGISLATORS.** Elections for Senators and Representatives shall be general throughout the State, and shall be regulated by law.  
Feb. 15, 1876.

**Sec. 28. TIME FOR APPORTIONMENT; APPORTIONMENT BY LEGISLATIVE REDISTRICTING BOARD.** The Legislature shall, at its first regular session after the publication of each United States decennial census, apportion the state into senatorial and representative districts, agreeable to the provisions of Sections 25 and 26 of this Article. In the event the Legislature shall at any such first regular session following the publication of a United States decennial census, fail to make such apportionment, same shall be done by the Legislative Redistricting Board of Texas, which is hereby created, and shall be composed of five (5) members, as follows: The Lieutenant Governor, the Speaker of the House of Representatives, the Attorney General, the Comptroller of Public Accounts and the Commissioner of the General Land Office, a majority of whom shall constitute a quorum. Said Board shall assemble in the City of Austin within ninety (90) days after the final adjournment of such regular session. The Board shall, within sixty (60) days after assembling, apportion the state into senatorial and representative districts, or into senatorial or representative districts, as the failure of action of such Legislature may make necessary. Such apportionment shall be in writing and signed by three (3) or more of the members of the Board duly acknowledged as the act and deed of such Board, and, when so executed and filed with the Secretary of State, shall have force and effect of law. Such apportionment shall become effective at the next succeeding statewide general election. The Supreme Court of Texas shall have jurisdiction to compel such Board to perform its duties in accordance with the provisions of this section by writ of mandamus or other extraordinary writs conformable to the usages of law. The Legislature shall provide necessary funds for clerical and technical aid and for other expenses incidental to the work of the Board, and the Lieutenant Governor and the Speaker of the House of Representatives shall be entitled to receive per diem and travel expense during the Board's session in the same manner and amount as they would receive while attending a special session of the Legislature.  
Feb. 15, 1876. Amended Nov. 2, 1948, and Nov. 6, 2001.

**Sec. 44. COMPENSATION OF PUBLIC OFFICIALS AND CONTRACTORS; EXTRA COMPENSATION; UNAUTHORIZED CLAIMS; UNAUTHORIZED EMPLOYMENT.** The Legislature shall provide by law for the compensation of all officers, servants, agents and public contractors, not provided for in this Constitution, but shall not grant extra compensation to any officer, agent, servant, or public contractors, after such public service shall have been performed or contract entered into, for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the Treasury of the State, to any individual, on a claim, real or pretended, when the same shall not have been provided for by pre-existing law; nor employ any one in the name of the State, unless authorized by pre-existing law.  
Feb. 15, 1876.

**Sec. 47. PROHIBITION ON LOTTERIES AND GIFT ENTERPRISES; EXCEPTIONS FOR CHARITABLE BINGO, CHARITABLE RAFFLES, AND STATE LOTTERIES.** (a) The Legislature shall pass laws prohibiting lotteries and gift enterprises in this State other than those authorized by Subsections (b), (d), (d-1), and (e) of this section.

(b) The Legislature by law may authorize and regulate bingo games conducted by a church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting

medical research or treatment programs. A law enacted under this subsection must permit the qualified voters of any county, justice precinct, or incorporated city or town to determine from time to time by a majority vote of the qualified voters voting on the question at an election whether bingo games may be held in the county, justice precinct, or city or town. The law must also require that:

- (1) all proceeds from the games are spent in Texas for charitable purposes of the organizations;
- (2) the games are limited to one location as defined by law on property owned or leased by the church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs; and
- (3) the games are conducted, promoted, and administered by members of the church, synagogue, religious society, volunteer fire department, nonprofit veterans organization, fraternal organization, or nonprofit organization supporting medical research or treatment programs.

(c) The law enacted by the Legislature authorizing bingo games must include:

- (1) a requirement that the entities conducting the games report quarterly to the Comptroller of Public Accounts about the amount of proceeds that the entities collect from the games and the purposes for which the proceeds are spent; and

- (2) criminal or civil penalties to enforce the reporting requirement.

(d) The Legislature by general law may permit charitable raffles conducted by a qualified religious society, qualified volunteer fire department, qualified volunteer emergency medical service, or qualified nonprofit organizations under the terms and conditions imposed by general law. The law must also require that:

- (1) all proceeds from the sale of tickets for the raffle must be spent for the charitable purposes of the organizations; and

- (2) the charitable raffle is conducted, promoted, and administered exclusively by members of the qualified religious society, qualified volunteer fire department, qualified volunteer emergency medical service, or qualified nonprofit organization.

(d-1) The legislature by general law may permit a professional sports team charitable foundation to conduct charitable raffles under the terms and conditions imposed by general law. The law may authorize the charitable foundation to pay with the raffle proceeds reasonable advertising, promotional, and administrative expenses. A law enacted under this subsection applies only to an entity defined as a professional sports team charitable foundation under that law and may only allow charitable raffles to be conducted at games or rodeo events hosted at the home venue of the professional sports team associated with a professional sports team charitable foundation. In this subsection, "professional sports team" means:

- (1) a team organized in this state that is a member of Major League Baseball, the National Basketball Association, the National Hockey League, the National Football League, Major League Soccer, the American Hockey League, the East Coast Hockey League, the American Association of Independent Professional Baseball, the Atlantic League of Professional Baseball, Minor League Baseball, the National Basketball Association Development League, the National Women's Soccer League, the Major Arena Soccer League, the United Soccer League, or the Women's National Basketball Association;

- (2) a person hosting a motorsports racing team event sanctioned by the National Association for Stock Car Auto Racing (NASCAR), INDYCar, or another nationally recognized motorsports racing association at a venue in this state with a permanent seating capacity of not less than 75,000;

- (3) an organization hosting a Professional Golf Association event;

- (4) an organization sanctioned by the Professional Rodeo Cowboys Association or the Women's Professional Rodeo Association; or

- (5) any other professional sports team defined by law.

(d-2) Subsection (a) of this section does not prohibit the legislature from authorizing credit unions and other financial institutions to conduct, under the terms and conditions imposed by general law, promotional activities to promote savings in which prizes are awarded to one or more of the credit union's or financial institution's depositors selected by lot.

(e) The Legislature by general law may authorize the State to operate lotteries and may authorize the State to enter into a contract with one or more legal entities that will operate lotteries on behalf of the State.

Feb. 15, 1876. Subsec. (a) amended and (b) and (c) added Nov. 4, 1980; Subsec. (a) amended and (d) added Nov. 7, 1989; Subsec. (a) amended and (e) added Nov. 5, 1991; Subsec. (a) amended and (d-1) added Nov. 3, 2015; Subsec. (d-1) amended and (d-2) added Nov. 7, 2017; Subsec. (d-1) amended Nov. 2, 2021.

**Sec. 48-e. EMERGENCY SERVICES DISTRICTS.** Laws may be enacted to provide for the establishment and creation of special districts to provide emergency services and to authorize the commissioners courts of participating counties to levy a tax on the ad valorem property situated in said districts not to exceed Ten Cents (10¢) on the One Hundred Dollars (\$100.00)

valuation for the support thereof; provided that no tax shall be levied in support of said districts until approved by a vote of the qualified voters residing therein. Such a district may provide emergency medical services, emergency ambulance services, rural fire prevention and control services, or other emergency services authorized by the Legislature.

Added Nov. 3, 1987; amended Nov. 2, 1999.

**Sec. 48-f. JAIL DISTRICTS.** The legislature, by law, may provide for the creation, operation, and financing of jail districts and may authorize each district to issue bonds and other obligations and to levy an ad valorem tax on property located in the district to pay principal of and interest on the bonds and to pay for operation of the district. An ad valorem tax may not be levied and bonds secured by a property tax may not be issued until approved by the qualified voters of the district voting at an election called and held for that purpose.

Added Nov. 3, 1987; amended Nov. 4, 1997, and Nov. 2, 1999.

**Sec. 49. STATE DEBTS.** (a) No debt shall be created by or on behalf of the State, except:

- (1) to supply casual deficiencies of revenue, not to exceed in the aggregate at any one time two hundred thousand dollars;
- (2) to repel invasion, suppress insurrection, or defend the State in war;
- (3) as otherwise authorized by this constitution; or
- (4) as authorized by Subsections (b) through (f) of this section.

(b) The legislature, by joint resolution approved by at least two-thirds of the members of each house, may from time to time call an election and submit to the eligible voters of this State one or more propositions that, if approved by a majority of those voting on the question, authorize the legislature to create State debt for the purposes and subject to the limitations stated in the applicable proposition. Each election and proposition must conform to the requirements of Subsections (c) and (d) of this section.

(c) The legislature may call an election during any regular session of the legislature or during any special session of the legislature in which the subject of the election is designated in the governor's proclamation for that special session. The election may be held on any date, and notice of the election shall be given for the period and in the manner required for amending this constitution. The election shall be held in each county in the manner provided by law for other statewide elections.

(d) A proposition must clearly describe the amount and purpose for which debt is to be created and must describe the source of payment for the debt. Except as provided by law under Subsection (f) of this section, the amount of debt stated in the proposition may not be exceeded and may not be renewed after the debt has been created unless the right to exceed or renew is stated in the proposition.

(e) The legislature may enact all laws necessary or appropriate to implement the authority granted by a proposition that is approved as provided by Subsection (b) of this section. A law enacted in anticipation of the election is valid if, by its terms, it is subject to the approval of the related proposition.

(f) State debt that is created or issued as provided by Subsection (b) of this section may be refunded in the manner and amount and subject to the conditions provided by law.

(g) State debt that is created or issued as provided by Subsections (b) through (f) of this section and that is approved by the attorney general in accordance with applicable law is incontestable for any reason.

Feb. 15, 1876. Subsec. (a) amended and (b)-(g) added Nov. 5, 1991.

**Sec. 51. GRANTS OF PUBLIC MONEY PROHIBITED.** The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; provided that the provisions of this Section shall not be construed so as to prevent the grant of aid in cases of public calamity.

Feb. 15, 1876. Amended Nov. 6, 1894, Nov. 1, 1898, Nov. 8, 1904, Nov. 8, 1910, Nov. 5, 1912, Nov. 4, 1924, Nov. 6, 1928, Nov. 5, 1968, and Nov. 2, 1999

**Sec. 52. RESTRICTIONS ON LENDING CREDIT OR MAKING GRANTS BY POLITICAL CORPORATIONS OR POLITICAL SUBDIVISIONS; AUTHORIZED BONDS; INVESTMENT OF FUNDS.** (a) Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company. However, this section does not prohibit the use of public funds or credit for the payment of premiums on nonassessable property and casualty, life, health, or accident insurance policies and annuity contracts issued by a mutual insurance company authorized to do business in

this State.

(b) Under Legislative provision, any county, political subdivision of a county, number of adjoining counties, political subdivision of the State, or defined district now or hereafter to be described and defined within the State of Texas, and which may or may not include, towns, villages or municipal corporations, upon a vote of two-thirds majority of the voting qualified voters of such district or territory to be affected thereby, may issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such district or territory, except that the total bonded indebtedness of any city or town shall never exceed the limits imposed by other provisions of this Constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, as the Legislature may authorize, and in such manner as it may authorize the same, for the following purposes to wit:

(1) The improvement of rivers, creeks, and streams to prevent overflows, and to permit of navigation thereof, or irrigation thereof, or in aid of such purposes.

(2) The construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purposes of irrigation, drainage or navigation, or in aid thereof.

(3) The construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof.

(c) Notwithstanding the provisions of Subsection (b) of this Section, bonds may be issued by any county in an amount not to exceed one-fourth of the assessed valuation of the real property in the county, for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, upon a vote of a majority of the voting qualified voters of the county, and without the necessity of further or amendatory legislation. The county may levy and collect taxes to pay the interest on the bonds as it becomes due and to provide a sinking fund for redemption of the bonds.

(d) Any defined district created under this section that is authorized to issue bonds or otherwise lend its credit for the purposes stated in Subdivisions (1) and (2) of Subsection (b) of this section may engage in fire-fighting activities and may issue bonds or otherwise lend its credit for fire-fighting purposes as provided by law and this constitution.

(e) A county, city, town, or other political corporation or subdivision of the state may invest its funds as authorized by law.

Feb. 15, 1876. Amended Nov. 8, 1904; Subsecs. (a) and (b) amended and (c) added Nov. 3, 1970; Subsec. (d) added Nov. 7, 1978; Subsec. (a) amended Nov. 4, 1986; Subsec. (e) added Nov. 7, 1989; Subsecs. (a), (b), and (c) amended Nov. 2, 1999.

**Sec. 52-a. PROGRAMS AND LOANS OR GRANTS OF PUBLIC MONEY FOR ECONOMIC DEVELOPMENT.**

Notwithstanding any other provision of this constitution, the legislature may provide for the creation of programs and the making of loans and grants of public money, other than money otherwise dedicated by this constitution to use for a different purpose, for the public purposes of development and diversification of the economy of the state, the elimination of unemployment or underemployment in the state, the stimulation of agricultural innovation, the fostering of the growth of enterprises based on agriculture, or the development or expansion of transportation or commerce in the state. Any bonds or other obligations of a county, municipality, or other political subdivision of the state that are issued for the purpose of making loans or grants in connection with a program authorized by the legislature under this section and that are payable from ad valorem taxes must be approved by a vote of the majority of the registered voters of the county, municipality, or political subdivision voting on the issue. A program created or a loan or grant made as provided by this section that is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the political subdivision does not constitute or create a debt for the purpose of any provision of this constitution. An enabling law enacted by the legislature in anticipation of the adoption of this amendment is not void because of its anticipatory character.

Added Nov. 3, 1987; amended Nov. 8, 2005.

**Sec. 52d. COUNTY OR ROAD DISTRICT TAX FOR ROAD AND BRIDGE PURPOSES IN HARRIS COUNTY.** (a)

Upon the vote of a majority of the qualified voters so authorizing, a county or road district may collect an annual tax for a period not exceeding five (5) years to create a fund for constructing lasting and permanent roads and bridges or both. No contract involving the expenditure of any of such fund shall be valid unless, when it is made, money shall be on hand in such fund.

(b) At such election, the Commissioners' Court shall submit for adoption a road plan and designate the amount of special tax to be levied; the number of years said tax is to be levied; the location, description, and character of the roads and bridges; and the estimated cost thereof. The funds raised by such taxes shall not be used for purposes other than those specified in the plan submitted to the voters. Elections may be held from time to time to extend or discontinue said plan or to increase or diminish said tax. The Legislature shall enact laws prescribing the procedure hereunder.

(c) The provisions of this section shall apply only to Harris County and road districts therein.

Added Aug. 23, 1937; amended Nov. 2, 1999.

**Sec. 52g. DALLAS COUNTY BOND ISSUES FOR ROADS AND TURNPIKES.** Bonds to be issued by Dallas County under Section 52(b)(3) of Article III of this Constitution may, without the necessity of further or amendatory legislation, be issued upon a vote of a majority of the voting qualified voters of said county, and bonds heretofore or hereafter issued under Subsections (a) and (b) of said Section 52 shall not be included in determining the debt limit prescribed in said Section.

Added Nov. 5, 1968; amended Nov. 4, 1997, and Nov. 2, 1999.

**Sec. 53. PAYMENT OF EXTRA COMPENSATION OR UNAUTHORIZED CLAIMS PROHIBITED.** The Legislature shall have no power to grant, or to authorize any county or municipal authority to grant, any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered, or a contract has been entered into, and performed in whole or in part; nor pay, nor authorize the payment of, any claim created against any county or municipality of the State, under any agreement or contract, made without authority of law.

Feb. 15, 1876.

**Sec. 56. PROHIBITED LOCAL AND SPECIAL LAWS.** (a) The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:

- (1) the creation, extension or impairing of liens;
- (2) regulating the affairs of counties, cities, towns, wards or school districts;
- (3) changing the names of persons or places;
- (4) changing the venue in civil or criminal cases;
- (5) authorizing the laying out, opening, altering or maintaining of roads, highways, streets or alleys;
- (6) relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;
- (7) vacating roads, town plats, streets or alleys;
- (8) relating to cemeteries, grave-yards or public grounds not of the State;
- (9) authorizing the adoption or legitimation of children;
- (10) locating or changing county seats;
- (11) incorporating cities, towns or villages, or changing their charters;
- (12) for the opening and conducting of elections, or fixing or changing the places of voting;
- (13) granting divorces;
- (14) creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;
- (15) changing the law of descent or succession;
- (16) regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;
- (17) regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables;
- (18) regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;
- (19) fixing the rate of interest;
- (20) affecting the estates of minors, or persons under disability;
- (21) remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury;
- (22) exempting property from taxation;
- (23) regulating labor, trade, mining and manufacturing;
- (24) declaring any named person of age;
- (25) extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties, or his securities from liability;
- (26) giving effect to informal or invalid wills or deeds;
- (27) summoning or empanelling grand or petit juries;
- (28) for limitation of civil or criminal actions;
- (29) for incorporating railroads or other works of internal improvements; or
- (30) relieving or discharging any person or set of persons from the performance of any public duty or service

imposed by general law.

(b) In addition to those laws described by Subsection (a) of this section in all other cases where a general law can be made applicable, no local or special law shall be enacted; provided, that nothing herein contained shall be construed to prohibit the Legislature from passing:

(1) special laws for the preservation of the game and fish of this State in certain localities; and

(2) fence laws applicable to any subdivision of this State or counties as may be needed to meet the wants of the people.

Feb. 15, 1876. Amended Nov. 6, 2001.

**Sec. 57. NOTICE OF INTENTION TO APPLY FOR LOCAL OR SPECIAL LAW.** No local or special law shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the Legislature of such bill and in the manner to be provided by law. The evidence of such notice having been published, shall be exhibited in the Legislature, before such act shall be passed.

Feb. 15, 1876.

**Sec. 64. CONSOLIDATION OF OFFICES AND FUNCTIONS OF POLITICAL SUBDIVISIONS; CONTRACTS BETWEEN POLITICAL SUBDIVISIONS.** (a) The Legislature may by special statute provide for consolidation of governmental offices and functions of government of any one or more political subdivisions comprising or located within any county. Any such statute shall require an election to be held within the political subdivisions affected thereby with approval by a majority of the voters in each of these subdivisions, under such terms and conditions as the Legislature may require.

(b) The county government, or any political subdivision(s) comprising or located therein, may contract one with another for the performance of governmental functions required or authorized by this Constitution or the Laws of this State, under such terms and conditions as the Legislature may prescribe. No person acting under a contract made pursuant to this Subsection (b) shall be deemed to hold more than one office of honor, trust or profit or more than one civil office of emolument. The term "governmental functions," as it relates to counties, includes all duties, activities and operations of statewide importance in which the county acts for the State, as well as of local importance, whether required or authorized by this Constitution or the Laws of this State.

Added Nov. 5, 1968; Subsec. (a) amended Nov. 3, 1970.



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## ARTICLE 4. EXECUTIVE DEPARTMENT

**Sec. 1. OFFICERS CONSTITUTING EXECUTIVE DEPARTMENT.** The Executive Department of the State shall consist of a Governor, who shall be the Chief Executive Officer of the State, a Lieutenant Governor, Secretary of State, Comptroller of Public Accounts, Commissioner of the General Land Office, and Attorney General.

Feb. 15, 1876. Amended Nov. 7, 1995.

**Sec. 2. ELECTION OF OFFICERS OF EXECUTIVE DEPARTMENT.** All the above officers of the Executive Department (except Secretary of State) shall be elected by the qualified voters of the State at the time and places of election for members of the Legislature.

Feb. 15, 1876.

**Sec. 3. RETURNS OF ELECTION; DECLARATION OF ELECTION; TIE VOTES; CONTESTS.** The returns of every election for said Executive Officers, until otherwise provided by law, shall be made out, sealed up, and transmitted by the returning officers prescribed by law, to the seat of Government, directed to the Secretary of State, who shall deliver the same to the Speaker of the House of Representatives, as soon as the Speaker shall be chosen, and the said Speaker shall, during the first week of the session of the Legislature, open and publish them in the presence of both Houses of the Legislature. The person, voted for at said election, having the highest number of votes for each of said offices respectively, and being constitutionally eligible, shall be declared by the Speaker, under sanction of the Legislature, to be elected to said office. But, if two or more persons shall have the highest and an equal number of votes for either of said offices, one of them shall be immediately chosen to such office by joint vote of both Houses of the Legislature. Contested elections for either of said offices, shall be determined by both Houses of the Legislature in joint session.

Feb. 15, 1876.

**Sec. 3a. DEATH, DISABILITY, OR FAILURE TO QUALIFY OF PERSON RECEIVING HIGHEST VOTE FOR GOVERNOR.** If, at the time the Legislature shall canvass the election returns for the offices of Governor and Lieutenant Governor, the person receiving the highest number of votes for the office of Governor, as declared by the Speaker, has died, fails to qualify, or for any other reason is unable to assume the office of Governor, then the person having the highest number of votes for the office of Lieutenant Governor shall become Governor for the full term to which the person was elected as Governor. By becoming the Governor, the person forfeits the office of Lieutenant Governor, and the resulting vacancy in the office of Lieutenant Governor shall be filled as provided by Section 9, Article III, of this Constitution. If the person with the highest number of votes for the office of Governor, as declared by the Speaker, becomes temporarily unable to take office, then the Lieutenant Governor shall act as Governor until the person with the highest number of votes for the office of Governor becomes able to assume the office of Governor. Any succession to the Governorship not otherwise provided for in this Constitution, may be provided for by law; provided, however, that any person succeeding to the office of Governor shall be qualified as otherwise provided in this Constitution, and shall, during the entire term to which he may succeed, be under all the restrictions and inhibitions imposed in this Constitution on the Governor.

Added Nov. 2, 1948; amended Nov. 2, 1999.

**Sec. 4. INSTALLATION OF GOVERNOR; TERM; ELIGIBILITY.** The Governor elected at the general election in 1974, and thereafter, shall be installed on the first Tuesday after the organization of the Legislature, or as soon thereafter as practicable, and shall hold his office for the term of four years, or until his successor shall be duly installed. He shall be at least thirty years of age, a citizen of the United States, and shall have resided in this State at least five years immediately preceding his election.

Feb. 15, 1876. Amended Nov. 7, 1972.

**Sec. 6. HOLDING OTHER OFFICE, PRACTICE OF PROFESSION, AND RECEIPT OF OTHER COMPENSATION BY GOVERNOR PROHIBITED.** During the time he holds the office of Governor, he shall not hold any other office: civil, military or corporate; nor shall he practice any profession, and receive compensation, reward, fee, or the promise thereof for the same; nor receive any salary, reward or compensation or the promise thereof from any person or corporation, for any service rendered or performed during the time he is Governor, or to be thereafter rendered or performed.

Feb. 15, 1876.

**Sec. 12. VACANCIES IN STATE OR DISTRICT OFFICES.** (a) All vacancies in State or district offices, except members of the Legislature, shall be filled unless otherwise provided by law by appointment of the Governor.

(b) An appointment of the Governor made during a session of the Senate shall be with the advice and consent of two-thirds of the Senate present.

(c) In accordance with this section, the Senate may give its advice and consent on an appointment of the Governor made during a recess of the Senate. To be confirmed, the appointment must be with the advice and consent of two-thirds of the Senate present. If an appointment of the Governor is made during the recess of the Senate, the Governor shall nominate the appointee, or some other person to fill the vacancy, to the Senate during the first ten days of its next session following the appointment. If the Senate does not confirm a person under this subsection, the Governor shall nominate in accordance with this section the recess appointee or another person to fill the vacancy during the first ten days of each subsequent session of the Senate until a confirmation occurs. If the Governor does not nominate a person to the Senate during the first ten days of a session of the Senate as required by this subsection, the Senate at that session may consider the recess appointee as if the Governor had nominated the appointee.

(d) If the Senate, at any special session, does not take final action to confirm or reject a previously unconfirmed recess appointee or another person nominated to fill the vacancy for which the appointment was made:

- (1) the Governor after the session may appoint another person to fill the vacancy; and
- (2) the appointee, if otherwise qualified and if not removed as provided by law, is entitled to continue in office until the earlier of the following occurs:
  - (A) the Senate rejects the appointee at a subsequent session; or
  - (B) the Governor appoints another person to fill the vacancy under Subdivision (1) of this subsection.

(e) If the Senate, at a regular session, does not take final action to confirm or reject a previously unconfirmed recess appointee or another person nominated to fill the vacancy for which the appointment was made, the appointee or other person, as appropriate, is considered to be rejected by the Senate when the Senate session ends.

(f) If an appointee is rejected, the office shall immediately become vacant, and the Governor shall, without delay, make further nominations, until a confirmation takes place. If a person has been rejected by the Senate to fill a vacancy, the Governor may not appoint the person to fill the vacancy or, during the term of the vacancy for which the person was rejected, to fill another vacancy in the same office or on the same board, commission, or other body.

(g) Appointments to vacancies in offices elective by the people shall only continue until the next general election.

(h) The Legislature by general law may limit the term to be served by a person appointed by the Governor to fill a vacancy in a state or district office to a period that ends before the vacant term otherwise expires or, for an elective office, before the next election at which the vacancy is to be filled, if the appointment is made on or after November 1 preceding the general election for the succeeding term of the office of Governor and the Governor is not elected at that election to the succeeding term.

(i) For purposes of this section, the expiration of a term of office or the creation of a new office constitutes a vacancy. Feb. 15, 1876. Amended Nov. 3, 1987, and Nov. 6, 1990; Subsec. (j) added Nov. 6, 1990, and expired Jan. 1, 1991.

**Sec. 16. LIEUTENANT GOVERNOR.** (a) There shall also be a Lieutenant Governor, who shall be chosen at every election for Governor by the same voters, in the same manner, continue in office for the same time, and possess the same qualifications. The voters shall distinguish for whom they vote as Governor and for whom as Lieutenant Governor.

(b) The Lieutenant Governor shall by virtue of his office be President of the Senate, and shall have, when in Committee of the Whole, a right to debate and vote on all questions; and when the Senate is equally divided to give the casting vote.

(c) In the case of the temporary inability or temporary disqualification of the Governor to serve, the impeachment of the Governor, or the absence of the Governor from the State, the Lieutenant Governor shall exercise the powers and authority appertaining to the office of Governor until the Governor becomes able or qualified to resume serving, is acquitted, or returns to the State.

(d) If the Governor refuses to serve or becomes permanently unable to serve, or if the office of Governor becomes vacant, the Lieutenant Governor becomes Governor for the remainder of the term being served by the Governor who refused or became unable to serve or vacated the office. On becoming Governor, the person vacates the office of Lieutenant Governor, and the resulting vacancy in the office of Lieutenant Governor shall be filled in the manner provided by Section 9, Article III, of this Constitution.

Feb. 15, 1876. Amended Nov. 2, 1999.

**Sec. 17. PRESIDENT PRO TEMPORE OF SENATE SERVING AS GOVERNOR; COMPENSATION OF LIEUTENANT GOVERNOR AND PRESIDENT PRO TEMPORE OF SENATE.** (a) If, while exercising the powers and authority appertaining to the office of Governor under Section 16(c) of this article, the Lieutenant Governor becomes

temporarily unable or disqualified to serve, is impeached, or is absent from the State, the President pro tempore of the Senate, for the time being, shall exercise the powers and authority appertaining to the office of Governor until the Governor or Lieutenant Governor reassumes those powers and duties.

(b) The Lieutenant Governor shall, while acting as President of the Senate, receive for his or her services the same compensation and mileage which shall be allowed to the members of the Senate, and no more unless the Texas Ethics Commission recommends and the voters approve a higher salary, in which case the salary is that amount; and during the time the Lieutenant Governor exercises the powers and authority appertaining to the office of Governor, the Lieutenant Governor shall receive in like manner the same compensation which the Governor would have received had the Governor been employed in the duties of that office, and no more. An increase in the emoluments of the office of Lieutenant Governor does not make a member of the Legislature ineligible to serve in the office of Lieutenant Governor.

(c) The President pro tempore of the Senate shall, during the time that officer exercises the powers and authority appertaining to the office of Governor, receive in like manner the same compensation which the Governor would have received had the Governor been employed in the duties of that office.

Feb. 15, 1876. Amended Nov. 5, 1991, and Nov. 2, 1999.

**Sec. 21. SECRETARY OF STATE.** There shall be a Secretary of State, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and who shall continue in office during the term of service of the Governor. He shall authenticate the publication of the laws, and keep a fair register of all official acts and proceedings of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto, before the Legislature, or either House thereof, and shall perform such other duties as may be required of him by law. He shall receive for his services an annual salary in an amount to be fixed by the Legislature.

Feb. 15, 1876. Amended Nov. 3, 1936, and Nov. 2, 1954.

**Sec. 22. ATTORNEY GENERAL.** The Attorney General shall represent the State in all suits and pleas in the Supreme Court of the State in which the State may be a party, and shall especially inquire into the charter rights of all private corporations, and from time to time, in the name of the State, take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight or wharfage not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice in writing to the Governor and other executive officers, when requested by them, and perform such other duties as may be required by law.

Feb. 15, 1876. Amended Nov. 3, 1936, Nov. 2, 1954, Nov. 7, 1972, and Nov. 2, 1999.

**Sec. 23. TERM AND SALARY OF ELECTED STATE OFFICERS; FEES, COSTS, AND PERQUISITES.** The Comptroller of Public Accounts, the Commissioner of the General Land Office, the Attorney General, and any statutory State officer who is elected by the electorate of Texas at large, unless a term of office is otherwise specifically provided in this Constitution, shall each hold office for the term of four years. Each shall receive an annual salary in an amount to be fixed by the Legislature and perform such duties as are or may be required by law. They and the Secretary of State shall not receive to their own use any fees, costs or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this section or in the officer's office, shall be paid, when received, into the State Treasury.

Feb. 15, 1876. Amended Nov. 3, 1936, Nov. 2, 1954, Nov. 7, 1972, Nov. 7, 1995, Nov. 2, 1999, and Nov. 3, 2015.

**Sec. 25. BREACHES OF TRUST AND DUTY BY CUSTODIANS OF PUBLIC FUNDS.** The Legislature shall pass efficient laws facilitating the investigation of breaches of trust and duty by all custodians of public funds and providing for their suspension from office on reasonable cause shown, and for the appointment of temporary incumbents of their offices during such suspension.

Feb. 15, 1876.

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## ARTICLE 5. JUDICIAL DEPARTMENT

**Sec. 1-a. RETIREMENT, COMPENSATION, DISCIPLINE, AND REMOVAL OF JUSTICES AND JUDGES; STATE COMMISSION ON JUDICIAL CONDUCT.** (1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. The office of every such Justice and Judge shall become vacant on the expiration of the term during which the incumbent reaches the age of seventy-five (75) years or such earlier age, not less than seventy (70) years, as the Legislature may prescribe, except that if a Justice or Judge elected to serve or fill the remainder of a six-year term reaches the age of seventy-five (75) years during the first four years of the term, the office of that Justice or Judge shall become vacant on December 31 of the fourth year of the term to which the Justice or Judge was elected.

**Note: If approved by voters at an election to be held November 7, 2023, subdivision (1) of Section 1-a will read as follows:**

(1) Subject to the further provisions of this Section, the Legislature shall provide for the retirement and compensation of Justices and Judges of the Appellate Courts and District and Criminal District Courts on account of length of service, age and disability, and for their reassignment to active duty where and when needed. The office of every such Justice and Judge shall become vacant on the expiration of the term during which the incumbent reaches the age of 79 years or such earlier age, not less than 75 years, as the Legislature may prescribe.

(2) The State Commission on Judicial Conduct consists of thirteen (13) members, to wit: (i) one (1) Justice of a Court of Appeals; (ii) one (1) District Judge; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iv) five (5) citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; (v) one (1) Justice of the Peace; (vi) one (1) Judge of a Municipal Court; (vii) one (1) Judge of a County Court at Law; and (viii) one (1) Judge of a Constitutional County Court; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who shall have ceased to retain the qualifications above specified for that person's respective class of membership, and provided that a Commissioner of class (i), (ii), (iii), (vii), or (viii) may not reside or hold a judgeship in the same court of appeals district as another member of the Commission. Commissioners of classes (i), (ii), (vii), and (viii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, those of class (iv) by appointment of the Governor with advice and consent of the Senate, and the commissioners of classes (v) and (vi) by appointment of the Supreme Court as provided by law, with the advice and consent of the Senate.

(3) The regular term of office of Commissioners shall be six (6) years; but the initial members of each of classes (i), (ii) and (iii) shall respectively be chosen for terms of four (4) and six (6) years, and the initial members of class (iii) for respective terms of two (2), four (4) and six (6) years. Interim vacancies shall be filled in the same manner as vacancies due to expiration of a full term, but only for the unexpired portion of the term in question. Commissioners may succeed themselves in office only if having served less than three (3) consecutive years.

(4) Commissioners shall receive no compensation for their services as such. The Legislature shall provide for the payment of the necessary expense for the operation of the Commission.

(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall annually select one of its members as Chairman. A quorum shall consist of seven (7) members. Proceedings shall be by majority vote of those present, except that recommendations for retirement, censure, suspension, or removal of any person holding an office named in Paragraph A of Subsection (6) of this Section shall be by affirmative vote of at least seven (7) members.

(6) A. Any Justice or Judge of the courts established by this Constitution or created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice. Any person holding such office may be disciplined or censured, in lieu of removal from office, as provided by this section. Any person holding an office specified in this subsection may be suspended from office with or without pay by the Commission immediately on being indicted by a State or Federal grand jury for a felony offense or charged with a misdemeanor involving official misconduct.

On the filing of a sworn complaint charging a person holding such office with willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful and persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit on the judiciary or on the administration of justice, the Commission, after giving the person notice and an opportunity to appear and be heard before the Commission, may recommend to the Supreme Court the suspension of such person from office. The Supreme Court, after considering the record of such appearance and the recommendation of the Commission, may suspend the person from office with or without pay, pending final disposition of the charge.

B. Any person holding an office named in Paragraph A of this subsection who is eligible for retirement benefits under the laws of this state providing for judicial retirement may be involuntarily retired, and any person holding an office named in that paragraph who is not eligible for retirement benefits under such laws may be removed from office, for disability seriously interfering with the performance of his duties, which is, or is likely to become, permanent in nature.

C. The law relating to the removal, discipline, suspension, or censure of a Justice or Judge of the courts established by this Constitution or created by the Legislature as provided in this Constitution applies to a master or magistrate appointed as provided by law to serve a trial court of this State and to a retired or former Judge who continues as a judicial officer subject to an assignment to sit on a court of this State. Under the law relating to the removal of an active Justice or Judge, the Commission and the review tribunal may prohibit a retired or former Judge from holding judicial office in the future or from sitting on a court of this State by assignment.

(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court or by a Master.

(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private or public admonition, warning, reprimand, or requirement that the person obtain additional training or education, or if the Commission determines that the situation merits such action, it may institute formal proceedings and order a formal hearing to be held before it concerning a person holding an office or position specified in Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Appeals, or retired Judge or Justice of the Court of Criminal Appeals or the Supreme Court, as a Master to hear and take evidence in the matter, and to report thereon to the Commission. The Master shall have all the power of a District Judge in the enforcement of orders pertaining to witnesses, evidence, and procedure. If, after formal hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public admonition, warning, reprimand, censure, or requirement that the person holding an office or position specified in Subsection (6) of this Section obtain additional training or education, or it shall recommend to a review tribunal the removal or retirement, as the case may be, of the person and shall thereupon file with the tribunal the entire record before the Commission.

(9) A tribunal to review the Commission's recommendation for the removal or retirement of a person holding an office or position specified in Subsection (6) of this Section is composed of seven (7) Justices or Judges of the Courts of Appeals who are selected by lot by the Chief Justice of the Supreme Court. Each Court of Appeals shall designate one of its members for inclusion in the list from which the selection is made. Service on the tribunal shall be considered part of the official duties of a judge, and no additional compensation may be paid for such service. The review tribunal shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence. Within 90 days after the date on which the record is filed with the review tribunal, it shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. A Justice, Judge, Master, or Magistrate may appeal a decision of the review tribunal to the Supreme Court under the substantial evidence rule. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The review tribunal, in an order for involuntary retirement for disability or an order for removal, may prohibit such person from holding judicial office in the future. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, unless otherwise provided by law, and the filing of papers with, and the giving of testimony before the Commission or a Master shall be privileged, unless otherwise provided by law. However, the Commission may issue a public statement through its executive director or its Chairman at any time during any of its proceedings under this Section when sources other than the Commission cause notoriety concerning a Judge or the Commission itself and the Commission determines that the best interests of a Judge or of the public will be served by issuing the statement.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters, review tribunal, and the Supreme Court. Such rule shall provide the right of discovery of evidence to a Justice, Judge, Master, or Magistrate

after formal proceedings are instituted and shall afford to any person holding an office or position specified in Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters, review tribunal, and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office or position specified in Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office specified in Subsection (6) of this Section shall sit as a member of the Commission in any proceeding involving his own suspension, discipline, censure, retirement or removal.

(13) This Section 1-a is alternative to and cumulative of, the methods of removal of persons holding an office named in Paragraph A of Subsection (6) of this Section provided elsewhere in this Constitution.

(13-a) The Commission may accept complaints or reports, conduct investigations, and take any other action authorized by this section with respect to a candidate for an office named in Subsection (6)(A) of this section in the same manner the Commission is authorized to take those actions with respect to a person holding that office.

(14) The Legislature may promulgate laws in furtherance of this Section that are not inconsistent with its provisions. Added Nov. 2, 1948; Subsecs. (1)-(13) amended Nov. 2, 1965; Subsecs. (5)-(9) and (11)-(13) amended Nov. 3, 1970; Subsecs. (2), (5)-(10), and (12) amended Nov. 8, 1977; Subsecs. (2), (6), and (8)-(12) amended and (14) added Nov. 6, 1984; Subsecs. (1) and (2) amended Nov. 6, 2001; Subsecs. (2) and (5) amended Nov. 8, 2005; Subsec. (1) amended Nov. 6, 2007; Subsec. (8) amended Nov. 5, 2013; Subsec. (13-a) added Nov. 2, 2021.

**Sec. 2. SUPREME COURT; JUSTICES.** (a) The Supreme Court shall consist of the Chief Justice and eight Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters.

(b) No person shall be eligible to serve in the office of Chief Justice or Justice of the Supreme Court unless the person:

- (1) is licensed to practice law in the State of Texas;
- (2) is, at the time of election, a citizen of the United States and a resident of the State of Texas;
- (3) has attained the age of thirty-five years;
- (4) has been either:
  - (A) a practicing lawyer licensed in the State of Texas for at least ten years; or
  - (B) a practicing lawyer licensed in the State of Texas and judge of a state court or county court established by the Legislature by statute for a combined total of at least ten years; and
- (5) during the time required by Subdivision (4) of this subsection has not had the person's license to practice law revoked, suspended, or subject to a probated suspension.

(c) Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years; and shall each receive such compensation as shall be provided by law.

Feb. 15, 1876. Amended Aug. 11, 1891, Aug. 25, 1945, Nov. 4, 1980, and Nov. 6, 2001; Subsec. (b) amended Nov. 2, 2021.

**Sec. 3. JURISDICTION OF SUPREME COURT.** (a) The Supreme Court shall exercise the judicial power of the state except as otherwise provided in this Constitution. Its jurisdiction shall be coextensive with the limits of the State and its determinations shall be final except in criminal law matters. Its appellate jurisdiction shall be final and shall extend to all cases except in criminal law matters and as otherwise provided in this Constitution or by law. The Supreme Court and the Justices thereof shall have power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law, the said courts and the Justices thereof may issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction. The Legislature may confer original jurisdiction on the Supreme Court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the Governor of the State.

(b) The Supreme Court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

Feb. 15, 1876. Amended Aug. 11, 1891, Nov. 4, 1930, Nov. 4, 1980, and Nov. 6, 2001.

**Sec. 4. COURT OF CRIMINAL APPEALS; JUDGES.** (a) The Court of Criminal Appeals shall consist of eight Judges and one Presiding Judge. The Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court, and the Presiding Judge shall have the same qualifications and receive the same salary as the Chief Justice of the Supreme Court. The Presiding Judge and the Judges shall be elected by the qualified voters of the state at a



general election and shall hold their offices for a term of six years.

(b) For the purpose of hearing cases, the Court of Criminal Appeals may sit in panels of three Judges, the designation thereof to be under rules established by the court. In a panel of three Judges, two Judges shall constitute a quorum and the concurrence of two Judges shall be necessary for a decision. The Presiding Judge, under rules established by the court, shall convene the court en banc for the transaction of all other business and may convene the court en banc for the purpose of hearing cases. The court must sit en banc during proceedings involving capital punishment and other cases as required by law. When convened en banc, five Judges shall constitute a quorum and the concurrence of five Judges shall be necessary for a decision. The Court of Criminal Appeals may appoint Commissioners in aid of the Court of Criminal Appeals as provided by law.

Feb. 15, 1876. Amended Aug. 11, 1891, Nov. 8, 1966, Nov. 8, 1977, and Nov. 6, 2001.

**Sec. 6. COURTS OF APPEALS; JUSTICES; JURISDICTION.** (a) The state shall be divided into courts of appeals districts, with each district having a Chief Justice, two or more other Justices, and such other officials as may be provided by law. The Justices shall have the qualifications prescribed for Justices of the Supreme Court. The Court of Appeals may sit in sections as authorized by law. The concurrence of a majority of the judges sitting in a section is necessary to decide a case. Said Court of Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law. Provided, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error. Said courts shall have such other jurisdiction, original and appellate, as may be prescribed by law.

(b) Each of said Courts of Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said Justices shall be elected by the qualified voters of their respective districts at a general election, for a term of six years and shall receive for their services the sum provided by law.

(c) All constitutional and statutory references to the Courts of Civil Appeals shall be construed to mean the Courts of Appeals.

Feb. 15, 1876. Amended Aug. 11, 1891, Nov. 7, 1978, Nov. 4, 1980, Nov. 5, 1985, and Nov. 6, 2001.

**Sec. 7. JUDICIAL DISTRICTS; DISTRICT JUDGES; TERMS OR SESSIONS; ABSENCE, DISABILITY, OR DISQUALIFICATION OF DISTRICT JUDGE.** (a) The State shall be divided into judicial districts, with each district having one or more Judges as may be provided by law or by this Constitution.

(b) Each district judge shall be elected by the qualified voters at a General Election. To be eligible for appointment or election as a district judge, a person must:

- (1) be a citizen of the United States and a resident of this State;
- (2) be licensed to practice law in this State;
- (3) have been a practicing lawyer or a Judge of a Court in this State, or both combined, for eight years next preceding the judge's election, during which time the judge's license to practice law has not been revoked, suspended, or subject to a probated suspension;
- (4) have resided in the district in which the judge was elected for two years next preceding the election; and
- (5) reside in the district during the judge's term of office.

(c) A district judge shall hold the office for the term of four years and shall receive for the judge's services an annual salary to be fixed by the Legislature.

(d) A District Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. The Court shall hold the regular terms at the County Seat of each County in the Court's district in such manner as may be prescribed by law. The Legislature shall have power by General or Special Laws to make such provisions concerning the terms or sessions of each District Court as it may deem necessary.

(e) The Legislature shall also provide for the holding of District Court when the Judge thereof is absent, or is from any cause disabled or disqualified from presiding.

Feb. 15, 1876. Amended Aug. 11, 1891, Nov. 8, 1949, Nov. 5, 1985, and Nov. 2, 2021.

**Sec. 7a. JUDICIAL DISTRICTS BOARD; REAPPORTIONMENT OF JUDICIAL DISTRICTS.** (a) The Judicial Districts Board is created to reapportion the judicial districts authorized by Article V, Section 7, of this constitution.

(b) The membership of the board consists of the Chief Justice of the Texas Supreme Court who serves as chairman, the presiding judge of the Texas Court of Criminal Appeals, the presiding judge of each of the administrative judicial districts of the state, the president of the Texas Judicial Council, and one person who is licensed to practice law in this state appointed by the governor with the advice and consent of the senate for a term of four years. In the event of a vacancy in the appointed membership, the vacancy is filled for the unexpired term in the same manner as the original appointment.

(c) A majority of the total membership of the board constitutes a quorum for the transaction of business. The adoption of a reapportionment order requires a majority vote of the total membership of the board.

(d) The reapportionment powers of the board shall be exercised in the interims between regular sessions of the legislature, except that a reapportionment may not be ordered by the board during an interim immediately following a regular session of the legislature in which a valid and subsisting statewide apportionment of judicial districts is enacted by the legislature. The board has other powers and duties as provided by the legislature and shall exercise its powers under the policies, rules, standards, and conditions, not inconsistent with this section, that the legislature provides.

(e) Unless the legislature enacts a statewide reapportionment of the judicial districts following each federal decennial census, the board shall convene not later than the first Monday of June of the third year following the year in which the federal decennial census is taken to make a statewide reapportionment of the districts. The board shall complete its work on the reapportionment and file its order with the secretary of state not later than August 31 of the same year. If the Judicial Districts Board fails to make a statewide apportionment by that date, the Legislative Redistricting Board established by Article III, Section 28, of this constitution shall make a statewide reapportionment of the judicial districts not later than the 150th day after the final day for the Judicial Districts Board to make the reapportionment.

(f) In addition to the statewide reapportionment, the board may reapportion the judicial districts of the state as the necessity for reapportionment appears by redesignating, in one or more reapportionment orders, the county or counties that comprise the specific judicial districts affected by those reapportionment orders. In modifying any judicial district, no county having a population as large or larger than the population of the judicial district being reapportioned shall be added to the judicial district.

(g) Except as provided by Subsection (i) of this section, this section does not limit the power of the legislature to reapportion the judicial districts of the state, to increase the number of judicial districts, or to provide for consequent matters on reapportionment. The legislature may provide for the effect of a reapportionment made by the board on pending cases or the transfer of pending cases, for jurisdiction of a county court where county court jurisdiction has been vested by law in a district court affected by the reapportionment, for terms of the courts upon existing officers and their duties, and for all other matters affected by the reapportionment. The legislature may delegate any of these powers to the board. The legislature shall provide for the necessary expenses of the board.

(h) Any judicial reapportionment order adopted by the board must be approved by a record vote of the majority of the membership of both the senate and house of representatives before such order can become effective and binding.

(i) The legislature, the Judicial Districts Board, or the Legislative Redistricting Board may not redistrict the judicial districts to provide for any judicial district smaller in size than an entire county except as provided by this section. Judicial districts smaller in size than the entire county may be created subsequent to a general election where a majority of the persons voting on the proposition adopt the proposition "to allow the division of \_\_\_\_\_ County into judicial districts composed of parts of \_\_\_\_\_ County." No redistricting plan may be proposed or adopted by the legislature, the Judicial Districts Board, or the Legislative Redistricting Board in anticipation of a future action by the voters of any county.

Added Nov. 5, 1985.

**Sec. 9. CLERK OF DISTRICT COURT.** There shall be a Clerk for the District Court of each county, who shall be elected by the qualified voters and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury, and conviction of a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a Clerk, who shall hold until the office can be filled by election.

Feb. 15, 1876. Amended Nov. 2, 1954, and Nov. 2, 1999.

**Sec. 15. COUNTY COURT; COUNTY JUDGE.** There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for four years, and until his successor shall be elected and qualified. He shall receive as compensation for his services such fees and perquisites as may be prescribed by law.

Feb. 15, 1876. Amended Nov. 2, 1954.

**Sec. 18. DIVISION OF COUNTIES INTO PRECINCTS; JUSTICES OF THE PEACE AND CONSTABLES; COUNTY COMMISSIONERS AND COUNTY COMMISSIONERS COURT.** (a) Each county in the State with a population of 50,000 or more, according to the most recent federal census, from time to time, for the convenience of the people, shall be divided into not less than four and not more than eight precincts. Each county in the State with a population of 18,000 or more but less than 50,000, according to the most recent federal census, from time to time, for the convenience of the people, shall be divided into not less than two and not more than eight precincts. Each county in the State with a population of less

than 18,000, according to the most recent federal census, from time to time, for the convenience of the people, shall be designated as a single precinct or, if the Commissioners Court determines that the county needs more than one precinct, shall be divided into not more than four precincts. Notwithstanding the population requirements of this subsection, Chambers County and Randall County, from time to time, for the convenience of the people, shall be divided into not less than two and not more than six precincts. A division or designation under this subsection shall be made by the Commissioners Court provided for by this Constitution. Except as provided by this section, in each such precinct there shall be elected one Justice of the Peace and one Constable, each of whom shall hold his office for four years and until his successor shall be elected and qualified; provided that in a county with a population of less than 150,000, according to the most recent federal census, in any precinct in which there may be a city of 18,000 or more inhabitants, there shall be elected two Justices of the Peace, and in a county with a population of 150,000 or more, according to the most recent federal census, each precinct may contain more than one Justice of the Peace Court. Notwithstanding the population requirements of this subsection, any county that is divided into four or more precincts on November 2, 1999, shall continue to be divided into not less than four precincts.

(b) Each county shall, in the manner provided for justice of the peace and constable precincts, be divided into four commissioners precincts in each of which there shall be elected by the qualified voters thereof one County Commissioner, who shall hold his office for four years and until his successor shall be elected and qualified. The County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed.

(c) When the boundaries of justice of the peace and constable precincts are changed, each Justice and Constable in office on the effective date of the change, or elected to a term of office beginning on or after the effective date of the change, shall serve in the precinct in which the person resides for the term to which each was elected or appointed, even though the change in boundaries places the person's residence outside the precinct for which he was elected or appointed, abolishes the precinct for which he was elected or appointed, or temporarily results in extra Justices or Constables serving in a precinct. When, as a result of a change of precinct boundaries, a vacancy occurs in the office of Justice of the Peace or Constable, the Commissioners Court shall fill the vacancy by appointment until the next general election.

(d) When the boundaries of commissioners precincts are changed, each commissioner in office on the effective date of the change, or elected to a term of office beginning on or after the effective date of the change, shall serve in the precinct to which each was elected or appointed for the entire term to which each was elected or appointed, even though the change in boundaries places the person's residence outside the precinct for which he was elected or appointed.

(e) The office of Constable is abolished in Mills County, Reagan County, and Roberts County. The powers, duties, and records of the office are transferred to the County Sheriff.

(f) The Legislature by general law may prescribe the qualifications of constables.

(g) (Redesignated as Subsec. (f) Nov. 6, 2001.)

(h) The commissioners court of a county may declare the office of constable in a precinct dormant if at least seven consecutive years have passed since the end of the term of the person who was last elected or appointed to the office and during that period of time no person was elected to fill that office, or during that period a person was elected to that office, but the person failed to meet the qualifications of that office or failed to assume the duties of that office. If an office of constable is declared dormant, the office may not be filled by election or appointment and the previous officeholder does not continue to hold the office under Subsection (a) of this section or Section 17, Article XVI, of this constitution. The records of an office of constable declared dormant are transferred to the county clerk of the county. The commissioners court may reinstate an office of constable declared dormant by vote of the commissioners court or by calling an election in the precinct to reinstate the office. The commissioners court shall call an election to reinstate the office if the commissioners court receives a petition signed by at least 10 percent of the qualified voters of the precinct. If an election is called under this subsection, the commissioners court shall order the ballot for the election to be printed to permit voting for or against the proposition: "Reinstating the office of Constable of Precinct No. \_\_\_ that was previously declared dormant." The office of constable is reinstated if a majority of the voters of the precinct voting on the question at the election approve the reinstatement.

Feb. 15, 1876. Amended Nov. 2, 1954; Subsecs. (a) and (b) amended and (c) and (d) added Nov. 8, 1983; Subsec. (a) amended Nov. 5, 1985, Nov. 3, 1987, and Nov. 7, 1995; Subsecs. (e) and (f) added Nov. 7, 1995; Subsec. (g) added Nov. 4, 1997; Subsec. (a) amended Nov. 2, 1999; Subsec. (e) amended, Subsec. (f) deleted, and Subsec. (g) redesignated as Subsec. (f) Nov. 6, 2001; Subsec. (h) added Nov. 5, 2002.

**Sec. 20. COUNTY CLERK.** There shall be elected for each county, by the qualified voters, a County Clerk, who shall hold his office for four years, who shall be clerk of the County and Commissioners Courts and recorder of the county, whose duties, prerequisites and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Commissioners Court, until the next general election; provided, that in counties having a population of less than 8,000 persons there may be an election of a single Clerk, who shall perform the duties of District and County Clerks.

Feb. 15, 1876. Amended Nov. 2, 1954.

**Sec. 21. COUNTY ATTORNEYS; DISTRICT ATTORNEYS.** A County Attorney, for counties in which there is not a resident Criminal District Attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the Governor, and hold his office for the term of four years. In case of vacancy the Commissioners Court of the county shall have the power to appoint a County Attorney until the next general election. The County Attorneys shall represent the State in all cases in the District and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a District Attorney, the respective duties of District Attorneys and County Attorneys shall in such counties be regulated by the Legislature. The Legislature may provide for the election of District Attorneys in such districts, as may be deemed necessary, and make provision for the compensation of District Attorneys and County Attorneys. District Attorneys shall hold office for a term of four years, and until their successors have qualified.

Feb. 15, 1876. Amended Nov. 2, 1954.

**Sec. 23. SHERIFFS.** There shall be elected by the qualified voters of each county a Sheriff, who shall hold his office for the term of four years, whose duties, qualifications, perquisites, and fees of office, shall be prescribed by the Legislature, and vacancies in whose office shall be filled by the Commissioners Court until the next general election.

Feb. 15, 1876. Amended Nov. 2, 1954, and Nov. 2, 1993.

**Sec. 24. REMOVAL OF COUNTY OFFICERS.** County judges, county attorneys, clerks of the district and county courts, justices of the peace, constables, and other county officers, may be removed by the judges of the district courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury.

Feb. 15, 1876.

**Sec. 28. VACANCY IN JUDICIAL OFFICE.** (a) A vacancy in the office of Chief Justice, Justice, or Judge of the Supreme Court, the Court of Criminal Appeals, the Court of Appeals, or the District Courts shall be filled by the Governor until the next succeeding General Election for state officers, and at that election the voters shall fill the vacancy for the unexpired term.

(b) A vacancy in the office of County Judge or Justice of the Peace shall be filled by the Commissioners Court until the next succeeding General Election.

Feb. 15, 1876. Amended Aug. 11, 1891, Nov. 4, 1958, and Nov. 6, 2001.

**Sec. 29. COUNTY COURTS: TERMS OF COURT; PROBATE BUSINESS.** The County Court shall hold at least four terms for both civil and criminal business annually, as may be provided by the Legislature, or by the Commissioners Court of the county under authority of law, and such other terms each year as may be fixed by the Commissioners Court; provided, the Commissioners Court of any county having fixed the times and number of terms of the County Court, shall not change the same again until the expiration of one year. Said court shall dispose of probate business either in term time or vacation, under such regulation as may be prescribed by law. Until otherwise provided, the terms of the County Court shall be held on the first Mondays in February, May, August and November, and may remain in session three weeks.

Added Aug. 14, 1883; amended Nov. 6, 2001.

**Sec. 30. TERM OF OFFICE OF JUDGES OF COUNTY-WIDE COURTS AND OF CRIMINAL DISTRICT ATTORNEYS.** The Judges of all Courts of county-wide jurisdiction heretofore or hereafter created by the Legislature of this State, and all Criminal District Attorneys now or hereafter authorized by the laws of this State, shall be elected for a term of four years, and shall serve until their successors have qualified.

Added Nov. 2, 1954.

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## ARTICLE 6. SUFFRAGE

**Sec. 1. CLASSES OF PERSONS NOT ALLOWED TO VOTE.** (a) The following classes of persons shall not be allowed to vote in this State:

- (1) persons under 18 years of age;
- (2) persons who have been determined mentally incompetent by a court, subject to such exceptions as the Legislature may make; and

(3) persons convicted of any felony, subject to such exceptions as the Legislature may make.

(b) The legislature shall enact laws to exclude from the right of suffrage persons who have been convicted of bribery, perjury, forgery, or other high crimes.

Feb. 15, 1876. Amended Nov. 8, 1932, Nov. 2, 1954, Nov. 4, 1997, and Nov. 6, 2001.

**Sec. 2. QUALIFIED VOTER; REGISTRATION; ABSENTEE VOTING.** (a) Every person subject to none of the disqualifications provided by Section 1 of this article or by a law enacted under that section who is a citizen of the United States and who is a resident of this state shall be deemed a qualified voter; provided, however, that before offering to vote at an election a voter shall have registered, but such requirement for registration shall not be considered a qualification of a voter within the meaning of the term "qualified voter" as used in any other Article of this Constitution in respect to any matter except qualification and eligibility to vote at an election.

(b) The Legislature may authorize absentee voting.

(c) The privilege of free suffrage shall be protected by laws regulating elections and prohibiting under adequate penalties all undue influence in elections from power, bribery, tumult, or other improper practice.

Feb. 15, 1876. Amended Nov. 3, 1896, Nov. 4, 1902, July 23, 1921, Nov. 2, 1954, Nov. 8, 1966, Nov. 4, 1997, Nov. 2, 1999, and Nov. 6, 2001.

**Sec. 2a. VOTING FOR PRESIDENTIAL ELECTORS AND STATEWIDE OFFICES AND PROPOSITIONS BY PERSONS QUALIFIED EXCEPT FOR LOCAL RESIDENCE REQUIREMENTS.** (a) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide a method of registration, including the time of such registration, permitting any person who is qualified to vote in this State except for the residence requirements within a county or district, as set forth in Section 2 of this Article, to vote for (1) electors for President and Vice President of the United States and (2) all offices, questions or propositions to be voted on by all voters throughout this State.

(b) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide for a method of registration, including the time for such registration, permitting any person (1) who is qualified to vote in this State except for the residence requirements of Section 2 of this Article, and (2) who shall have resided anywhere within this State at least thirty (30) days next preceding a General Election in a presidential election year, and (3) who shall have been a qualified voter in another state immediately prior to his removal to this State or would have been eligible to vote in such other state had he remained there until such election, to vote for electors for President and Vice President of the United States in that election.

(c) Notwithstanding any other provision of this Constitution, the Legislature may enact laws and provide for a method of registration, including the time for such registration, permitting absentee voting for electors for President and Vice President of the United States in this State by former residents of this State (1) who have removed to another state, and (2) who meet all qualifications, except residence requirements, for voting for electors for President and Vice President in this State at the time of the election, but the privileges of suffrage so granted shall be only for such period of time as would permit a former resident of this State to meet the residence requirements for voting in his new state of residence, and in no case for more than twenty-four (24) months.

Former Sec. 2a repealed Nov. 2, 1954; current Sec. 2a added Nov. 8, 1966; Subsecs. (a) and (b) amended Nov. 2, 1999.

**Sec. 3. QUALIFICATIONS OF VOTERS IN MUNICIPAL ELECTIONS.** All qualified voters of the State, as herein described, who reside within the limits of any city or corporate town, shall have the right to vote for Mayor and all other elective officers.

Feb. 15, 1876. Amended Nov. 4, 1997, and Nov. 2, 1999.

**Sec. 3a. QUALIFICATIONS OF VOTERS IN LOCAL ELECTIONS REGARDING PUBLIC DEBTS OR EXPENDITURES.** When an election is held by any county, or any number of counties, or any political sub-division of the State, or any political sub-division of a county, or any defined district now or hereafter to be described and defined within the State and which may or may not include towns, villages or municipal corporations, or any city, town or village, for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, only qualified voters of the State,

county, political sub-division, district, city, town or village where such election is held shall be qualified to vote.

Added Nov. 8, 1932; amended Nov. 2, 1999.

**Sec. 4. ELECTIONS BY BALLOT; PURITY OF ELECTIONS; REGISTRATION OF VOTERS.** In all elections by the people, the vote shall be by ballot, and the Legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot box; and the Legislature shall provide by law for the registration of all voters.

Feb. 15, 1876. Amended Aug. 11, 1891, and Nov. 8, 1966.

**Sec. 5. VOTERS PRIVILEGED FROM ARREST.** Voters shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

Feb. 15, 1876.

## ARTICLE 7. EDUCATION

**Sec. 8. STATE BOARD OF EDUCATION.** The Legislature shall provide by law for a State Board of Education, whose members shall be appointed or elected in such manner and by such authority and shall serve for such terms as the Legislature shall prescribe not to exceed six years. The said board shall perform such duties as may be prescribed by law.

Feb. 15, 1876. Amended Nov. 6, 1928

**Sec. 16-a. TERMS OF OFFICE OF EDUCATIONAL OFFICERS.** The Legislature shall fix by law the terms of all offices of the public school system and of the State institutions of higher education, inclusive, and the terms of members of the respective boards, not to exceed six years.

Added Nov. 6, 1928; amended Nov. 4, 1997.



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## ARTICLE 8. TAXATION AND REVENUE

**Sec. 9. MAXIMUM COUNTY, CITY, AND TOWN TAX RATES; COUNTY FUNDS; LOCAL ROAD LAWS.** (a) No county, city or town shall levy a tax rate in excess of Eighty Cents (80¢) on the One Hundred Dollars (\$100) valuation in any one (1) year for general fund, permanent improvement fund, road and bridge fund and jury fund purposes.

(b) At the time the Commissioners Court meets to levy the annual tax rate for each county it shall levy whatever tax rate may be needed for the four (4) constitutional purposes; namely, general fund, permanent improvement fund, road and bridge fund and jury fund so long as the Court does not impair any outstanding bonds or other obligations and so long as the total of the foregoing tax levies does not exceed Eighty Cents (80¢) on the One Hundred Dollars (\$100) valuation in any one (1) year. Once the Court has levied the annual tax rate, the same shall remain in force and effect during that taxable year.

(c) The Legislature may authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified voters of the county voting at an election to be held for that purpose shall approve the tax, not to exceed Fifteen Cents (15¢) on the One Hundred Dollars (\$100) valuation of the property subject to taxation in such county.

(d) Any county may put all tax money collected by the county into one general fund, without regard to the purpose or source of each tax.

(e) The Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws.

(f) This Section shall not be construed as a limitation of powers delegated to counties, cities or towns by any other Section or Sections of this Constitution.

Feb. 15, 1876. Amended Aug. 14, 1883, Nov. 4, 1890, Nov. 6, 1906, Nov. 7, 1944, Nov. 6, 1956, Nov. 11, 1967, and Nov. 2, 1999.

**Sec. 14. ASSESSOR AND COLLECTOR OF TAXES.** (a) The qualified voters of each county shall elect an assessor-collector of taxes for the county, except as otherwise provided by this section.

(b) In any county having a population of less than 10,000 inhabitants, as determined by the most recent decennial census of the United States, the sheriff of the county, in addition to that officer's other duties, shall be the assessor-collector of taxes, except that the commissioners court of such a county may submit to the qualified voters of the county at an election the question of electing an assessor-collector of taxes as a county officer separate from the office of sheriff. If a majority of the voters voting in such an election approve of electing an assessor-collector of taxes for the county, then such official shall be elected at the next general election for the constitutional term of office as is provided for other tax assessor-collectors in this state.

(c) An assessor-collector of taxes shall hold office for four years; and shall perform all the duties with respect to assessing property for the purpose of taxation and of collecting taxes, as may be prescribed by the Legislature.

Feb. 15, 1876. Amended Nov. 8, 1932, Nov. 2, 1954, and Nov. 6, 2001.

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## ARTICLE 9. COUNTIES

**Sec. 1. CREATION AND MODIFICATION OF COUNTIES.** The Legislature shall have power to create counties for the convenience of the people subject to the following provisions:

(1) Within the territory of any county or counties, no new county shall be created with a less area than seven hundred square miles, nor shall any such county now existing be reduced to a less area than seven hundred square miles. No new counties shall be created so as to approach nearer than twelve miles of the county seat of any county from which it may in whole or in part be taken. Counties of a less area than nine hundred, but of seven hundred or more square miles, within counties now existing, may be created by a two-thirds vote of each House of the Legislature, taken by yeas and nays and entered on the journals. Any county now existing may be reduced to an area of not less than seven hundred square miles by a like two-thirds vote. When any part of a county is stricken off and attached to, or created into another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing, of the county from which it was taken, in such manner as may be prescribed by law.

(2) No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change shall have been submitted, in such manner as may be provided by law, to a vote of the voters of both counties, and shall have received a majority of those voting on the question in each.

Feb. 15, 1876. Amended Nov. 2, 1999.

**Sec. 2. REMOVAL OF COUNTY SEATS.** The Legislature shall pass laws regulating the manner of removing county seats, but no county seat situated within five miles of the geographical centre of the county shall be removed, except by a vote of two-thirds of all the voters voting on the subject. A majority of such voters, however, voting at such election, may remove a county seat from a point more than five miles from the geographical centre of the county to a point within five miles of such centre, in either case the centre to be determined by a certificate from the Commissioner of the General Land Office.

Feb. 15, 1876. Amended Nov. 2, 1999.

**Sec. 4. COUNTY-WIDE HOSPITAL DISTRICTS IN CERTAIN LARGE COUNTIES.** The Legislature may by law authorize the creation of county-wide Hospital Districts in counties having a population in excess of 190,000 and in Galveston County, with power to issue bonds for the purchase, acquisition, construction, maintenance and operation of any county owned hospital, or where the hospital system is jointly operated by a county and city within the county, and to provide for the transfer to the county-wide Hospital District of the title to any land, buildings or equipment, jointly or separately owned, and for the assumption by the district of any outstanding bonded indebtedness theretofore issued by any county or city for the establishment of hospitals or hospital facilities; to levy a tax not to exceed seventy-five (\$.75) cents on the One Hundred (\$100.00) Dollars valuation of all taxable property within such district, provided, however, that such district shall be approved at an election held for that purpose, and that only qualified voters in such county shall vote therein; provided further, that such Hospital District shall assume full responsibility for providing medical and hospital care to needy inhabitants of the county, and thereafter such county and cities therein shall not levy any other tax for hospital purposes; and provided further that should such Hospital District construct, maintain and support a hospital or hospital system, that the same shall never become a charge against the State of Texas, nor shall any direct appropriation ever be made by the Legislature for the construction, maintenance or improvement of the said hospital or hospitals.

Added Nov. 2, 1954; amended Nov. 2, 1999

**Sec. 5. CREATION AND FUNDING OF HOSPITAL DISTRICTS IN CITY OF AMARILLO, WICHITA COUNTY, AND JEFFERSON COUNTY.** (a) The Legislature may by law authorize the creation of two hospital districts, one to be coextensive with and have the same boundaries as the incorporated City of Amarillo, as such boundaries now exist or as they may hereafter be lawfully extended, and the other to be coextensive with Wichita County. If such district or districts are created, they may be authorized to levy a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of taxable property within the district; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified voters. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of Seventy-five Cents (75¢) per One Hundred Dollars (\$100.00) valuation, and no election shall be required by subsequent changes in the boundaries of the City of Amarillo. If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the district may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the district shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge such

obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the district to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said Seventy-five Cents (75¢) tax. The Legislature shall provide for transfer of title to properties to the district.

(b) The Legislature may by law permit the County of Potter (in which the City of Amarillo is partially located) to render financial aid to that district by paying a part of the expenses of operating and maintaining the system and paying a part of the debts of the district (whether assumed or created by the district) and may authorize the levy of a tax not to exceed Ten Cents (10¢) per One Hundred Dollars (\$100.00) valuation (in addition to other taxes permitted by this Constitution) upon all property within the county but without the City of Amarillo at the time such levy is made for such purposes. If such tax is authorized, the district shall by resolution assume the responsibilities, obligations, and liabilities of the county in the manner and to the extent hereinabove provided for political subdivisions having boundaries coextensive with the district, and the county shall not thereafter levy taxes (other than herein provided) for hospital purposes nor for providing hospital care for needy individuals of the county.

(c) The Legislature may by law authorize the creation of a hospital district within Jefferson County, the boundaries of which shall include only the area comprising the Jefferson County Drainage District No. 7 and the Port Arthur Independent School District, as such boundaries existed on the first day of January, 1957, with the power to issue bonds for the sole purpose of purchasing a site for, and the construction and initial equipping of, a hospital system, and with the power to levy a tax of not to exceed Seventy-five Cents (75¢) on the One Hundred Dollars (\$100.00) valuation of property therein for the purpose of paying the principal and interest on such bonds. The bonds may not be issued or such tax be levied until approved by such voters. The district shall not have the power to levy any tax for maintenance or operation of the hospital or facilities, but shall contract with other political subdivisions of the state or private individuals, associations, or corporations for such purposes. If the district hereinabove authorized is finally created, no other hospital district may be created embracing any part of the territory within its boundaries, but the Legislature by law may authorize the creation of a hospital district incorporating therein the remainder of Jefferson County, having the powers and duties and with the limitations presently provided by Article IX, Section 4, of the Constitution of Texas. A majority of those participating in the election voting in favor of the district shall be necessary for bonds to be issued.

(d) Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be invalid because of their anticipatory character.

(e) The legislature by law may authorize Randall County to render financial assistance to the Amarillo Hospital District by paying part of the district's operating and maintenance expenses and the debts assumed or created by the district and to levy a tax for that purpose in an amount not to exceed seventy-five cents (75¢) on the One Hundred Dollars (\$100.00) valuation on all property in Randall County that is not within the boundaries of the City of Amarillo or the South Randall County Hospital District. This tax is in addition to any other tax authorized by this constitution. If the tax is authorized by the legislature and approved by the voters of the area to be taxed, the Amarillo Hospital District shall, by resolution, assume the responsibilities, obligations, and liabilities of Randall County in accordance with Subsection (a) of this section and, except as provided by this subsection, Randall County may not levy taxes or issue bonds for hospital purposes or for providing hospital care for needy inhabitants of the county.

(f) Notwithstanding the provisions of Article IX of this constitution, if a hospital district was created or authorized under a constitutional provision that includes a description of the district's boundaries or jurisdiction, the legislature by law may authorize the district to change its boundaries or jurisdiction. The change must be approved by a majority of the qualified voters of the district voting at an election called and held for that purpose.

Added Nov. 4, 1958; Subsecs. (e) and (f) added Nov. 3, 1987; Subsecs. (a), (c), and (e) amended Nov. 2, 1999.

**Sec. 8. CREATION AND FUNDING OF HOSPITAL DISTRICT IN COUNTY COMMISSIONERS PRECINCT NO. 4 OF COMANCHE COUNTY.** (a) The Legislature may by law authorize the creation of a Hospital District to be co-extensive with the limits of County Commissioners Precinct No. 4 of Comanche County, Texas.

If such District is created, it may be authorized to levy a tax not to exceed seventy-five cents (75¢) on the One Hundred Dollar (\$100) valuation of taxable property within the District; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified voters. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of seventy-five cents (75¢) per One Hundred Dollar (\$100) valuation, and no election shall be required by subsequent changes in the boundaries of the Commissioners Precinct No. 4 of Comanche County.

If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the District may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the District shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and

warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge such obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the District to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said seventy-five cent (75¢) tax. The Legislature shall provide for transfer of title to properties to the District.

(b) The Legislature may by law permit the County of Comanche to render financial aid to that District by paying a part of the expenses of operating and maintaining the system and paying a part of the debts of the District (whether assumed or created by the District) and may authorize the levy of a tax not to exceed ten cents (10¢) per One Hundred Dollar (\$100) valuation (in addition to other taxes permitted by this Constitution) upon all property within the County but without the County Commissioners Precinct No. 4 of Comanche County at the time such levy is made for such purposes. If such tax is authorized, the District shall by resolution assume the responsibilities, obligations, and liabilities of the County in the manner and to the extent hereinabove provided for political subdivisions having boundaries co-extensive with the District, and the County shall not thereafter levy taxes (other than herein provided) for hospital purposes nor for providing hospital care for needy individuals of the County.

(c) Should the Legislature enact enabling laws in anticipation of the adoption of this amendment, such Acts shall not be invalid because of their anticipatory character.

Added Nov. 8, 1960; Subsec. (a) amended Nov. 2, 1999.

**Sec. 9. CREATION, OPERATION, AND DISSOLUTION OF HOSPITAL DISTRICTS.** The Legislature may by general or special law provide for the creation, establishment, maintenance and operation of hospital districts composed of one or more counties or all or any part of one or more counties with power to issue bonds for the purchase, construction, acquisition, repair or renovation of buildings and improvements and equipping same, for hospital purposes; providing for the transfer to the hospital district of the title to any land, buildings, improvements and equipment located wholly within the district which may be jointly or separately owned by any city, town or county, providing that any district so created shall assume full responsibility for providing medical and hospital care for its needy inhabitants and assume the outstanding indebtedness incurred by cities, towns and counties for hospital purposes prior to the creation of the district, if same are located wholly within its boundaries, and a pro rata portion of such indebtedness based upon the then last approved tax assessment rolls of the included cities, towns and counties if less than all the territory thereof is included within the district boundaries; providing that after its creation no other municipality or political subdivision shall have the power to levy taxes or issue bonds or other obligations for hospital purposes or for providing medical care within the boundaries of the district; providing for the levy of annual taxes at a rate not to exceed seventy-five cents (75¢) on the One Hundred Dollar valuation of all taxable property within such district for the purpose of meeting the requirements of the district's bonds, the indebtedness assumed by it and its maintenance and operating expenses, providing that such district shall not be created or such tax authorized unless approved by a majority of the qualified voters thereof voting at an election called for the purpose; and providing further that the support and maintenance of the district's hospital system shall never become a charge against or obligation of the State of Texas nor shall any direct appropriation be made by the Legislature for the construction, maintenance or improvement of any of the facilities of such district. Provided, however, that no district shall be created by special law except after thirty (30) days' public notice to the district affected, and in no event may the Legislature provide for a district to be created without the affirmative vote of a majority of the qualified voters in the district concerned.

The Legislature may also provide for the dissolution of hospital districts provided that a process is afforded by statute for:

(1) determining the desire of a majority of the qualified voters within the district to dissolve it;

(2) disposing of or transferring the assets, if any, of the district; and

(3) satisfying the debts and bond obligations, if any, of the district, in such manner as to protect the interests of the citizens within the district, including their collective property rights in the assets and property of the district, provided, however, that any grant from federal funds, however dispensed, shall be considered an obligation to be repaid in satisfaction and provided that no election to dissolve shall be held more often than once each year. In such connection, the statute shall provide against disposal or transfer of the assets of the district except for due compensation unless such assets are transferred to another governmental agency, such as a county, embracing such district and using such transferred assets in such a way as to benefit citizens formerly within the district.

Added Nov. 6, 1962; amended Nov. 8, 1966, and Nov. 7, 1989.

**Sec. 9B. HOSPITAL DISTRICTS IN COUNTIES WITH POPULATION OF 75,000 OR LESS.** The legislature by general or special law may provide for the creation, establishment, maintenance, and operation of hospital districts located wholly in a county with a population of 75,000 or less, according to the most recent federal decennial census, and may authorize the commissioners court to levy a tax on the ad valorem property located in the district for the support and maintenance of the

district. A district may not be created or a tax levied unless the creation and tax are approved by a majority of the registered voters who reside in the district. The legislature shall set the maximum tax rate a district may levy. The legislature may provide that the county in which the district is located may issue general obligation bonds for the district and provide other services to the district. The district may provide hospital care, medical care, and other services authorized by the legislature.

Added Nov. 7, 1989.

**Sec. 11. CREATION AND FUNDING OF HOSPITAL DISTRICTS IN OCHILTREE, CASTRO, HANSFORD, AND HOPKINS COUNTIES.** (a) The Legislature may by law authorize the creation of hospital districts in Ochiltree, Castro, Hansford and Hopkins Counties, each district to be coextensive with the limits of such county.

(b) If any such district is created, it may be authorized to levy a tax not to exceed Seventy-five Cents (75¢) on the One Hundred Dollar (\$100) valuation of taxable property within the district; provided, however, no tax may be levied until approved by a majority vote of the participating resident qualified voters. The maximum rate of tax may be changed at subsequent elections so long as obligations are not impaired, and not to exceed the maximum limit of Seventy-five Cents (75¢) per One Hundred Dollar (\$100) valuation.

(c) If such tax is authorized, no political subdivision or municipality within or having the same boundaries as the district may levy a tax for medical or hospital care for needy individuals, nor shall they maintain or erect hospital facilities, but the district shall by resolution assume all such responsibilities and shall assume all of the liabilities and obligations (including bonds and warrants) of such subdivisions or municipalities or both. The maximum tax rate submitted shall be sufficient to discharge obligations, liabilities, and responsibilities, and to maintain and operate the hospital system, and the Legislature may authorize the district to issue tax bonds for the purpose of the purchase, construction, acquisition, repair or renovation of improvements and initially equipping the same, and such bonds shall be payable from said Seventy-five Cent (75¢) tax. The Legislature shall provide for transfer of title to properties to the district.

Added Nov. 6, 1962; amended Nov. 2, 1999.

**Sec. 12. AIRPORT AUTHORITIES.** (a) The Legislature may by law provide for the creation, establishment, maintenance and operation of Airport Authorities composed of one or more counties, with power to issue general obligation bonds, revenue bonds, either or both of them, for the purchase, acquisition by the exercise of the power of eminent domain or otherwise, construction, reconstruction, repair or renovation of any airport or airports, landing fields and runways, airport buildings, hangars, facilities, equipment, fixtures, and any and all property, real or personal, necessary to operate, equip and maintain an airport.

(b) The Legislature shall provide for the option by the governing body of the city or cities whose airport facilities are served by certificated airlines and whose facility or some interest therein, is proposed to be or has been acquired by the Authority, to either appoint or elect a Board of Directors of said Authority. If the Directors are appointed such appointment shall be made by the County Commissioners Court after consultation with and consent of the governing body or bodies of such city or cities. If the Board of Directors is elected they shall be elected by the qualified voters of the county which chooses to elect the Directors to represent that county. Directors shall serve without compensation for a term fixed by the Legislature not to exceed six (6) years, shall be selected on the basis of the proportionate population of each county based upon the last preceding Federal Census, and shall be residents of such county. No county shall have less than one (1) member on the Board of Directors.

(c) The Legislature shall provide for the holding of an election in each county proposing the creation of an Authority to be called by the Commissioners Court or Commissioners Courts, as the case may be, upon petition of five per cent (5%) of the qualified voters within the county or counties. The elections must be held on the same day if more than one county is included. No more than one (1) such election may be called in a county until after the expiration of one (1) year in the event such an election has failed, and thereafter only upon a petition of ten per cent (10%) of the qualified voters being presented to the Commissioners Court or Commissioners Courts of the county or counties in which such an election has failed. In the event that two or more counties vote on the proposition of the creation of an Authority therein, the proposition shall not be deemed to carry unless the majority of the qualified voters in each county voting thereon vote in favor thereof. An Airport Authority may be created and be composed of the county or counties that vote in favor of its creation if separate propositions are submitted to the voters of each county so that they may vote for a two or more county Authority or a single county Authority.

(d) The Legislature shall provide for the appointment by the Board of Directors of an Assessor and Collector of Taxes in the Authority, whether constituted of one or more counties, whose duty it shall be to assess all taxable property, both real and personal, and collect the taxes thereon, based upon the tax rolls approved by the Board of Directors, the tax to be levied not to exceed Seventy-Five Cents (75¢) per One Hundred Dollars (\$100) assessed valuation of the property. The property of state regulated common carriers required by law to pay a tax upon intangible assets shall not be subject to taxation by the Authority. The taxable property shall be assessed on a valuation not to exceed the market value and shall be equal and uniform

throughout the Authority as is otherwise provided by the Constitution.

(e) The Legislature shall authorize the purchase or acquisition by the Authority of any existing airport facility publicly owned and financed and served by certificated airlines, in fee or of any interest therein, or to enter into any lease agreement therefor, upon such terms and conditions as may be mutually agreeable to the Authority and the owner of such facilities, or authorize the acquisition of same through the exercise of the power of eminent domain. In the event of such acquisition, if there are any general obligation bonds that the owner of the publicly owned airport facility has outstanding, the same shall be fully assumed by the Authority and sufficient taxes levied by the Authority to discharge said outstanding indebtedness. If any city or owner has outstanding revenue bonds where the revenues of the airport have been pledged or said bonds constitute a lien against the airport facilities, the Authority shall assume and discharge all the obligations of the city under the ordinances and bond indentures under which said revenue bonds have been issued and sold.

(f) Any city which owns airport facilities not serving certificated airlines which are not purchased or acquired or taken over as herein provided by such Authority shall have the power to operate the same under the existing laws or as the same may hereafter be amended.

(g) Any such Authority when created may be granted the power and authority to promulgate, adopt and enforce appropriate zoning regulations to protect the airport from hazards and obstructions which would interfere with the use of the airport and its facilities for landing and take-off.

(h) An additional county or counties may be added to an existing Authority if a petition of five per cent (5%) of the qualified voters is filed with and an election is called by the Commissioners Court of the county or counties seeking admission to an Authority. If the vote is favorable, then admission may be granted to such county or counties by the Board of Directors of the then existing Authority upon such terms and conditions as they may agree upon and evidenced by a resolution approved by two-thirds (2/3rds) of the then existing Board of Directors. The county or counties that may be so added to the then existing Authority shall be given representation on the Board of Directors by adding additional directors in proportion to their population according to the last preceding Federal Census.

Added Nov. 8, 1966; amended Nov. 2, 1999.



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## ARTICLE 11. MUNICIPAL CORPORATIONS

**Sec. 5. CITIES OF MORE THAN 5,000 POPULATION: ADOPTION OR AMENDMENT OF CHARTERS; TAXES; DEBT RESTRICTIONS.** (a) Cities having more than five thousand (5000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters. If the number of inhabitants of cities that have adopted or amended their charters under this section is reduced to five thousand (5000) or fewer, the cities still may amend their charters by a majority vote of the qualified voters of said city at an election held for that purpose. The adoption or amendment of charters is subject to such limitations as may be prescribed by the Legislature, and no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State. Said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half per cent. of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent. thereon, except as provided by Subsection (b). Furthermore, no city charter shall be altered, amended or repealed oftener than every two years.

(b) To increase efficiency and effectiveness to the greatest extent possible, the legislature may by general law authorize cities to enter into interlocal contracts with other cities or counties without meeting the assessment and sinking fund requirements under Subsection (a).

Feb. 15, 1876. Amended Aug. 3, 1909, Nov. 5, 1912, Nov. 5, 1991, and Nov. 8, 2011.

**Sec. 11. TERM OF OFFICE EXCEEDING TWO YEARS IN HOME RULE AND GENERAL LAW CITIES; VACANCIES.** (a) A Home Rule City may provide by charter or charter amendment, and a city, town or village operating under the general laws may provide by majority vote of the qualified voters voting at an election called for that purpose, for a longer term of office than two (2) years for its officers, either elective or appointive, or both, but not to exceed four (4) years; provided, however, that tenure under Civil Service shall not be affected hereby; provided, however, that such officers, elective or appointive, are subject to Section 65(b), Article XVI, of this constitution, providing for automatic resignation in certain circumstances, in the same manner as a county or district officer to which that section applies.

(b) A municipality so providing a term exceeding two (2) years but not exceeding four (4) years for any of its non-civil service officers must elect all of the members of its governing body by majority vote of the qualified voters in such municipality.

(c) Any vacancy or vacancies occurring on such governing body shall not be filled by appointment but must be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur except that the municipality may provide by charter or charter amendment the procedure for filling a vacancy occurring on its governing body for an unexpired term of 12 months or less.

Added Nov. 4, 1958; amended Nov. 6, 2001; Subsec. (b) amended and (c) added Nov. 5, 2013.

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## ARTICLE 15. IMPEACHMENT

**Sec. 1. IMPEACHMENT BY HOUSE OF REPRESENTATIVES.** The power of impeachment shall be vested in the House of Representatives.  
Feb. 15, 1876.

**Sec. 2. TRIAL OF IMPEACHMENT OF CERTAIN OFFICERS BY SENATE.** Impeachment of the Governor, Lieutenant Governor, Attorney General, Commissioner of the General Land Office, Comptroller and the Judges of the Supreme Court, Court of Appeals and District Court shall be tried by the Senate.  
Feb. 15, 1876. Amended Nov. 7, 1995.

**Sec. 3. IMPARTIAL TRIAL BY SENATE; CONCURRENCE OF TWO-THIRDS REQUIRED.** When the Senate is sitting as a Court of Impeachment, the Senators shall be on oath, or affirmation impartially to try the party impeached, and no person shall be convicted without the concurrence of two-thirds of the Senators present.  
Feb. 15, 1876.

**Sec. 4. JUDGMENT TO REMOVE AND DISQUALIFY; PUNISHMENT UNDER OTHER LAW PERMITTED.** Judgment in cases of impeachment shall extend only to removal from office, and disqualification from holding any office of honor, trust or profit under this State. A. Party convicted on impeachment shall also be subject to indictment trial and punishment according to law.  
Feb. 15, 1876.

**Sec. 5. SUSPENSION PENDING IMPEACHMENT; PROVISIONAL APPOINTMENT.** All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office, during the pendency of such impeachment. The Governor may make a provisional appointment to fill the vacancy, occasioned by the suspension of an officer until the decision on the impeachment.  
Feb. 15, 1876.

**Sec. 6. REMOVAL OF DISTRICT JUDGES BY SUPREME COURT.** Any Judge of the District Courts of the State who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office, or who shall negligently fail to perform his duties as Judge; or who shall fail to execute in a reasonable measure the business in his courts, may be removed by the Supreme Court. The Supreme Court shall have original jurisdiction to hear and determine the causes aforesaid when presented in writing upon the oaths taken before some Judge of a court of record of not less than ten lawyers, practicing in the courts held by such Judge, and licensed to practice in the Supreme Court; said presentment to be founded either upon the knowledge of the persons making it or upon the written oaths as to the facts of creditable witnesses. The Supreme Court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable.  
Feb. 15, 1876.

**Sec. 7. REMOVAL OF OFFICERS WHEN MODE NOT PROVIDED IN CONSTITUTION.** The Legislature shall provide by law for the trial and removal from office of all officers of this State, the modes for which have not been provided in this Constitution.  
Feb. 15, 1876.

**Sec. 8. REMOVAL OF JUDGES BY GOVERNOR ON ADDRESS OF TWO-THIRDS OF EACH HOUSE OF LEGISLATURE.** The Judges of the Supreme Court, Court of Appeals and District Courts, shall be removed by the Governor on the address of two-thirds of each House of the Legislature, for wilful neglect of duty, incompetency, habitual drunkenness, oppression in office, or other reasonable cause which shall not be sufficient ground for impeachment; provided<sup>†</sup> however, that the cause or causes for which such removal,<sup>†</sup> shall be required, shall be stated at length in such address and entered on the journals of each House; and provided further, that the cause or causes shall be notified to the Judge so intended to be removed, and he shall be admitted to a hearing in his own defense before any vote for such address shall pass, and in all such cases, the

vote shall be taken by yeas and nays and entered on the journals of each House respectively.  
Feb. 15, 1876.

**Sec. 9. REMOVAL OF PUBLIC OFFICER BY APPOINTING GOVERNOR WITH ADVICE AND CONSENT OF SENATE.** (a) In addition to the other procedures provided by law for removal of public officers, the governor who appoints an officer may remove the officer with the advice and consent of two-thirds of the members of the senate present.

(b) If the legislature is not in session when the governor desires to remove an officer, the governor shall call a special session of the senate for consideration of the proposed removal. The session may not exceed two days in duration.

Added Nov. 4, 1980.

## ARTICLE 16. GENERAL PROVISIONS

**Sec. 1. OFFICIAL OATH OF OFFICE.** (a) All elected and appointed officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

"I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God."

(b) All elected or appointed officers, before taking the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, shall subscribe to the following statement:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God."

(c) Members of the Legislature, the Secretary of State, and all other elected and appointed state officers shall file the signed statement required by Subsection (b) of this section with the Secretary of State before taking the Oath or Affirmation of office prescribed by Subsection (a) of this section. All other officers shall retain the signed statement required by Subsection (b) of this section with the official records of the office.

Feb. 15, 1876. Amended Nov. 8, 1938, and Nov. 6, 1956; Subsecs. (a)-(c) amended and (d)-(f) added Nov. 7, 1989; Subsecs. (a) and (b) amended, Subsecs. (c) and (d) deleted, and Subsecs. (e) and (f) amended and redesignated as Subsec. (c) Nov. 6, 2001.

**Sec. 2. EXCLUSIONS FROM OFFICE FOR CONVICTION OF HIGH CRIMES.** Laws shall be made to exclude from office persons who have been convicted of bribery, perjury, forgery, or other high crimes.

Feb. 15, 1876. Amended Nov. 6, 2001.

**Sec. 5. DISQUALIFICATION FROM OFFICE FOR GIVING OR OFFERING BRIBE.** Every person shall be disqualified from holding any office of profit, or trust, in this State, who shall have been convicted of having given or offered a bribe to procure his election or appointment.

Feb. 15, 1876.

**Sec. 9. NO FORFEITURE OF RESIDENCE BY ABSENCE ON PUBLIC BUSINESS.** Absence on business of the State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this Constitution.

Feb. 15, 1876.

**Sec. 10. DEDUCTIONS FROM SALARY OF PUBLIC OFFICER FOR NEGLIGENCE OF DUTY.** The Legislature shall provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

Feb. 15, 1876.

**Sec. 12. INELIGIBILITY OF MEMBERS OF CONGRESS AND OFFICERS OF UNITED STATES OR FOREIGN POWER TO HOLD ANOTHER OFFICE.** No member of Congress, nor person holding or exercising any office of profit or trust, under the United States, or either of them, or under any foreign power, shall be eligible as a member of the Legislature, or hold or exercise any office of profit or trust under this State.

Feb. 15, 1876.

**Sec. 13. UNOPPOSED CANDIDATE FOR OFFICE.** For an office for which this constitution requires an election, the legislature may provide by general law for a person to take the office without an election if the person is the only candidate to qualify in an election to be held for that office.

Former Sec. 13 repealed Aug. 5, 1969; current Sec. 13 added Sept. 13, 2003.

**Sec. 13A. UNOPPOSED CANDIDATE FOR OFFICE OF POLITICAL SUBDIVISION.** For an office of a political subdivision for which this constitution requires an election, the legislature may provide by general law for a person to assume the office without an election if the person is the only candidate to qualify in an election to be held for that office.

Added Sept. 13, 2003.

**Sec. 14. CIVIL OFFICERS; RESIDENCE; LOCATION OF OFFICES.** All civil officers shall reside within the State; and all district or county officers within their districts or counties, and shall keep their offices at such places as may be required by law; and failure to comply with this condition shall vacate the office so held.  
Feb. 15, 1876.

**Sec. 17. SERVICE OF PUBLIC OFFICER PENDING QUALIFICATION OF SUCCESSOR.** (a) Except as provided by Subsection (b) of this section, all officers of this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

(b) Following the expiration of a term of an appointive office that is filled by appointment of the Governor with the advice and consent of the Senate and that is not an office for which the officer receives a salary, the period for which the officer shall continue to perform the duties of office under Subsection (a) of this section ends on the last day of the first regular session of the Legislature that begins after the expiration of the term.  
Feb. 15, 1876. Amended Nov. 7, 2017.

**Sec. 20. REGULATION OF MIXED ALCOHOLIC BEVERAGES AND INTOXICATING LIQUORS; LOCAL OPTION ELECTIONS; WINERIES.** (a) The Legislature shall have the power to enact a Mixed Beverage Law regulating the sale of mixed alcoholic beverages on a local option election basis. The Legislature shall also have the power to regulate the manufacture, sale, possession and transportation of intoxicating liquors, including the power to establish a State Monopoly on the sale of distilled liquors.

Should the Legislature enact any enabling laws in anticipation of this amendment, no such law shall be void by reason of its anticipatory nature.

(b) The Legislature shall enact a law or laws whereby the qualified voters of any county, justice's precinct or incorporated town or city, may, by a majority vote of those voting, determine from time to time whether the sale of intoxicating liquors for beverage purposes shall be prohibited or legalized within the prescribed limits; and such laws shall contain provisions for voting on the sale of intoxicating liquors of various types and various alcoholic content.

(c) In all counties, justice's precincts or incorporated towns or cities wherein the sale of intoxicating liquors had been prohibited by local option elections held under the laws of the State of Texas and in force at the time of the taking effect of Section 20, Article XVI of the Constitution of Texas, it shall continue to be unlawful to manufacture, sell, barter or exchange in any such county, justice's precinct or incorporated town or city, any spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication or any other intoxicants whatsoever, for beverage purposes, unless and until a majority of the qualified voters in such county or political subdivision thereof voting in an election held for such purpose shall determine such to be lawful; provided that this subsection shall not prohibit the sale of alcoholic beverages containing not more than 3.2 per cent alcohol by weight in cities, counties or political subdivisions thereof in which the qualified voters have voted to legalize such sale under the provisions of Chapter 116, Acts of the Regular Session of the 43rd Legislature.

(d) The legislature may enact laws and direct the Alcoholic Beverage Commission or its successor to set policies for all wineries in this state, regardless of whether the winery is located in an area in which the sale of wine has or has not been authorized by local option election, for the manufacturing of wine, including the on-premises selling of wine to the ultimate consumer for consumption on or off the winery premises, the buying of wine from or the selling of wine to any other person authorized under general law to purchase and sell wine in this state, and the dispensing of wine without charge, for tasting purposes, for consumption on the winery premises, and for any purpose to promote the wine industry in this state.  
Feb. 15, 1876. Amended Aug. 11, 1891, May 24, 1919, Aug. 26, 1933, Aug. 24, 1935, and Nov. 3, 1970; Subsec. (d) added Sept. 13, 2003.

**Sec. 23. REGULATION OF LIVESTOCK; PROTECTION OF STOCK RAISERS; INSPECTIONS; BRANDS.** The Legislature may pass laws for the regulation of live stock and the protection of stock raisers in the stock raising portion of the State, and exempt from the operation of such laws other portions, sections, or counties; and shall have power to pass general and special laws for the inspection of cattle, stock and hides and for the regulation of brands; provided, that any local law thus passed shall be submitted to the qualified voters of the section to be affected thereby, and approved by them, before it shall go into effect.

Feb. 15, 1876. Amended Nov. 6, 2001.

**Sec. 27. VACANCIES FILLED FOR UNEXPIRED TERM.** In all elections to fill vacancies of office in this State, it shall be to fill the unexpired term only.  
Feb. 15, 1876.

**Sec. 30. DURATION OF PUBLIC OFFICES; RAILROAD COMMISSION.** (a) The duration of all offices not fixed by

this Constitution shall never exceed two years.

(b) When a Railroad Commission is created by law it shall be composed of three Commissioners who shall be elected by the people at a general election for State officers, and their terms of office shall be six years. And one Railroad Commissioner shall be elected every two years. In case of vacancy in said office the Governor of the State shall fill said vacancy by appointment until the next general election.

(c) The Legislature may provide that members of the governing board of a district or authority created by authority of Article III, Section 48-e, Article III, Section 52(b)(1) or (2), or Article XVI, Section 59, of this Constitution serve terms not to exceed four years.

(d) The Legislature by general or special law may provide that members of the governing board of a hospital district serve terms not to exceed four years.

Feb. 15, 1876. Amended Nov. 6, 1894, and Nov. 2, 1982; Subsec. (d) added Nov. 7, 1989; Subsec. (b) amended Nov. 2, 1999; Subsec. (c) amended Nov. 3, 2009.

**Sec. 30a. MEMBERS OF STATE BOARDS; TERMS OF OFFICE.** The Legislature may provide by law that the Board of Regents of the State University and boards of trustees or managers of the educational, eleemosynary, and penal institutions of the State, and such boards as have been, or may hereafter be established by law, may be composed of an odd number of three or more members who serve for a term of six (6) years, with one-third, or as near as one-third as possible, of the members of such boards to be elected or appointed every two (2) years in such manner as the Legislature may determine; vacancies in such offices to be filled as may be provided by law, and the Legislature shall enact suitable laws to give effect to this section. The Legislature may provide by law that a board required by this constitution be composed of members of any number divisible by three (3) who serve for a term of six (6) years, with one-third of the members elected or appointed every two (2) years.

Added Nov. 5, 1912; amended Nov. 2, 1999.

**Sec. 30b. DURATION OF MUNICIPAL CIVIL SERVICE OFFICES.** Wherever by virtue of Statute or charter provisions appointive offices of any municipality are placed under the terms and provisions of Civil Service and rules are set up governing appointment to and removal from such offices, the provisions of Article 16, Section 30, of the Texas Constitution limiting the duration of all offices not fixed by the Constitution to two (2) years shall not apply, but the duration of such offices shall be governed by the provisions of the Civil Service law or charter provisions applicable thereto.

Added Nov. 5, 1940.

**Sec. 33. SALARY OR COMPENSATION PAYMENTS TO PERSONS HOLDING MORE THAN ONE PUBLIC OFFICE.** The accounting officers in this State shall neither draw nor pay a warrant or check on funds of the State of Texas, whether in the treasury or otherwise, to any person for salary or compensation who holds at the same time more than one civil office of emolument, in violation of Section 40.

Feb. 15, 1876. Amended Nov. 2, 1926, Nov. 8, 1932, Nov. 11, 1967, and Nov. 7, 1972.

**Sec. 40. HOLDING MORE THAN ONE PUBLIC OFFICE; EXCEPTIONS; RIGHT OF OFFICEHOLDER TO VOTE.** (a) No person shall hold or exercise at the same time, more than one civil office of emolument, except that of Justice of the Peace, County Commissioner, Notary Public and Postmaster, Officer of the National Guard, the National Guard Reserve, and the Officers Reserve Corps of the United States and enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, and retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers and enlisted members of the Texas State Guard and any other active militia or military force organized under state law, and the officers and directors of soil and water conservation districts, unless otherwise specially provided herein. Provided, that nothing in this Constitution shall be construed to prohibit an officer or enlisted man of the National Guard, the National Guard Reserve, the Texas State Guard, and any other active militia or military force organized under state law, or an officer in the Officers Reserve Corps of the United States, or an enlisted man in the Organized Reserves of the United States, or retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers of the State soil and water conservation districts, from holding at the same time any other office or position of honor, trust or profit, under this State or the United States, or from voting at any election, general, special or primary in this State when otherwise qualified.

(b) State employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts. Such State employees or other individuals may



not receive a salary for serving as members of such governing bodies, except that:

(1) a schoolteacher, retired schoolteacher, or retired school administrator may receive compensation for serving as a member of a governing body of a school district, city, town, or local governmental district, including a water district created under Section 59, Article XVI, or Section 52, Article III; and

(2) a faculty member or retired faculty member of a public institution of higher education may receive compensation for serving as a member of a governing body of a water district created under Section 59 of this article or under Section 52, Article III, of this constitution.

(c) It is further provided that a nonelective State officer may hold other nonelective offices under the State or the United States, if the other office is of benefit to the State of Texas or is required by the State or Federal law, and there is no conflict with the original office for which he receives salary or compensation.

(d) No member of the Legislature of this State may hold any other office or position of profit under this State, or the United States, except as a notary public if qualified by law.

**Note: If approved by voters at an election to be held November 7, 2023, subsection (e) will read as follows:**

(e) The Legislature by general law may provide that members of the governing body of an appraisal entity established in a county with a population of 75,000 or more serve terms not to exceed four years.

Feb. 15, 1876. Amended Nov. 2, 1926, Nov. 8, 1932, Nov. 7, 1972, Nov. 6, 2001, and Sept. 13, 2003; Subsec. (a) amended Nov. 3, 2009.

**Sec. 44. COUNTY TREASURER AND COUNTY SURVEYOR.** (a) Except as otherwise provided by this section, the Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a County Treasurer and a County Surveyor, who shall have an office at the county seat, and hold their office for four years, and until their successors are qualified; and shall have such compensation as may be provided by law.

(b) The office of County Treasurer or County Surveyor does not exist in those counties in which the office has been abolished pursuant to constitutional amendment or pursuant to the authority of Subsection (c) of this section.

(c) The Commissioners Court of a county may call an election to abolish the office of County Surveyor in the county. The office of County Surveyor in the county is abolished if a majority of the voters of the county voting on the question at that election approve the abolition. If an election is called under this subsection, the Commissioners Court shall order the ballot for the election to be printed to provide for voting for or against the proposition: "Abolishing the office of county surveyor of this county." If the office of County Surveyor is abolished under this subsection, the maps, field notes, and other records in the custody of the County Surveyor are transferred to the county officer or employee designated by the Commissioners Court of the county in which the office is abolished, and the Commissioners Court may from time to time change its designation as it considers appropriate.

**Note: If approved by a majority of voters, and additionally by a majority of Galveston County voters in an election to be held November 7, 2023, the following provisions will be added to Section 44:**

(d) The office of County Treasurer in Galveston County is abolished. The Commissioners Court of Galveston County may employ or contract with a qualified person or may designate another county officer to perform any of the functions that would have been performed by the County Treasurer if the office had not been abolished.

TEMPORARY PROVISION. (a) The constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, abolishing the office of County Treasurer in Galveston County takes effect only if, at the statewide election at which the amendment is submitted to and approved by the voters, a majority of the voters of Galveston County voting on the question at that election also favor the amendment. The amendment takes effect January 1, 2024, if the conditions of this subsection are met.

(b) This temporary provision expires January 2, 2024.

Feb. 15, 1876. Amended Nov. 2, 1954; Subsec. (a) amended and (b) and (c) added Nov. 2, 1982; Subsec. (a) amended and (b)(1) added Nov. 6, 1984; Subsecs. (a)-(c) amended and (d)-(f) added Nov. 5, 1985; Subsecs. (c) and (d) amended and (f) and (g) added Nov. 3, 1987; Subsec. (f) added Nov. 7, 1989; Subsec. (e) amended and two Subsecs. (h) added Nov. 2, 1993; Subsec. (h), as proposed by Acts 1993, 73rd Leg., R.S., H.J.R. 21, repealed Nov. 4, 1997; Subsec. (b) amended, Subsecs. (c)-(g) deleted, and Subsec. (h), as proposed by Acts 1993, 73rd Leg., R.S., H.J.R. 37, redesignated as Subsec. (c) Nov. 2, 1999.)

**Sec. 59. CONSERVATION AND DEVELOPMENT OF NATURAL RESOURCES; DEVELOPMENT OF PARKS AND RECREATIONAL FACILITIES; CONSERVATION AND RECLAMATION DISTRICTS; INDEBTEDNESS AND TAXATION AUTHORIZED.** (a) The conservation and development of all of the natural resources of this State, and development of parks and recreational facilities, including the control, storing, preservation and distribution of its storm and

flood waters, the waters of its rivers and streams, for irrigation, power and all other useful purposes, the reclamation and irrigation of its arid, semi-arid and other lands needing irrigation, the reclamation and drainage of its overflowed lands, and other lands needing drainage, the conservation and development of its forests, water and hydro-electric power, the navigation of its inland and coastal waters, and the preservation and conservation of all such natural resources of the State are each and all hereby declared public rights and duties; and the Legislature shall pass all such laws as may be appropriate thereto.

(b) There may be created within the State of Texas, or the State may be divided into, such number of conservation and reclamation districts as may be determined to be essential to the accomplishment of the purposes of this amendment to the constitution, which districts shall be governmental agencies and bodies politic and corporate with such powers of government and with the authority to exercise such rights, privileges and functions concerning the subject matter of this amendment as may be conferred by law.

(c) The Legislature shall authorize all such indebtedness as may be necessary to provide all improvements and the maintenance thereof requisite to the achievement of the purposes of this amendment. All such indebtedness may be evidenced by bonds of such conservation and reclamation districts, to be issued under such regulations as may be prescribed by law. The Legislature shall also authorize the levy and collection within such districts of all such taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of such bonds and for the maintenance of such districts and improvements. Such indebtedness shall be a lien upon the property assessed for the payment thereof. The Legislature shall not authorize the issuance of any bonds or provide for any indebtedness against any reclamation district unless such proposition shall first be submitted to the qualified voters of such district and the proposition adopted.

(c-1) In addition and only as provided by this subsection, the Legislature may authorize conservation and reclamation districts to develop and finance with taxes those types and categories of parks and recreational facilities that were not authorized by this section to be developed and financed with taxes before September 13, 2003. For development of such parks and recreational facilities, the Legislature may authorize indebtedness payable from taxes as may be necessary to provide for improvements and maintenance only for a conservation and reclamation district all or part of which is located in Bexar County, Bastrop County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Fort Bend County, or Montgomery County, or for the Tarrant Regional Water District, a water control and improvement district located in whole or in part in Tarrant County. All the indebtedness may be evidenced by bonds of the conservation and reclamation district, to be issued under regulations as may be prescribed by law. The Legislature may also authorize the levy and collection within such district of all taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of the bonds and for maintenance of and improvements to such parks and recreational facilities. The indebtedness shall be a lien on the property assessed for the payment of the bonds. The Legislature may not authorize the issuance of bonds or provide for indebtedness under this subsection against a conservation and reclamation district unless a proposition is first submitted to the qualified voters of the district and the proposition is adopted. This subsection expands the authority of the Legislature with respect to certain conservation and reclamation districts and is not a limitation on the authority of the Legislature with respect to conservation and reclamation districts and parks and recreational facilities pursuant to this section as that authority existed before September 13, 2003.

**Note: If approved by voters at an election to be held November 7, 2023, subsection (c-1) will read as follows:**

(c-1) In addition and only as provided by this subsection, the Legislature may authorize conservation and reclamation districts to develop and finance with taxes those types and categories of parks and recreational facilities that were not authorized by this section to be developed and financed with taxes before September 13, 2003. For development of such parks and recreational facilities, the Legislature may authorize indebtedness payable from taxes as may be necessary to provide for improvements and maintenance only for a conservation and reclamation district all or part of which is located in Bexar County, Bastrop County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Fort Bend County, Montgomery County or El Paso County, or for the Tarrant Regional Water District, a water control and improvement district located in whole or in part in Tarrant County. All the indebtedness may be evidenced by bonds of the conservation and reclamation district, to be issued under regulations as may be prescribed by law. The Legislature may also authorize the levy and collection within such district of all taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of the bonds and for maintenance of and improvements to such parks and recreational facilities. The indebtedness shall be a lien on the property assessed for the payment of the bonds. The Legislature may not authorize the issuance of bonds or provide for indebtedness under this subsection against a conservation and reclamation district unless a proposition is first submitted to the qualified voters of the district and the proposition is adopted. This subsection expands the authority of the Legislature with respect to certain conservation and reclamation districts and is not a limitation on the authority of the Legislature with respect to conservation and reclamation districts and parks and

recreational facilities pursuant to this section as that authority existed before September 13, 2003.

(d) No law creating a conservation and reclamation district shall be passed unless notice of the intention to introduce such a bill setting forth the general substance of the contemplated law shall have been published at least thirty (30) days and not more than ninety (90) days prior to the introduction thereof in a newspaper or newspapers having general circulation in the county or counties in which said district or any part thereof is or will be located and by delivering a copy of such notice and such bill to the Governor who shall submit such notice and bill to the Texas Water Commission, or its successor, which shall file its recommendation as to such bill with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty (30) days from date notice was received by the Texas Water Commission. Such notice and copy of bill shall also be given of the introduction of any bill amending a law creating or governing a particular conservation and reclamation district if such bill (1) adds additional land to the district, (2) alters the taxing authority of the district, (3) alters the authority of the district with respect to the issuance of bonds, or (4) alters the qualifications or terms of office of the members of the governing body of the district.

(e) No law creating a conservation and reclamation district shall be passed unless, at the time notice of the intention to introduce a bill is published as provided in Subsection (d) of this section, a copy of the proposed bill is delivered to the commissioners court of each county in which said district or any part thereof is or will be located and to the governing body of each incorporated city or town in whose jurisdiction said district or any part thereof is or will be located. Each such commissioners court and governing body may file its written consent or opposition to the creation of the proposed district with the governor, lieutenant governor, and speaker of the house of representatives. Each special law creating a conservation and reclamation district shall comply with the provisions of the general laws then in effect relating to consent by political subdivisions to the creation of conservation and reclamation districts and to the inclusion of land within the district.

(f) A conservation and reclamation district created under this section to perform any or all of the purposes of this section may engage in fire-fighting activities and may issue bonds or other indebtedness for fire-fighting purposes as provided by law and this constitution.

Added Aug. 21, 1917; Subsec. (d) added Nov. 3, 1964; Subsec. (e) added Nov. 6, 1973; Subsec. (f) added Nov. 7, 1978; Subsec. (c) amended Nov. 2, 1999; Subsec. (a) amended and (c-1) added Sept. 13, 2003.

**Sec. 64. TERMS OF ELECTIVE DISTRICT, COUNTY, AND PRECINCT OFFICES.** The elective district, county, and precinct offices which have heretofore had terms of two years, shall hereafter have terms of four years; and the holders of such offices shall serve until their successors are qualified.

Added Nov. 2, 1954; amended Nov. 6, 2007.

**Sec. 65. AUTOMATIC RESIGNATION ON BECOMING CANDIDATE FOR ANOTHER OFFICE.** (a) This section applies to the following offices: District Clerks; County Clerks; County Judges; Judges of the County Courts at Law, County Criminal Courts, County Probate Courts and County Domestic Relations Courts; County Treasurers; Criminal District Attorneys; County Surveyors; County Commissioners; Justices of the Peace; Sheriffs; Assessors and Collectors of Taxes; District Attorneys; County Attorneys; Public Weighers; and Constables.

(b) If any of the officers named herein shall announce their candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one year and 30 days, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

Added Nov. 2, 1954; amended Nov. 4, 1958, and Nov. 2, 1999; Subsec. (a) amended Nov. 6, 2007; Subsec. (b) amended Nov. 8, 2011

**Sec. 72. TEMPORARY REPLACEMENT OF PUBLIC OFFICER ON ACTIVE MILITARY DUTY.** (a) An elected or appointed officer of the state or of any political subdivision who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the appropriate authority may appoint a replacement to serve as temporary acting officer as provided by this section if the elected or appointed officer will be on active duty for longer than 30 days.

(b) For an officer other than a member of the legislature, the authority who has the power to appoint a person to fill a vacancy in that office may appoint a temporary acting officer. If a vacancy would normally be filled by special election, the governor may appoint the temporary acting officer for a state or district office, and the governing body of a political subdivision may appoint the temporary acting officer for an office of that political subdivision.

(c) For an officer who is a member of the legislature, the member of the legislature shall select a person to serve as the temporary acting representative or senator, subject to approval of the selection by a majority vote of the appropriate house of the legislature. The temporary acting representative or senator must be:

(1) a member of the same political party as the member being temporarily replaced; and  
(2) qualified for office under Section 6, Article III, of this constitution for a senator, or Section 7, Article III, of this constitution for a representative.

(d) The officer who is temporarily replaced under this section may recommend to the appropriate appointing authority the name of a person to temporarily fill the office.

(e) The appropriate authority shall appoint the temporary acting officer to begin service on the date specified in writing by the officer being temporarily replaced as the date the officer will enter active military service.

(f) A temporary acting officer has all the powers, privileges, and duties of the office and is entitled to the same compensation, payable in the same manner and from the same source, as the officer who is temporarily replaced.

(g) A temporary acting officer appointed under this section shall perform the duties of office for the shorter period of:

(1) the term of the active military service of the officer who is temporarily replaced; or

(2) the term of office of the officer who is temporarily replaced.

(h) In this section, "armed forces of the United States" means the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.

Added Sept. 13, 2003.

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## ARTICLE 17. MODE OF AMENDING THE CONSTITUTION OF THIS STATE

**Sec. 1. PROPOSED AMENDMENTS; PUBLICATION; SUBMISSION TO VOTERS; ADOPTION.** (a) The Legislature, at any regular session, or at any special session when the matter is included within the purposes for which the session is convened, may propose amendments revising the Constitution, to be voted upon by the qualified voters for statewide offices and propositions, as defined in the Constitution and statutes of this State. The date of the elections shall be specified by the Legislature. The proposal for submission must be approved by a vote of two-thirds of all the members elected to each House, entered by yeas and nays on the journals.

(b) A brief explanatory statement of the nature of a proposed amendment, together with the date of the election and the wording of the proposition as it is to appear on the ballot, shall be published twice in each newspaper in the State which meets requirements set by the Legislature for the publication of official notices of officers† and departments of the state government. The explanatory statement shall be prepared by the Secretary of State and shall be approved by the Attorney General. The Secretary of State shall send a full and complete copy of the proposed amendment or amendments to each county clerk who shall post the same in a public place in the courthouse at least 30 days prior to the election on said amendment. The first notice shall be published not more than 60 days nor less than 50 days before the date of the election, and the second notice shall be published on the same day in the succeeding week. The Legislature shall fix the standards for the rate of charge for the publication, which may not be higher than the newspaper's published national rate for advertising per column inch.

(c) The election shall be held in accordance with procedures prescribed by the Legislature, and the returning officer in each county shall make returns to the Secretary of State of the number of legal votes cast at the election for and against each amendment. If it appears from the returns that a majority of the votes cast have been cast in favor of an amendment, it shall become a part of this Constitution, and proclamation thereof shall be made by the Governor.

Feb. 15, 1876. Amended Nov. 7, 1972, and Nov. 2, 1999.

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# ***Selected Provisions, Texas Education Code – TITLE 2. PUBLIC EDUCATION***

## **SUBTITLE B. STATE AND REGIONAL ORGANIZATION AND GOVERNANCE**

### **CHAPTER 7. STATE ORGANIZATION**

#### **SUBCHAPTER D. STATE BOARD OF EDUCATION**

**Sec. 7.101. COMPOSITION.** (a) The State Board of Education is composed of 15 members elected from districts.

(b) Members of the board are elected at biennial general elections held in compliance with the Election Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 72 (H.B. 600), Sec. 3(a), eff. August 29, 2011.

**Sec. 7.103. ELIGIBILITY FOR MEMBERSHIP.** (a) A person is not eligible for election to or service on the board if the person holds an office with this state or any political subdivision of this state.

(b) A person may not be elected from or serve in a district who is not a bona fide resident of the district with one year's continuous residence before election. A person is not eligible for election to or service on the board unless the person is a qualified voter of the district in which the person resides and is at least 26 years of age.

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession, business, or association related to the operation of the board, may not serve as a member of the board or act as the general counsel to the board.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 7.104. TERMS.** (a) At each general election immediately following a decennial reapportionment of districts, one member shall be elected to the board from each district. Except as provided by Subsection (b), members of the board serve staggered terms of four years with the terms of eight members expiring on January 1 of one odd-numbered year and the terms of seven members expiring on January 1 of the next odd-numbered year.

(b) Seven members of the board elected at each general election following a decennial reapportionment of districts shall serve two-year terms and eight members shall serve four-year terms. Members shall draw lots to determine who serves which terms.

(c) If a position on the board becomes vacant, the governor shall fill the vacancy as soon as possible by appointing a qualified person from the affected district with the advice and consent of the senate.

(d) A vacancy that occurs at a time when it is impossible to place the name of a candidate for the unexpired term on the general election ballot is filled by appointment, as prescribed by Subsection (c).

(e) An appointment to a vacancy on the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointed member.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 7.107. OFFICERS.** (a) The governor, with the advice and consent of the senate, shall appoint the chair from among the membership of the board. The chair serves a term of two years.

(b) At the board's first regular meeting after the election and qualification of new members, the board shall organize, adopt rules of procedure, and elect by separate votes a vice chair and a secretary.

(c) A person who serves two consecutive terms as chair is ineligible to again serve as chair until four years have elapsed since the expiration of the second term.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 7.108. PROHIBITION ON POLITICAL CONTRIBUTION OR ACTIVITY.** (a) A person interested in selling bonds of any type or a person engaged in manufacturing, shipping, selling, or advertising instructional materials commits an offense if the person makes or authorizes a political contribution to or takes part in, directly or indirectly, the campaign of any person seeking election to or serving on the board.

(b) An offense under Subsection (a) is a Class B misdemeanor.

(c) In this section:

(1) "Instructional material" has the meaning assigned by Section 31.002.



(2) "Political contribution" has the meaning assigned by Section 251.001, Election Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by: Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 5, eff. July 19, 2011.

## CHAPTER 11. SCHOOL DISTRICTS

### SUBCHAPTER C. BOARD OF TRUSTEES OF INDEPENDENT SCHOOL DISTRICT--GENERAL PROVISIONS

**Sec. 11.051. GOVERNANCE OF INDEPENDENT SCHOOL DISTRICT; NUMBER OF TRUSTEES.** (a) An independent school district is governed by a board of trustees who, as a body corporate, shall:

(1) oversee the management of the district; and

(2) ensure that the superintendent implements and monitors plans, procedures, programs, and systems to achieve appropriate, clearly defined, and desired results in the major areas of district operations.

(a-1) Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. The board of trustees may act only by majority vote of the members present at a meeting held in compliance with Chapter 551, Government Code, at which a quorum of the board is present and voting. The board shall provide the superintendent an opportunity to present at a meeting an oral or written recommendation to the board on any item that is voted on by the board at the meeting.

(b) The board consists of the number of members that the district had on September 1, 1995.

(c) A board of trustees that has three or five members may by resolution increase the membership to seven. A board of trustees that votes to increase its membership must consider whether the district would benefit from also adopting a single-member election system under Section 11.052. A resolution increasing the number of trustees takes effect with the second regular election of trustees that occurs after the adoption of the resolution. The resolution must provide for a transition in the number of trustees so that when the transition is complete, trustees are elected as provided by Section 11.059.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1244 (H.B. 2563), Sec. 1, eff. September 1, 2007.

**Sec. 11.052. SINGLE-MEMBER TRUSTEE DISTRICTS.** (a) Except as provided by Subsection (b), the board of trustees of an independent school district, on its own motion, may order that trustees of the district are to be elected from single-member trustee districts or that not fewer than 70 percent of the members of the board of trustees are to be elected from single-member trustee districts with the remaining trustees to be elected from the district at large.

(b) If a majority of the area of an independent school district is located in a county with a population of less than 10,000, the board of trustees of the district, on its own motion, may order that trustees of the district are to be elected from single-member trustee districts or that not fewer than 50 percent of the members of the board of trustees are to be elected from single-member trustee districts with the remaining trustees to be elected from the district at large.

(c) Before adopting an order under Subsection (a) or (b), the board must:

(1) hold a public hearing at which registered voters of the district are given an opportunity to comment on whether or not they favor the election of trustees in the manner proposed by the board; and

(2) publish notice of the hearing in a newspaper that has general circulation in the district, not later than the seventh day before the date of the hearing.

(d) An order of the board adopted under Subsection (a) or (b) must be entered not later than the 120th day before the date of the first election at which all or some of the trustees are elected from single-member trustee districts authorized by the order.

(e) If at least 15 percent or 15,000 of the registered voters of the school district, whichever is less, sign and present to the board of trustees a petition requesting submission to the voters of the proposition that trustees of the district be elected in a specific manner, which must be generally described on the petition and which must be a manner of election that the board could have ordered on its own motion under Subsection (a) or (b), the board shall order that the appropriate proposition be placed on the ballot at the first regular election of trustees held after the 120th day after the date the petition is submitted to the board. The proposition must specify the number of trustees to be elected from single-member districts. Beginning with the first regular election of trustees held after an election at which a majority of the registered voters voting approve the proposition, trustees of the district shall be elected in the manner prescribed by the approved proposition.

(f) If single-member trustee districts are adopted or approved as provided by this section, the board shall divide the school district into the appropriate number of trustee districts, based on the number of members of the board that are to be elected from single-member trustee districts, and shall number each trustee district. The trustee districts must be compact and contiguous and must be as nearly as practicable of equal population. In a district with 150,000 or more students in average daily attendance, the boundary of a trustee district may not cross a county election precinct boundary except at a point at which

the boundary of the school district crosses the county election precinct boundary. Trustee districts must be drawn not later than the 90th day before the date of the first election of trustees from those districts.

(g) Residents of each trustee district are entitled to elect one trustee to the board. A trustee elected to represent a trustee district at the first election of trustees must be a resident of the district the trustee represents not later than: (1) the 90th day after the date election returns are canvassed; or (2) the 60th day after the date of a final judgment in an election contest filed concerning that trustee district. After the first election of trustees from single-member trustee districts, a candidate for trustee representing a single-member trustee district must be a resident of the district the candidate seeks to represent. A person appointed to fill a vacancy in a trustee district must be a resident of that trustee district. A trustee vacates the office if the trustee fails to move into the trustee district the trustee represents within the time provided by this subsection or ceases to reside in the district the trustee represents. A candidate for trustee representing the district at large must be a resident of the district.

(h) At the first election at which some or all of the trustees are elected in a manner authorized by this section and after each redistricting, all positions on the board shall be filled. The trustees then elected shall draw lots for staggered terms as provided by Section 11.059.

(i) Not later than the 90th day before the date of the first regular school board election at which trustees may officially recognize and act on the last preceding federal census, the board shall redivide the district into the appropriate number of trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than 10 percent. Redivision of the district shall be in the manner provided for division of the district under Subsection (f).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2001, 77th Leg., ch. 982, Sec. 1, eff. Sept. 1, 2001.

**Sec. 11.053. OPTION TO CONTINUE IN OFFICE FOLLOWING ADOPTION OF SINGLE-MEMBER PLAN OR REDISTRICTING.** (a) The board of trustees of an independent school district that adopts a redistricting plan under Section 11.052 may provide for the trustees in office when the plan is adopted or the school district is redistricted to serve for the remainder of their terms in accordance with this section.

(b) The trustee district and any at-large positions provided by the district's plan shall be filled as the staggered terms of trustees then in office expire. Not later than the 90th day before the date of the first election from trustee districts and after each redistricting, the board shall determine the order in which the positions will be filled.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2001, 77th Leg., ch. 982, Sec. 2, eff. Sept. 1, 2001.

**Sec. 11.054. ELECTING TRUSTEES BY CUMULATIVE VOTING.** (a) The board of trustees of an independent school district that elects its trustees at large or at large by position may order that elections for trustees be held using the cumulative voting procedure described by this section.

(b) At an election at which more than one trustee position is to be filled, all of the positions that are to be filled at the election shall be voted on as one race by all the voters of the school district. Each voter is entitled to cast a number of votes equal to the number of positions to be filled at the election.

(c) A voter may cast one or more of the specified number of votes for any one or more candidates in any combination. Only whole votes may be cast and counted.

(d) If a voter casts more than the number of votes to which the voter is entitled in the election, none of the voter's votes may be counted in that election. If a voter casts fewer votes than entitled, all of the voter's votes are counted in that election.

(e) The candidates who are elected are those, in the number to be elected, receiving the highest numbers of votes.

(f) If the board of trustees adopts an order requiring the use of cumulative voting, only the trustee positions that were scheduled to be elected at the election are filled through the use of cumulative voting.

(g) An independent school district that adopts an order requiring the use of cumulative voting may not elect its members by position as provided by Section 11.058.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 11.055. APPLICATION TO GET ON BALLOT.** (a) An application of a candidate for a place on the ballot must be filed not later than 5 p.m. of the 78th day before the date of the election. An application may not be filed earlier than the 30th day before the date of the filing deadline.

(b) In a district in which the positions on the board of trustees are not authorized to be designated by number, an applicant is not required to state which other candidate, if any, the applicant is opposing.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 925, Sec. 9, eff. Nov. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 30, eff. September 1, 2005. Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 42, eff. September 1, 2011. Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 1, eff. September 1, 2015. Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 31, eff. September 1, 2015.

**Sec. 11.056. WRITE-IN VOTING.** (a) In an election for trustees of an independent school district, a write-in vote may not be counted for a person unless that person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers.

(b) A declaration of write-in candidacy must be filed not later than the deadline prescribed by Section 146.054, Election Code, for a write-in candidate in a city election.

(c) With the appropriate modifications and to the extent practicable, Subchapter B, Chapter 146, Election Code, applies to write-in voting in an election for trustees of an independent school district.

(d) The secretary of state shall adopt the rules necessary to implement this section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 74, eff. Sept. 1, 1997. Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 31, eff. September 1, 2005. Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 43, eff. September 1, 2011. Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 51(2), eff. September 1, 2011.

**Sec. 11.057. DETERMINATION OF RESULTS; OPTIONAL MAJORITY VOTE REQUIREMENT.** (a) Except as provided by Subsection (c), in an independent school district in which the positions of trustees are designated by number as provided by Section 11.058 or in which the trustees are elected from single-member trustee districts as provided by Section 11.052, the candidate receiving the highest number of votes for each respective position voted on is elected.

(b) In a district in which the positions of trustees are not designated by number or in which the trustees are not elected from single-member trustee districts, the candidates receiving the highest number of votes shall fill the positions the terms of which are normally expiring.

(c) The board of trustees of an independent school district in which the positions of trustees are designated by number or in which the trustees are elected from single-member trustee districts as provided by Section 11.052 may provide by resolution, not later than the 180th day before the date of an election, that a candidate must receive a majority of the votes cast for a position or in a trustee district, as applicable, to be elected. A resolution adopted under this subsection is effective until rescinded by a subsequent resolution adopted not later than the 180th day before the date of the first election to which the rescission applies.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1999, 76th Leg., ch. 522, Sec. 1, eff. Sept. 1, 1999.

**Sec. 11.058. ELECTION BY POSITION.** (a) The designation of the positions of trustees by number is or may be required only as specified by this section.

(b) The positions on the board of trustees shall be designated by number in any independent school district in which the procedure of designating and electing the trustees by number has been authorized and instituted whether under general or special law and whether by resolution of the trustees or by operation of law.

(c) The positions on the board of trustees shall be designated by number in any independent school district in which the board of trustees by resolution orders that all candidates for trustee be voted on and elected separately for positions on the board of trustees and that all candidates be designated on the official ballot according to the number of the positions for which they seek election.

(d) The resolution of the board of trustees must be made not later than the 60th day before the date of any trustee election for this section to apply.

(e) The board shall also, not later than the 60th day before the date of the election, number the positions on the board in the order in which the terms of office of the trustees expire.

(f) Once the board of trustees of an independent school district has ordered the election of trustees by numbered positions under this section, neither the board of trustees nor their successors may rescind the action.

(g) Ballots for an election to which this section applies must clearly show the position for which each person is a candidate. The board of trustees shall arrange by lot the names of the candidates for each position.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 11.0581. JOINT ELECTIONS REQUIRED.** (a) An election for trustees of an independent school district shall be held on the same date as:

(1) the election for the members of the governing body of a municipality located in the school district;

(2) the general election for state and county officers;

(3) the election for the members of the governing body of a hospital district, if the school district:

(A) is wholly or partly located in a county with a population of less than 50,000 that is adjacent to a county with a population of more than three million; and

(B) held its election for trustees jointly with the election for the members of the governing body of

the hospital district before May 2007; or

(4) the election for the members of the governing board of a public junior college district in which the school district is wholly or partly located.

(b) Elections held on the same date as provided by Subsection (a) shall be held as a joint election under Chapter 271, Election Code.

(c) The voters of a joint election under this section shall be served by common polling places consistent with Section 271.003(b), Election Code.

(d) The board of trustees of an independent school district changing an election date to comply with this section shall adjust the terms of office of its members to conform to the new election date.

(e) The joint election agreement allocating expenses as provided by Section 271.004, Election Code, must provide that a school district is responsible only for the proportion of election expenses that corresponds to the proportion that the number of registered voters in the school district bears to the total number of registered voters in all political subdivisions participating in the joint election. This subsection applies only to a school district:

(1) that has territory located in at least four counties, each of which has a population of less than 55,000; and

(2) no part of which is located in a municipality.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 11.01, eff. May 31, 2006. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1010 (H.B. 945), Sec. 2, eff. September 1, 2007. Acts 2011, 82nd Leg., R.S., Ch. 40 (S.B. 729), Sec. 1, eff. May 10, 2011. Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 8, eff. September 1, 2011. Acts 2013, 83rd Leg., R.S., Ch. 326 (H.B. 1871), Sec. 1, eff. June 14, 2013. Acts 2019, 86th Leg., R.S., Ch. 379 (H.B. 2778), Sec. 1, eff. June 2, 2019; H.B. 4559, 88th Leg., R.S., Sec. 15, eff. Sept. 1, 2023.

**Sec. 11.059. TERMS.** (a) A trustee of an independent school district serves a term of three or four years.

(b) Elections for trustees with three-year terms shall be held annually. The terms of one-third of the trustees, or as near to one-third as possible, expire each year.

(c) Elections for trustees with four-year terms shall be held biennially. The terms of one-half of the trustees, or as near to one-half as possible, expire every two years.

(d) A board policy must state the schedule on which specific terms expire.

(e) Not later than December 31, 2023, the board of trustees may adopt a resolution changing the length of the terms of its trustees. The resolution must provide for staggered terms of either three or four years and specify the manner in which the transition from the length of the former term to the modified term is made. The transition must begin with the first regular election for trustees that occurs after the board adopts the resolution, and a trustee who serves on the date the resolution is adopted shall serve the remainder of that term.

(f) A resolution under Subsection (e) may only be adopted by a board of trustees of an independent school district:

(1) with a central administrative office located in a county with a population of more than 1 million but less than 1.25 million; and

(2) in which a municipality with a population of 4,500 or less is located.

(g) Subsections (e) and (f) and this subsection expire January 1, 2029.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by: Acts 2007, 80th Leg., R.S., Ch. 17 (S.B. 670), Sec. 1, eff. April 25, 2007. Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 44, eff. September 1, 2011; H.B. 2285, 88th Leg., R.S., Sec. 1, eff. June 12, 2023..

**Sec. 11.060. VACANCIES.** (a) If a vacancy occurs on the board of trustees of an independent school district, the remaining trustees may fill the vacancy by appointment until the next trustee election.

(b) If the board is appointed by the governing body of a municipality, a trustee appointed by the governing body to fill a vacancy shall serve for the unexpired term.

(c) Instead of filling a vacancy by appointment under Subsection (a) or (b), the board or municipal governing body may order a special election to fill the vacancy. A special election is conducted in the same manner as the district's general election except as provided by the Election Code.

(d) If more than one year remains in the term of the position vacated, the vacancy shall be filled under this section not later than the 180th day after the date the vacancy occurs.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 11.061. QUALIFICATION AND ORGANIZATION OF TRUSTEES; COMPENSATION.** (a) The trustees first elected or appointed after the creation or incorporation of an independent school district shall file their official oaths with the county judge of the county in which the district or a major portion of the district is situated. After all subsequent elections, the newly elected trustees shall file their official oaths with the president of the board of trustees.

(b) A person may not be elected trustee of an independent school district unless the person is a qualified voter.

(c) Except as provided by Section 11.062, at the first meeting after each election and qualification of trustees, the

members shall organize by selecting:

- (1) a president, who must be a member of the board;
- (2) a secretary, who may or may not be a member of the board; and
- (3) other officers and committees the board considers necessary.

(d) The trustees serve without compensation.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 11.062. ELECTION OF OFFICERS IN CERTAIN SCHOOL DISTRICTS.** An independent school district in which, before September 1, 1995, part of the trustees were elected from single-member trustee districts and one or more board officers were elected at large shall continue electing trustees and officers in that manner until a different method of selection is adopted by resolution of the board of trustees.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 11.0621. MEETINGS.** The minutes, certified agenda, or recording, as applicable, of a regular or special meeting of the board of trustees must reflect each member's attendance at or absence from the meeting. The minutes or tape recording of an open meeting must be accessible to the public in accordance with Section 551.022, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1244 (H.B. 2563), Sec. 2, eff. September 1, 2007.

**Sec. 11.063. ELIGIBILITY FOR EMPLOYMENT.** A trustee of an independent school district may not accept employment with that school district until the first anniversary of the date the trustee's membership on the board ends.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 11.064. FILING OF FINANCIAL STATEMENT BY TRUSTEE.** (a) The board of trustees of an independent school district by resolution adopted by majority vote may require each member of the board to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with:

- (1) the board of trustees; and
- (2) the Texas Ethics Commission.

(a-1) Not later than the 15th day after the date a board of trustees adopts a resolution under Subsection (a), the board shall deliver a certified copy of the resolution to the Texas Ethics Commission.

(a-2) A resolution adopted under Subsection (a) applies beginning on January 1 of the second year following the year in which the resolution is adopted. A member of a board of trustees that has adopted a resolution under Subsection (a) is not required to include, in a financial disclosure statement under this section, financial activity occurring before January 1 of the year following the year in which the resolution is adopted.

(a-3) The commissioner by order shall require the members of the board of trustees of an independent school district to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, in the same manner as the members of a board of trustees that have adopted a resolution under Subsection (a) if the commissioner determines that:

- (1) a board member has failed to comply with filing and recusal requirements applicable to the member under Chapter 171, Local Government Code;
- (2) the district financial accounting practices are not adequate to safeguard state and district funds; or
- (3) the district has not met a standard set by the commissioner in the financial accountability rating system.

(a-4) The commissioner may require filing financial statements under Subsection (a-3) covering not more than three fiscal years and beginning on January 1 of the second year following the date of the commissioner's order. A member of a board of trustees subject to an order issued under Subsection (a-3) is not required to include, in a financial disclosure statement subject to this section, financial activity occurring before January 1 of the year following the year in which the order is issued. The commissioner may renew the requirement if the commissioner determines that a condition described by Subsection (c) continues to exist.

(b) Subchapter B, Chapter 572, Government Code:

- (1) applies to a trustee subject to this section as if the trustee were a state officer; and
- (2) governs the contents, timeliness of filing, and public inspection of a statement filed under this section.

(c) A trustee serving in a school district that has adopted a resolution under Subsection (a) or that is subject to an order issued under Subsection (a-3) commits an offense if the trustee fails to file the statement required by the resolution or order. An offense under this section is a Class B misdemeanor.

Added by Acts 2003, 78th Leg., ch. 249, Sec. 6.04, eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 30.01, eff. Jan. 11, 2004. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 853 (H.B. 343), Sec. 1, eff. January 1, 2014.

**Sec. 11.065. APPLICABILITY TO CERTAIN DISTRICTS.** (a) Sections 11.052(g) and (h) and Sections

11.059(a) and (b) do not apply to the board of trustees of a school district if:

- (1) the district's central administrative office is located in a county with a population of more than 2.5 million; and
- (2) the district's student enrollment is more than 125,000 and less than 200,000.

(b) Section 11.053 of this code and Section 141.001, Election Code, apply to the board of trustees of a school district described by Subsection (a).

(c) A trustee of a school district described by Subsection (a) may not serve a term that exceeds four years.

(d) Notwithstanding Chapter 171, Acts of the 50th Legislature, Regular Session, 1947 (Article 2783d, Vernon's Texas Civil Statutes), to the extent consistent with this section, the board of trustees of a school district described by Subsection (a) may adopt rules necessary to govern the term, election, and residency requirements of members of the board that may be adopted under general law by any other school district.

Added by Acts 2003, 78th Leg., ch. 344, Sec. 1, eff. June 18, 2003. Renumbered from Education Code, Section 11.064 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(10), eff. September 1, 2005; ; H.B. 4559, 88<sup>th</sup> Leg., R.S., Sec. 16, eff. Sept. 1, 2023.

**Sec. 11.066. ELIGIBILITY FOR SERVICE BY TRUSTEE CONVICTED OF CERTAIN OFFENSES.** A person is ineligible to serve as a member of the board of trustees of a school district if the person has been convicted of a felony or an offense under Section 43.021, Penal Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 9, eff. September 1, 2017. Amended by: Acts 2019, 86th Leg., R.S., Ch. 689 (S.B. 2283), Sec. 1, eff. September 1, 2019. Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 37, eff. September 1, 2021.

## **SUBCHAPTER D. POWERS AND DUTIES OF BOARD OF TRUSTEES OF INDEPENDENT SCHOOL DISTRICT**

**Sec. 11.169. ELECTIONEERING PROHIBITED.** Notwithstanding any other law, the board of trustees of an independent school district may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party.

Added by Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 32, eff. September 1, 2005. Renumbered from Education Code, Section 11.168 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(11), eff. September 1, 2007.

## **SUBCHAPTER G. LAW APPLICABLE TO CERTAIN SCHOOL DISTRICTS AND COUNTY SYSTEMS**

**Sec. 11.301. APPLICATION OF FORMER LAW.** (a) A school district or county system operating under former Chapter 17, 18, 22, 25, 26, 27, or 28 on May 1, 1995, may continue to operate under the applicable chapter as that chapter existed on that date and under state law generally applicable to school districts that does not conflict with that chapter.

(b) A school district operating under former Chapter 22 may incorporate and become an independent school district in the manner provided by former Subchapter F, Chapter 19, as that subchapter existed on May 1, 1995.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 304, Sec. 2, eff. Sept. 1, 2003.

**Sec. 11.303. MUNICIPAL SCHOOL DISTRICTS.** (a) Except as otherwise provided by this section, a school district operating under former Chapter 24 may continue to operate under that chapter as it existed on May 1, 1995, and under state law generally applicable to school districts that does not conflict with that chapter.

(b) The governing body of the municipality may participate in annual hearings or work sessions held by the board of trustees of the municipal school district on the budget and ad valorem tax rate for the coming year.

(c) The board of trustees of a municipal school district and the governing body of the municipality shall jointly hold any hearing required by law as a condition for the adoption of an annual budget and imposition of an ad valorem tax.

(d) Neither an annual budget for a municipal school district nor an ad valorem tax to be imposed for the district may be adopted without the affirmative vote of:

(1) a majority of the members of the board of trustees of the municipal school district present and voting;  
and

(2) at least three-quarters of the total of the voting members of the board of trustees and the governing body of the municipality that are present and voting.

(e) If a quorum of the members of the governing body of the municipality is not present at a meeting required under Subsection (c), the board of trustees may adopt a budget or an ad valorem tax rate without regard to the requirements of Subsection (d).

(f) Notwithstanding former Section 24.06(c), as it existed on May 1, 1995, the governing body of the municipality

shall adopt an ordinance providing for the levy and assessment of the tax approved pursuant to Subsection (d) or (e).

(g) After adopting an ordinance levying a tax for the municipal school district, the governing body of the municipality shall provide a certified copy of the ordinance to the district's board of trustees.

(h) This section may not be construed as authorizing the governing body of a municipality to levy a tax for the support of schools of a municipal school district without fully complying with all applicable provisions of the Tax Code.

Added by Acts 2003, 78th Leg., ch. 304, Sec. 1, eff. Sept. 1, 2003.

**Sec. 11.304. WRITE-IN VOTING: COMMON SCHOOL DISTRICT BOARD ELECTION.** The procedures for write-in voting prescribed for an election for trustees of an independent school district under Section 11.056 apply to an election for trustees of a common school district operating under former Chapter 22 as that chapter existed on May 1, 1995.

Added by Acts 2007, 80th Leg., R.S., Ch. 283 (H.B. 606), Sec. 1, eff. June 15, 2007.



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## CHAPTER 12. CHARTERS

### SUBCHAPTER B. HOME-RULE SCHOOL DISTRICT CHARTER

**Sec. 12.014. APPOINTMENT OF CHARTER COMMISSION.** The board of trustees of a school district shall appoint a charter commission to frame a home-rule school district charter if:

(1) the board receives a petition requesting the appointment of a charter commission to frame a home-rule school district charter signed by at least five percent of the registered voters of the district; or

(2) at least two-thirds of the total membership of the board adopt a resolution ordering that a charter commission be appointed.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.015. CHARTER COMMISSION.** (a) Not later than the 30th day after the date of receipt of a petition or adoption of a resolution under Section 12.014, the board of trustees of the school district shall appoint 15 residents of the district to serve on the commission to frame a charter for the district.

(b) The membership of the charter commission must reflect the racial, ethnic, socioeconomic, and geographic diversity of the district. A majority of the members appointed to the commission must be parents of school-age children attending public school. At least 25 percent of the commission must be classroom teachers selected by the representatives of the professional staff pursuant to Section 11.251(e).

(c) The charter commission must complete a proposed charter not later than the first anniversary of the date of its appointment. After that date, the commission expires and the appointment under Section 12.014 is void.

(d) A charter commission appointed under this section is considered a governmental body for purposes of Chapters 551 and 552, Government Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.017. DETERMINATION OF COMPLIANCE WITH VOTING RIGHTS ACT.** (a) The charter commission shall submit the proposed charter to the secretary of state. The secretary of state shall determine whether a proposed charter contains a change in the governance of the school district.

(b) If the secretary of state determines that a proposed charter contains a change in the governance of the school district, the secretary of state shall, not later than the second working day after the date the secretary of state makes that determination, notify the board of trustees of the school district. The board shall submit the proposed change to the United States Department of Justice or the United States District Court for the District of Columbia for preclearance under the Voting Rights Act (42 U.S.C. Section 1973c et seq.).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.019. CHARTER ELECTION.** (a) As soon as practicable after approval of a home-rule school district charter under Section 12.018, the board of trustees of the district shall order an election on the proposed charter.

(b) The proposed charter shall be submitted to the voters of the district at an election to be held on the first uniform election date that occurs at least 45 days after the date on which the board of trustees orders the election.

(c) At least three copies of the proposed charter must be available in the office of each school campus in the district and at the district's central administrative office between the date of the election order and election day. Notice of the election must include a statement of where and how copies may be obtained or viewed. A summary of the content of the proposed charter shall be attached to each copy. The summary also shall be made available to school district employees, parents, community members, and members of the media.

(d) The ballot shall be printed to permit voting for or against the proposition "Whether the (name of school district) School District shall be governed under the home-rule school district charter, which is proposed by a charter commission appointed by the board of trustees and under which only certain laws and rules apply to the district."

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.020. CHARTER AMENDMENT.** (a) The governing body of a home-rule school district on its own motion may submit a proposed charter amendment that complies with this subchapter to the commissioner for legal review.

(b) The governing body shall submit a proposed charter amendment that complies with this subchapter to the commissioner for legal review if a petition submitted to the governing body proposing the charter amendment is signed by at least five percent of the registered voters of the district.

(c) As soon as practicable, but not later than the 30th day after the date on which the requirements for an election under Subsection (a) or (b) are satisfied, the commissioner shall review the proposed amendment to ensure that the proposed amendment complies with any applicable laws and shall recommend any modifications necessary. If the commissioner does not act within the prescribed time, the proposed charter amendment is approved.

(d) As soon as practicable after commissioner review under Subsection (c), the governing body of the district shall order an election on the proposed amendment.

(e) An election under this section shall be held on the first uniform election date that occurs at least 45 days after the date the election is ordered.

(f) Notice of the election must include a substantial copy of the proposed charter amendment.

(g) A charter amendment may not contain more than one subject.

(h) The ballot shall be prepared so that a voter may approve or disapprove any one or more charter amendments without having to approve or disapprove all of the charter amendments.

(i) The governing body may not order an election on a proposed charter amendment earlier than the first anniversary of the date of any previous election to amend the charter.

(j) Section 12.017 applies to a proposed charter amendment, except that the governing body shall submit the proposed charter amendment to the secretary of state.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.021. ADOPTION OF CHARTER OR CHARTER AMENDMENT.** (a) Subject to Section 12.022, a proposed home-rule school district charter or a proposed charter amendment is adopted if approved by a majority of the qualified voters of the district voting at an election held for that purpose.

(b) A charter or charter amendment shall specify an effective date and takes effect according to its terms when the governing body of the school district enters an order declaring that the charter or charter amendment is adopted. The governing body shall enter an order not later than the 10th day after the date the canvass of the election returns is completed.

(c) As soon as practicable after a school district adopts a home-rule school district charter or charter amendment, the board of trustees or governing body shall notify the commissioner of the outcome of the election.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.022. MINIMUM VOTER TURNOUT REQUIRED.** (a) An election on the adoption of a proposed home-rule school district charter has no effect unless at least 25 percent of the registered voters of the district vote in the election in which the adoption of the charter is on the ballot.

(b) An election on the adoption of a proposed amendment to a home-rule school district charter has no effect unless at least 20 percent of the registered voters of the district vote in the election in which the adoption of the amendment is on the ballot.

(c) If the required number of voters prescribed by Subsection (a) or (b) do not vote in the election, the board of trustees shall order an election on the issue to be held on the first uniform election date:

(1) that occurs at least 45 days after the date the election is ordered; and

(2) on which one or more elections are to be held, the combination of which covers all of the territory of the school district.

(d) If the required number of voters prescribed by Subsection (a) or (b) do not vote at an election ordered as required by Subsection (c), the board of trustees may continue to order elections on the issue in accordance with Subsection (c) until the required minimum voter turnout is achieved.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.023. CERTIFICATION OF CHARTER OR CHARTER AMENDMENT.** (a) As soon as practicable after a school district adopts a home-rule school district charter or charter amendment, the president of the board of trustees shall certify to the secretary of state a copy of the charter or amendment showing the approval by the voters of the district.

(b) The secretary of state shall file and record the certification in the secretary of state's office.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.024. EFFECT OF RECORDING CHARTER OR CHARTER AMENDMENT.** A recorded charter or charter amendment is a public act. A court shall take judicial notice of a recorded charter or charter amendment and proof is not required of its provisions.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.025. GOVERNANCE.** (a) A home-rule school district may adopt and operate under any governing structure.

(b) The district may:

- (1) create offices;
- (2) determine the time and method for selecting officers; and
- (3) prescribe the qualifications and duties of officers.

(c) The term of any officer of the district is determined under Section 11.059.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.026. CHANGE IN GOVERNING BODY.** If the adoption, amendment, or revocation of a home-rule school district charter changes the structure of the governing body of the school district, the members of the governing body serving on the date the adoption, amendment, or revocation takes effect continue in office until their successors are chosen and have qualified for office.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 12.029. STATUS OF DISTRICT IN CASE OF ANNEXATION OR CONSOLIDATION.** (a) If a school district is annexed to another district under Chapter 13, and only one of the districts has a home-rule school district status, the status, as a home-rule or other type of school district, of the receiving district is the status for both districts following annexation.

(b) Except as provided by Subchapter H, Chapter 49, if two or more school districts having different status, one of which is home-rule school district status, consolidate into a single district, the petition under Section 13.003 initiating the consolidation must state the status for the consolidated district. The ballot shall be printed to permit voting for or against the proposition: "Consolidation of (names of school districts) into a single school district governed as (status of school district specified in the petition)."

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by: Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.009, eff. September 1, 2019.

**Sec. 12.030. RESCISSION OF CHARTER.** (a) A home-rule school district charter may be rescinded as provided by this section.

(b) The governing body of the district shall order an election on the question of rescinding a home-rule school district charter if:

- (1) the governing body receives a petition requesting a rescission election signed by at least five percent of the registered voters of the district; or
- (2) at least two-thirds of the total membership of the governing body adopt a resolution ordering that a rescission election be held.

(c) As soon as practicable after the date of receipt or adoption of a resolution under Subsection (b), the governing body shall order an election.

(d) The proposition to rescind the home-rule school district charter shall be submitted to the voters of the district at an election to be held on the first uniform election date that occurs at least 45 days after the date on which the governing body orders the election.

(e) The ballot shall be printed to permit voting for or against the proposition: "Whether the home-rule school district charter of (name of school district) shall be rescinded so that the school district becomes an independent school district."

(f) A home-rule school district charter is rescinded if the rescission is approved by a majority of the qualified voters of the district voting at an election held for that purpose at which at least 25 percent of the registered voters of the district vote.

(g) The rescission takes effect on a date established by resolution of the governing body but not later than the 90th day after the date of an election held under this section at which rescission of the charter is approved and at which the number of registered voters required under Subsection (f) vote. As soon as practicable after that election, the governing body shall notify the commissioner and the secretary of state of the results of the election and of the effective date of the rescission.

(h) The rescission of a home-rule school district charter under this section does not affect:

- (1) the district's boundaries; or
- (2) taxes or bonds of the district authorized before the effective date of the rescission.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

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## **CHAPTER 13. CREATION, CONSOLIDATION, AND ABOLITION OF A DISTRICT**

### **SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 13.002. PERMITTED FREQUENCY OF PROPOSED ACTIONS.** (a) If at an election on a proposition under this chapter the majority of the votes are cast against the proposition, another election for the same purpose may not be held earlier than the corresponding uniform election date three years after the date of the first election. If a majority of the votes are cast in favor of the proposition, an election to reverse the effects of the first election may not be held earlier than the corresponding uniform election date three years after the date of the first election.

(b) If, without an election, an action under this chapter occurs on the order or ordinance of an authority acting in response to a petition and the petitioners' request is rejected, that authority may not consider a subsequent petition on the same request earlier than three years after the date on which the request is rejected. If the request is granted and the order is issued or the ordinance is adopted, a petition to reverse the effects of the order or ordinance may not be considered by the authority earlier than three years after the date of issuance or adoption.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.003. PETITION AND ELECTION.** (a) Except as otherwise provided by this chapter, this section governs:

- (1) the validity of a petition submitted to request an election under this chapter; and
- (2) the conduct of the resulting election.

(b) To be valid, a petition must:

- (1) be submitted to the county judge serving the county in which the appropriate school district is located;
- (2) be signed by at least 10 percent of the registered voters of the appropriate district; and
- (3) state the purpose for which it is being submitted.

(c) Immediately following receipt of a valid petition, the county judge shall order the election to be held on an authorized election date, as prescribed by Chapter 41, Election Code, occurring not later than the 60th day after the date of receipt. If an authorized date within that period does not allow sufficient time to comply with other legal requirements or if there is no authorized date within that period, the election shall be ordered for the next authorized date.

(d) The election order must include the date of the election, the hours during which the polls will be open, the location of the polling places, and the proposition to be voted on.

(e) Not earlier than the 30th day or later than the 10th day before the date of the election, the county judge shall give notice of the election by having a copy of the election order published at least once in a newspaper published at least once each week in the appropriate school district. If such a newspaper is not published in the district, the notice shall be published in at least one newspaper of general circulation in the county in which the district is located. The county judge shall give additional notice of the election by having a copy of the election order posted in a public place in each election precinct not later than the 21st day before the date of the election.

(f) The election precincts and polling places usually used in the elections of the appropriate school district shall be used in an election held under this chapter, except that if another election is occurring on the same date for all or part of the same geographic area, precincts and polling places shall be selected to allow each voter to cast ballots at the same polling place for each of the elections. To the extent practical, the election shall be conducted in accordance with the Election Code.

(g) The expenses of the election shall be paid by the appropriate school district or districts.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.004. ALLOCATION OF INDEBTEDNESS AND PERSONAL PROPERTY.** (a) If under this chapter a school district assumes a portion of the indebtedness of another district, the commissioners court by order shall equitably allocate the indebtedness among the districts involved. If territory from one district is annexed to another or if a district is abolished, the commissioners court shall also equitably allocate among the receiving districts a portion of the personal property of the annexed district or all the personal property of an abolished district. If districts located in more than one county are involved, the commissioners court of each county in which an involved school district is located must agree on the allocation of indebtedness and personal property.

(b) In allocating the indebtedness and personal property, the commissioners court shall consider the value of the properties involved and the taxable value of the districts involved.

(c) The order of the commissioners court is binding on the school districts and territory affected by the order.

(d) A school district required to assume the indebtedness of another district under this chapter is not required to conduct an election on assumption of the indebtedness. Without an election, the school district assuming the indebtedness may

levy and collect taxes necessary to pay principal and interest on the assumed debt so long as the debt is outstanding.

(e) Without an election, a school district may issue refunding bonds for bonds of another district assumed under this chapter.

(f) If an entire district is annexed to or consolidated with another district, if a district is converted from a common to an independent school district, or if a school district is separated from a municipality, the governing board of the district as changed may, without an election, sell and deliver any unissued bonds voted in the district before the change and may levy and collect taxes in the district as changed for the payment of principal and interest on bonds.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.005. EFFECTIVE DATE OF TRANSFER.** (a) Except as provided by this section or by a local consolidation agreement under Section 13.158, the annexation of all or part of the territory of one district to another is effective on the first July 1 that is more than 30 days after the date of the order or ordinance accomplishing the annexation or of the declaration of the results of an election at which the transfer is approved.

(b) On the effective date of the transfer:

- (1) students residing in the territory become residents of the receiving district;
- (2) title to property allocated to the receiving district vests in the district;
- (3) the receiving district assumes any debt allocated to it; and
- (4) the receiving district assumes jurisdiction of the annexed territory for all other purposes.

(c) If the annexation is appealed to the commissioner and is approved, the transfer is effective on a date set by the commissioner that is not earlier than the 30th day after the date of the commissioner's decision in the appeal. If the decision of the commissioner is appealed to a district court in Travis County, the transfer, if approved, is effective on a date set by the court.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 201, Sec. 7, eff. Sept. 1, 2003.

**Sec. 13.006. TAXING AUTHORITY TRANSFER.** (a) If all or part of the territory of a school district is annexed to another district, the receiving district may levy taxes at the rate established in accordance with law for the district as a whole and is not required to conduct an election for the purpose of taxing the territory received.

(b) Conversion of a common school district or rural high school district to an independent school district or separation from municipal control does not affect the taxes levied for school purposes. The new district may levy and collect taxes at the same rate at which the taxes were previously levied and is not required to conduct an election for that purpose.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.008. DISTRICT TRUSTEE APPROVAL OF BOUNDARY CHANGES REQUIRED.** Any change in the boundaries of a school district is not effective unless approved by a majority of the board of trustees of the district if the board's approval is required under this chapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.009. APPEALS.** (a) A decision of a commissioner's court under this chapter may be appealed for a de novo review.

(b) If this chapter requires the agreement of or action by two or more commissioner's courts, and the commissioner's courts fail to agree or take action within a reasonable time set by rule of the State Board of Education, a person aggrieved by the failure may appeal to the commissioner for resolution of the issue.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.010. BOUNDARY DESCRIPTIONS AND MAPS TO BE FILED WITH AGENCY.** (a) Each school district shall file with the agency:

- (1) a complete and legally sufficient description of the boundaries of the district;
- (2) a map of the district that:
  - (A) is drawn to the county general highway maps produced by the Texas Department of Transportation or a similar map of sufficient detail to display the names of visible features that the boundaries follow or to which the boundaries are in close proximity; and
  - (B) is an accurate and legible representation of the boundaries in relationship to other features on the map; and
- (3) a list of voting precincts in the district, separately listing those precincts wholly in the district and those precincts only partly in the district.

(b) A school district shall amend the information and maps on file under this section if the boundaries of the district

change or if any other change makes the information on file incomplete or inaccurate.

(c) The agency shall make maps and information maintained under this section available to the legislature and legislative agencies without cost.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

## SUBCHAPTER B. DETACHMENT; ANNEXATION

**Sec. 13.051. DETACHMENT AND ANNEXATION OF TERRITORY.** (a) In accordance with this section, territory may be detached from a school district and annexed to another school district that is contiguous to the detached territory. A petition requesting the detachment and annexation must be presented to the board of trustees of the district from which the territory is to be detached and to the board of trustees of the district to which the territory is to be annexed. Each board of trustees to which a petition is required to be presented must conduct a hearing and adopt a resolution as provided by this section for the annexation to be effective.

(b) The petition requesting detachment and annexation must:

(1) be signed by a majority of:

(A) the registered voters residing in the territory to be detached and annexed, if the territory has residents; or

(B) the surface owners of taxable property in the territory to be detached and annexed, if the territory does not have residents; and

(2) give the metes and bounds of the territory to be detached and annexed.

(c) Territory that does not have residents may be detached from a school district and annexed to another school district if:

(1) the total taxable value of the property in the territory according to the most recent certified appraisal roll for each school district is not greater than:

(A) five percent of the district's taxable value of all property in that district as determined under Subchapter M, Chapter 403, Government Code; and

(B) \$5,000 property value per student in average daily attendance as determined under Section 48.005; and

(2) the school district from which the property will be detached does not own any real property located in the territory.

(d) The proposed annexation must be approved by the board of trustees of each affected district, subject to the appeal provisions of Subsection (j).

(e) Unless the petition is signed by a majority of the trustees of the district from which the territory is to be detached, territory that has residents may not be detached from a school district under this section if detachment would reduce that district's tax base by a ratio at least twice as large as the ratio by which it would reduce its membership. The first ratio is determined by dividing the assessed value of taxable property in the affected territory by the assessed value of all taxable property in the district, both figures according to the preceding year's tax rolls. The second ratio is determined by dividing the number of students residing in the affected territory by the number of students residing in the district as a whole, using membership on the last day of the preceding school year and the students' places of residence as of that date.

(f) A school district may not be reduced to an area of less than nine square miles.

(g) Immediately following receipt of the petition as required by this section, each affected board of trustees shall give notice of the contemplated change by publishing and posting a notice in the manner required for an election order under Section 13.003. The notice must specify the place and date at which a hearing on the matter shall be held. Unless the districts hold a joint hearing, the districts must hold hearings on separate dates. At each hearing, affected persons are entitled to an opportunity to be heard.

(h) At the hearing, each board of trustees shall consider the educational interests of the current students residing or future students expected to reside in the affected territory and in the affected districts and the social, economic, and educational effects of the proposed boundary change. After the conclusion of the hearing, each board of trustees shall make findings as to the educational interests of the current students residing or future students expected to reside in the affected territory and in the affected districts and as to the social, economic, and educational effects of the proposed boundary change and shall, on the basis of those findings, adopt a resolution approving or disapproving the petition. The findings and resolution shall be recorded in the minutes of each affected board of trustees and shall be reported to the commissioners court of the county to which the receiving district is assigned for administrative purposes by the agency and to the commissioners court of the county to which the district from which territory is to be detached is assigned for administrative purposes.



(i) If both boards of trustees of the affected districts approve the petition, the commissioners court or commissioners courts to whom the matter is required to be reported shall enter an order redefining the boundaries of the districts affected by the transfer. Title to all real property of the district from which territory is detached within the territory annexed vests in the receiving district, and the receiving district assumes and is liable for any portion of the indebtedness of the district from which the territory is to be detached that is allocated to the receiving district under Section 13.004.

(j) If both boards of trustees of the affected districts disapprove the petition, the decisions may not be appealed. If the board of trustees of only one affected district disapproves the petition, an aggrieved party to the proceedings in either district may appeal the board's decision to the commissioner under Section 7.057. An appeal under this subsection is de novo. In deciding the appeal, the commissioner shall consider the educational interests of the students in the affected territory and the affected districts and the social, economic, and educational effects of the proposed boundary change.

(k) Any additional tax resulting from a change of use, as provided for by Chapter 23, Tax Code, and the interest and penalty on the additional tax, that is imposed for any year on land in the annexed territory shall be paid to the school district that imposed the tax.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by: Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.010, eff. September 1, 2019.

## **SUBCHAPTER C. CREATION OF DISTRICT BY DETACHMENT**

**Sec. 13.101. CREATION OF DISTRICT BY DETACHING TERRITORY FROM EXISTING DISTRICT.** (a) A new school district may be created by detaching territory from an existing school district or existing contiguous school districts and establishing a new school district.

(b) A school district created under this subchapter has all the rights and privileges of other independent school districts.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.102. MINIMUM AREA AND ATTENDANCE REQUIREMENTS.** A new district may not be created with an area of less than nine square miles or fewer than 8,000 students in average daily attendance, and a district may not be reduced to an area of less than nine square miles or fewer than 8,000 students in average daily attendance.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.103. INITIATION OF DETACHMENT.** Creation of a new district by detachment is initiated by resolution of the board of trustees of each district from which territory is to be detached or by a petition presented to the commissioners court. A petition under this subchapter must:

(1) give the metes and bounds of the proposed new district;

(2) be signed by at least 10 percent of the registered voters residing in the proposed area to be detached from an existing district; and

(3) be addressed to the commissioners court of the county in which the territory of the proposed district is located or, if the territory is in more than one county, to the commissioners court of each county in which the territory is located.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.104. ELECTION.** (a) Not later than the 30th day after the date the commissioners court receives a petition under this subchapter, the commissioners court shall hold a hearing on the validity of the petition. If the commissioners court determines the petition is valid, each board of trustees shall order an election to be held on the same date in each district.

(b) The ballot shall be printed to permit voting for or against the proposition: "Creation of a new school district that includes the following territory from the \_\_\_\_\_ School District: \_\_\_\_\_." The ballot description of the territory to be detached must be sufficient to give general notice of the territory affected.

(c) An election on the detachment of the territory and creation of a new district has no effect unless at least 25 percent of the registered voters of each district vote in the election in which the issue is on the ballot.

(d) The boards of trustees shall report the results of the election to the appropriate commissioners courts, which shall declare the results of the election. The new school district is created only if the proposition receives:

(1) a majority of the votes in the territory to be detached; and

(2) a majority of the votes in the remaining territory in each district from which property is to be detached in the manner prescribed by Section 13.003.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.105. CREATION OF DISTRICT.** (a) If all the requirements of this subchapter are met, the commissioners court shall enter an order creating the new school district. If the new district contains territory in two or more counties, the order must be concurred in by the commissioners court of each county concerned.

(b) At the time the order creating the district is made, the commissioners court of the county in which the largest portion of the district's territory is located shall appoint a board of seven trustees for the new district to serve until the next regular election of trustees, when a board of trustees shall be elected in compliance with Chapter 11.

(c) Title to school district real property in the territory detached vests in the new district. The new district assumes and is liable for any portion of outstanding indebtedness of the district from which the territory was detached that is allocated to the new district under Section 13.004.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

## **SUBCHAPTER D. CONSOLIDATION**

**Sec. 13.151. DISTRICTS THAT MAY CONSOLIDATE.** (a) By the procedure provided by this subchapter, two or more school districts may consolidate into a single school district.

(b) The consolidated district may include area in more than one county.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.152. RESOLUTION OR PETITION.** Consolidation is initiated in each district proposed to be consolidated by either a resolution adopted by the board of trustees of the district or a petition requesting an election on the question that is signed by the required number of registered voters of the district. Each district is not required to use the same method to initiate consolidation.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 201, Sec. 8, eff. Sept. 1, 2003.

**Sec. 13.1521. RECEIPT OR CONSIDERATION OF PETITION REQUESTING DETACHMENT AND ANNEXATION AFTER ADOPTION OF CONSOLIDATION RESOLUTIONS.** If a resolution in favor of consolidation has been adopted by the board of trustees of each school district proposed to be consolidated into a particular single district, none of those boards of trustees may receive or consider a petition requesting detachment and annexation under Subchapter B without the consent of each of the other of those boards of trustees:

(1) before consolidation; or

(2) before consolidation is disapproved at an election under Section 13.153.

Added by Acts 2013, 83rd Leg., R.S., Ch. 336 (H.B. 2016), Sec. 1, eff. June 14, 2013.

**Sec. 13.153. ELECTION ORDER; NOTICE.** (a) Each board of trustees shall:

(1) issue an order for an election to be held on the same day in each district included in the proposed consolidated district; and

(2) give notice of the election.

(b) If no local consolidation agreement is submitted under Section 13.158, the ballot in the election shall be printed to permit voting for or against the proposition: "Consolidation of (name of school districts) into a single school district."

(c) If a local consolidation agreement is submitted under Section 13.158, the ballot in the election shall be printed to permit voting for or against the proposition: "Consolidation of (name of school districts) into a single school district under a local consolidation agreement."

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 201, Sec. 9, eff. Sept. 1, 2003.

**Sec. 13.154. CANVASS; RESULT.** (a) Each board of trustees shall canvass the returns of the election in its district and shall publish the results separately for each district.

(b) If the votes cast in all districts show a majority in each district voting in favor of the consolidation, the board of trustees shall declare the school districts consolidated.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.155. STATUS; GOVERNANCE.** (a) The consolidated district is an independent school district.

(b) Except as provided by Subsection (c) or by a local consolidation agreement under Section 13.158, the board of trustees of the school district having the greatest membership on the last day of the school year preceding the consolidation serves as the board of trustees of the consolidated district until the next regular election of trustees, at which time the consolidated district shall elect a board of trustees.

(c) Except as provided by a local consolidation agreement under Section 13.158, if the membership on the last day of the school year preceding the consolidation in the district with the largest membership is more than five times that of the other district or districts consolidating with it, the trustees of the district with the largest membership continue to serve for the terms for which they have been elected and only the vacancies, as they occur, are filled from the consolidated district.

(d) The powers, duties, and terms of office of the trustees are governed by Chapter 11.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 201, Sec. 10, eff. Sept. 1, 2003.

**Sec. 13.156. TITLE TO PROPERTY; ASSUMPTION OF DEBT.** Title to all property of the consolidating districts vests in the consolidated district, and the consolidated district assumes and is liable for the outstanding indebtedness of the consolidating districts.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.157. DISSOLUTION OF CONSOLIDATED SCHOOL DISTRICT.** (a) A consolidated school district may be dissolved by the same procedure provided for consolidation, except that it is not necessary to provide polling places in each of the former districts.

(b) If the district is dissolved, each of the former districts is restored as a separate district and classified as an independent school district.

(c) Title to property of the consolidated district that is allocated to each of the restored districts under Section 13.004 vests in the restored districts, and each of the restored districts assumes and is liable for the indebtedness of the consolidated district as allocated under that section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.158. LOCAL CONSOLIDATION AGREEMENT.** (a) Before issuing an order for an election under Section 13.153, the boards of trustees of the districts to be consolidated may draft a local consolidation agreement to be submitted to the registered voters in each district. An agreement must set out the composition and method of election of the consolidated board of trustees. The identical agreement must be submitted to the registered voters of each district.

(b) A local consolidation agreement may provide the following:

(1) an effective date that is not more than one year after the date of the consolidation election;

(2) a schedule to elect the board of trustees of the consolidated district before or after the effective date of consolidation;

(3) that the consolidated district educate particular grades within the boundaries of a district being consolidated;

(4) that the consolidated district maintain a specific campus in operation;

(5) that if the votes cast in some districts, but not all districts, show a majority voting in favor of the consolidation, the districts receiving a favorable vote may consolidate;

(6) that a majority of the votes cast in each district must be in favor of consolidation for there to be a consolidation; or

(7) any other provision consistent with state and federal law.

(c) Not later than 30 days before a consolidation election is held, the boards of trustees of the districts to be consolidated may amend the local consolidation agreement. After a successful election to consolidate, the local consolidation agreement may not be amended for five years following the effective date of consolidation, unless a shorter period is set out in the agreement. After that time, the agreement may be amended only by unanimous vote of the board of trustees of the district.

(d) The commissioner may waive a requirement under this section or Section 13.159 on application of the boards of trustees of all districts proposed for consolidation.

Added by Acts 2003, 78th Leg., ch. 201, Sec. 11, eff. Sept. 1, 2003.

**Sec. 13.159. PUBLIC INSPECTION AND HEARING.** (a) A local consolidation agreement under Section 13.158 must be made available for public inspection during regular business hours at the central administration building of each district for at least 25 days before the consolidation election.

(b) Each district shall hold a public hearing to allow interested persons to present comments related to the local consolidation agreement. If the agreement is amended following a public hearing, before the consolidation election each district shall hold another public hearing to consider the amendment.

(c) Each district shall provide notice of each public hearing to the public.

Added by Acts 2003, 78th Leg., ch. 201, Sec. 11, eff. Sept. 1, 2003.

## SUBCHAPTER E. ABOLITION OF INDEPENDENT SCHOOL DISTRICT

**Sec. 13.201. ELIGIBILITY.** An independent school district may be abolished in the manner provided by this subchapter.  
Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.202. PETITION.** Abolition of an independent school district is initiated by a petition requesting an election on the question. The petition must be signed by a majority of the board of trustees of the district to be abolished and must be presented to the county judge of each county in which part of the independent school district is situated.  
Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.203. ELECTION.** (a) Each county judge receiving a valid petition shall:

- (1) issue an order for an election to be held on the same day in each county; and
- (2) give notice of the election.

(b) The ballot in the election shall be printed to permit voting for or against the proposition: "Abolition of the \_\_\_\_\_ Independent School District."  
Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 13.204. ORDER ABOLISHING DISTRICT.** (a) The commissioners court of each county shall canvass the returns of the election in its county.

(b) If a majority of the total votes cast in the district favor abolishing the district, each commissioners court shall declare the results. The abolition is effective only if all territory of the district is annexed to other contiguous districts.  
Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

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## SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT

### CHAPTER 49. OPTIONS FOR LOCAL REVENUE LEVELS IN EXCESS OF ENTITLEMENT

#### SUBCHAPTER A. GENERAL PROVISIONS

**Sec. 49.004. ANNUAL REVIEW OF LOCAL REVENUES.** (a) Not later than July 15 of each year, using the estimates of enrollment and taxable property value under Section 48.269, the commissioner shall review the local revenue level of school districts in the state and shall notify:

- (1) each district with a local revenue level in excess of entitlement;
- (2) each district to which the commissioner proposes to annex property detached from a district notified under Subdivision (1), if necessary, under Subchapter G; and
- (3) each district to which the commissioner proposes to consolidate a district notified under Subdivision (1), if necessary, under Subchapter H.

(a-1) This subsection applies only if the constitutional amendment proposed by H.J.R. 2, 88th Legislature, 2nd Called Session, 2023, is approved by the voters in an election held for that purpose. As soon as practicable after receiving revised property values that reflect adoption of the constitutional amendment, the commissioner shall review the local revenue level of districts in the state and revise as necessary the notifications provided under Subsection (a) for the 2023-2024 school year. This subsection expires September 1, 2024.

(b) If, before the dates provided by this subsection, a district notified under Subsection (a)(1) has not successfully exercised one or more options under Section 49.002 that reduce the district's local revenue level to a level equal to or less than the level established under Section 48.257, the commissioner shall order the detachment of property from that district as provided by Subchapter G. If that detachment will not reduce the district's local revenue level to a level equal to or less than the level established under Section 48.257, the commissioner may not detach property under Subchapter G but shall order the consolidation of the district with one or more other districts as provided by Subchapter H. An agreement under Section 49.002(1) or (2) must be executed not later than September 1 immediately following the notice under Subsection (a). An election for an option under Section 49.002(3), (4), or (5) must be ordered before September 1 immediately following the notice under Subsection (a).

(b-1) This subsection applies only to a district that has not previously held an election under this chapter. Notwithstanding Subsection (b), a district that enters into an agreement to exercise an option to reduce the district's local revenue level in excess of entitlement under Section 49.002(3), (4), or (5) for the 2023-2024 school year may request and, as provided by Section 49.0042(a), receive approval from the commissioner to delay the date of the election otherwise required to be ordered before September 1. This subsection expires September 1, 2024.

(c) A district notified under Subsection (a) may not adopt a tax rate for the tax year in which the district receives the notice until the commissioner certifies that the district has reduced the district's local revenue level in excess of entitlement to the level established under Section 48.257.

(c-1) Notwithstanding Subsection (c), a district that receives approval from the commissioner to delay an election as provided by Subsection (b-1) may adopt a tax rate for the 2023 tax year before the commissioner certifies that the district has reduced its local revenue level to the level established by Section 48.257. This subsection expires September 1, 2024.

(d) A detachment and annexation or consolidation under this chapter:

- (1) is effective for Foundation School Program funding purposes for the school year that begins in the calendar year in which the detachment and annexation or consolidation is agreed to or ordered; and
- (2) applies to the ad valorem taxation of property beginning with the tax year in which the agreement or order is effective.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.05, eff. Sept. 1, 1999. Amended by: Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 11, eff. June 15, 2015. Transferred, redesignated and amended from Education Code, Section 41.004 by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.049, eff. September 1, 2019. S.B. 2, 88<sup>th</sup> Leg., 2d C.S., Sec. 3.09, eff. July 22, 2003.

**Sec. 49.0042. TRANSITIONAL PROVISIONS: INCREASED HOMESTEAD EXEMPTION AND LIMITATION ON TAX INCREASES.** (a) The commissioner shall approve a district's request under Section 49.004(b-1) to delay the date of an election required under this chapter if the commissioner determines that the district would not have a local revenue level in excess of entitlement if the constitutional amendment proposed by H.J.R. 2, 88th Legislature, 2nd Called Session, 2023, were approved by the voters.

(b) The commissioner shall set a date by which each district that receives approval under this section must order the election.

(c) Not later than the 2024-2025 school year, the commissioner shall order detachment and annexation of property under Subchapter G or consolidation under Subchapter H as necessary to reduce the district's local revenue level to the level established by Section 48.257 for a district that receives approval under this section and subsequently:

(1) fails to hold the election; or

(2) does not receive voter approval at the election.

(d) This section expires September 1, 2025.

S.B. 2, 88<sup>th</sup> Leg., 2d C.S., Sec. 3.10, eff. contingent on voter approval Nov. 7, 2023.

**Sec. 49.0121. TRANSITIONAL ELECTION DATES.** (a) This section applies only to an election under this chapter that occurs during the 2023-2024 school year.

(b) Section 49.012 does not apply to a district that receives approval of a request under Section 49.0042. The district shall hold the election on a Tuesday or Saturday on or before a date specified by the commissioner. Section 41.001, Election Code, does not apply to the election.

(c) This section expires September 1, 2024.

S.B. 2, 88<sup>th</sup> Leg., 2d C.S., Sec. 3.11, eff. July 22, 2003.

**Sec. 49.012. DATE OF ELECTIONS.** An election under this chapter for voter approval of an agreement entered by the board of trustees shall be held on a Tuesday or Saturday not more than 45 days after the date of the agreement. Section 41.001, Election Code, does not apply to the election.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Transferred, redesignated and amended from Education Code, Section 41.012 by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.049, eff. September 1, 2019.

## SUBCHAPTER D. PURCHASE OF ATTENDANCE CREDIT

**Sec. 49.156. VOTER APPROVAL.** (a) After first executing an agreement under this section, the board of trustees shall order and conduct an election, in the manner provided by Sections 13.003(d)-(g), to obtain voter approval of the agreement.

(b) The ballot shall be printed to permit voting for or against the proposition: "Authorizing the board of trustees of \_\_\_\_\_ School District to purchase attendance credit from the state with local tax revenues."

(c) The proposition is approved if the proposition receives a favorable vote of a majority of the votes cast. If the proposition is approved, the agreement executed by the board is ratified, and the board has continuing authority to execute agreements under this subchapter on behalf of the district without further voter approval.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Transferred, redesignated and amended from Education Code, Section 41.096 by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.053, eff. September 1, 2019.

## SUBCHAPTER E. EDUCATION OF NONRESIDENT STUDENTS

**Sec. 49.202. VOTER APPROVAL.** (a) After first executing an agreement under this subchapter other than an agreement under Section 49.205, the board of trustees of the district that will be educating nonresident students shall order and conduct an election, in the manner provided by Sections 13.003(d)-(g), to obtain voter approval of the agreement.

(b) The ballot shall be printed to permit voting for or against the proposition: "Authorizing the board of trustees of \_\_\_\_\_ School District to educate students of other school districts with local tax revenues."

(c) The proposition is approved if the proposition receives a favorable vote of a majority of the votes cast. If the proposition is approved, the agreement executed by the board is ratified, and the board has continuing authority to execute agreements under this subchapter on behalf of the district without further voter approval.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 61, Sec. 5, eff. Sept. 1, 2003. Transferred, redesignated and amended from Education Code, Section 41.122 by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.055, eff. September 1, 2019.

## SUBCHAPTER F. TAX BASE CONSOLIDATION

**Sec. 49.251. AGREEMENT.** The board of trustees of two or more school districts may execute an agreement to conduct an election on the creation of a consolidated taxing district for the maintenance and operation of the component school districts. The agreement is subject to approval by the commissioner. The agreement is not effective unless the commissioner certifies

that the consolidated taxing district will have a local revenue level equal to or less than the level established under Section 48.257 after all actions taken under this chapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Transferred, redesignated and amended from Education Code, Subchapter F, Chapter 41 by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.058, eff. September 1, 2019.

**Sec. 49.252. DATE OF ELECTION.** Any agreement under this subchapter must provide for the ordering of an election to be held on the same date in each district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Transferred, redesignated and amended from Education Code, Subchapter F, Chapter 41 by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.058, eff. September 1, 2019.

## **SUBCHAPTER H. CONSOLIDATION BY COMMISSIONER**

**Sec. 49.353. GOVERNANCE.** (a) Until the initial trustees elected as provided by Subsection (b) have qualified and taken office, a district consolidated under this subchapter is governed by a transitional board of trustees consisting of the board of trustees of the district having the greatest student membership on the last day of the school year preceding the consolidation plus one member of the board of trustees of each other consolidating district selected by that board.

(b) The transitional board of trustees shall divide the consolidated district into nine single-member trustee districts in accordance with the procedures provided by Section 11.052. The transitional board shall order an election for the initial board of trustees to be held on the first May uniform election date after the effective date of a consolidation order.

(c) Members of the board of trustees of a consolidated district serve staggered terms of office for four years.

(d) Section 13.156 applies to districts consolidated under this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Transferred, redesignated and amended from Education Code, Subchapter H, Chapter 41 by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.060, eff. September 1, 2019.

**Sec. 49.354. DISSOLUTION OF CONSOLIDATED DISTRICT.** (a) If the legislature abolishes ad valorem taxes for public school maintenance and operations and adopts another method of funding public education, the board of trustees of a consolidated district created under this subchapter may dissolve the consolidated district, provided that the dissolution is approved by a majority of those voters residing within the district participating in an election called for the purpose of approving the dissolution of the consolidated school district.

(b) If a consolidated district is dissolved, each of the former districts is restored as a separate district and is classified as an independent district.

(c) Title to real property of the consolidated district is allocated to the restored district in which the property is located. Title to proportionate shares of the fund balances and personal property of the consolidated district, as determined by Subsection (e), are allocated to each restored district.

(d) Each of the restored districts assumes and is liable for:

(1) indebtedness of the consolidated district that relates to real property allocated to the district; and

(2) a proportionate share, as determined by Subsection (e), of indebtedness of the consolidated district that does not relate to real property.

(e) A restored district's proportionate share of fund balances, personal property, or indebtedness is equal to the proportion that the number of students in average daily attendance in the restored district bears to the number of students in average daily attendance in the consolidated district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Transferred, redesignated and amended from Education Code, Subchapter H, Chapter 41 by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.060, eff. September 1, 2019.



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# TITLE 3. HIGHER EDUCATION

## SUBTITLE G. NON-BACCALAUREATE SYSTEM

### CHAPTER 130. JUNIOR COLLEGE DISTRICTS

#### SUBCHAPTER B. INDEPENDENT SCHOOL DISTRICT OR CITY JUNIOR COLLEGE

**Sec. 130.011. ESTABLISHMENT OF INDEPENDENT SCHOOL DISTRICT OR CITY JUNIOR COLLEGE.** (a) An independent school district junior college may be established by any independent school district or city which has assumed control of its schools meeting the requirements set out in Section 130.032 of this code and subject to the findings of the coordinating board under Section 130.013.

(b) Any such college district established and maintained as provided in this chapter shall be known as a junior college district.

Acts 1969, 61st Leg., p. 2996, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.011 by Acts 1971, 62nd Leg., p. 3283, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1985, 69th Leg., ch. 302, Sec. 1, eff. June 7, 1985.

**Sec. 130.012. PETITION TO ESTABLISH.** (a) Whenever it is proposed to establish a junior college district in any type of unit authorized by Section 130.011 of this code, a petition praying for an election, signed by not less than 10 percent of the qualified electors of the proposed district shall be presented to the school board of trustees of the district or city, which shall:

- (1) pass upon the legality and genuineness of the petition; and
- (2) forward the petition, if approved, to the coordinating board.

(b) Any petition authorized by this section shall also incorporate a request for the proper authorities, in the event an election is ordered for the creation of such district, to submit at the same election the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created, not to exceed the limits provided in Section 130.122 of this code.

Acts 1969, 61st Leg., p. 2996, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.012 by Acts 1971, 62nd Leg., p. 3283, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1985, 69th Leg., ch. 302, Sec. 1, eff. June 7, 1985.

**Sec. 130.014. ELECTION.** (a) If the coordinating board approves of the establishment of the junior college district, it shall then be the duty of the local school board to enter an order for an election to be held in the proposed territory at the next authorized election date as provided in Article 2.01b of the Election Code, to determine whether or not such junior college district shall be created and formed and to submit the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created. Such order shall:

- (1) contain a description of the metes and bounds of the junior college district to be formed; and
- (2) fix the date for the election.

(b) If a majority of the electors voting at the election shall be in favor of the creation of a junior college district, the district shall be deemed to be formed and created. The local school board shall make a canvass of the returns and declare the result of the election within 10 days after holding the election, and enter an order on the minutes of the board as to the result of the election.

Acts 1969, 61st Leg., p. 2997, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.014 by Acts 1971, 62nd Leg., p. 3284, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1985, 69th Leg., ch. 302, Sec. 1, eff. June 7, 1985.

**Sec. 130.017. PETITION AND ELECTION TO DIVEST SCHOOL BOARD OF AUTHORITY.** (a) On a petition signed by 10 percent of the qualified electors of the independent school district or city school district, the board of trustees within 30 days shall call an election after the petition has been duly presented on the proposition of whether the school board of trustees shall be divested of its authority as governing board of such junior college district.

(b) At the election called under Subsection (a) of this section, the board of trustees shall also include a separate proposition on whether the junior college district may levy ad valorem taxes.

(c) The board of trustees shall, within 30 days after the official canvass of the election, appoint for the junior college district a separate board of trustees as provided by this code to serve as the governing board of the junior college district if the majority of the votes in the election under this section are cast in favor of both propositions. If a majority of the votes in the election are cast against either proposition, the board may not divest its authority as the governing board of the junior college

district unless both propositions are approved at a subsequent election. A subsequent election on the propositions may not be held before the first anniversary of the election date.

(d) The separate governing board of the junior college district may levy and collect taxes in accordance with Subchapter G of this chapter at the approved rate without an additional election.

Acts 1969, 61st Leg., p. 2997, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.017 by Acts 1971, 62nd Leg., p. 3284, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1987, 70th Leg., ch. 284, Sec. 1, eff. Sept. 1, 1987.

**Sec. 130.018. SEPARATE BOARD OF TRUSTEES--TERMS, ETC.** In the event a separate board of trustees for the junior college district is appointed under either procedure set out in Section 130.016 or Section 130.017 of this code, the board of trustees, consisting of nine members, shall be organized and constituted pursuant to the provisions of Section 130.082 of this code, and be governed by the provisions thereof.

Acts 1969, 61st Leg., p. 2998, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.018 by Acts 1971, 62nd Leg., p. 3285, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 130.019. SEPARATE BOARD OF TRUSTEES; AD VALOREM TAXES.** A board of trustees of an independent school district or city school district that has the management, control, and operation of a junior college district may not divest itself of that management, control, and operation of the junior college district under Section 130.016 of this code or have the management, control, and operation of the junior college district divested under Section 130.017 of this code, unless the junior college district has the authority to levy ad valorem taxes for the maintenance of the junior college district or acquires that authority at an election held under Section 130.017.

Added by Acts 1987, 70th Leg., ch. 284, Sec. 2, eff. Sept. 1, 1987.

## **SUBCHAPTER C. UNION, COUNTY, OR JOINT-COUNTY JUNIOR COLLEGES**

**Sec. 130.031. ESTABLISHMENT OF UNION, COUNTY, OR JOINT-COUNTY JUNIOR COLLEGE.** The following types of junior colleges may be established in the following units:

(1) a union junior college district may be established by two or more contiguous independent school districts or two or more contiguous common school districts or a combination composed of one or more independent school districts with one or more common school districts of contiguous territory meeting the requirements set out in Section 130.032 of this code;

(2) a county junior college district may be established by any county meeting the requirements set out in Section 130.032 of this code; and

(3) a joint-county junior college district may be established by any combination of contiguous counties in the state meeting the requirements set out in Section 130.032 of this code.

Acts 1969, 61st Leg., p. 2998, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.031 by Acts 1971, 62nd Leg., p. 3285, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 130.033. PETITION TO ESTABLISH.** (a) Whenever it is proposed to establish a junior college of any type specified in Section 130.031 of this code a petition praying for an election therefor shall be presented in the applicable manner as prescribed in Subsections (b)-(d) of this section.

(b) In the case of a union junior college district, the petition shall be signed by not fewer than 10 percent of the registered voters of each of the school districts within the territory of the proposed junior college district and shall be presented to the county school board or county school boards of the respective counties if the territory encompasses more than one county; but if there is no county school board, the petition shall be presented to the commissioners court of the county or counties involved.

(c) In the case of a county junior college district, the petition shall be signed by not fewer than 10 percent of the registered voters of the proposed college district and shall be presented to the county school board of the county; but if there is no county school board, the petition shall be presented to the commissioners court of the county.

(d) In case of a joint-county junior college district, the petition shall be signed by not fewer than 10 percent of the registered voters of each of the proposed counties and shall be presented to the respective county school boards of the counties to be included in the proposed district; in case there is no county school board, the petition shall be presented to the commissioners court of the county or counties involved.

Acts 1969, 61st Leg., p. 2999, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.033 by Acts 1971, 62nd Leg., p. 3286, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 87, eff. Sept. 1, 1993.

**Sec. 130.034. TAX LEVY.** Any petition authorized by Sections 130.011 and 130.033 of this code shall also incorporate therein a request for the proper authorities, in the event an election is ordered for the creation of such district, to submit at the

same election the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created, not to exceed the limits provided in Section 130.122 of this code.

Acts 1969, 61st Leg., p. 2999, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.034 by Acts 1971, 62nd Leg., p. 3286, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1985, 69th Leg., ch. 302, Sec. 2, eff. June 7, 1985.

**Sec. 130.035. LEGALITY OF PETITION.** It shall be the duty of the county school board or boards or the commissioners court or courts petitioned in compliance with Section 130.033 of this code to:

(1) pass upon the legality of the petition and the genuineness of the same; and

(2) forward the petition, so approved, to the Coordinating Board, Texas College and University System.

Acts 1969, 61st Leg., p. 2999, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.035 by Acts 1971, 62nd Leg., p. 3286, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 130.037. CALLING ELECTION; SUBMISSION OF QUESTIONS.** If the coordinating board approves the establishment of the junior college district, it shall then be the duty of the commissioners court or courts to enter an order for an election to be held in the proposed territory at the next authorized election date as provided in Article 2.01b of the Election Code, to determine whether or not such junior college district be created and formed and to submit the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created. The order shall contain a description of the metes and bounds of the junior college district to be formed and fix the date of the election.

Acts 1969, 61st Leg., p. 3000, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.037 by Acts 1971, 62nd Leg., p. 3287, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1985, 69th Leg., ch. 302, Sec. 2, eff. June 7, 1985.

**Sec. 130.038. ELECTION.** A majority of the electors in the proposed district, voting in the election, shall determine the question of creation of the junior college district submitted in the order, the election of the original trustees, and the questions of issuing bonds and levying taxes. A majority of the electors voting in such election shall determine such questions submitted in the order. In the case of a joint-county junior college district, or a union junior college district, the election shall, by mutual agreement of the court or courts, be held on the same day throughout the proposed district.

Acts 1969, 61st Leg., p. 3000, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.038 by Acts 1971, 62nd Leg., p. 3287, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1985, 69th Leg., ch. 302, Sec. 2, eff. June 7, 1985.

**Sec. 130.039. ELECTION RETURNS, CANVASS, AND RESULT.** (a) The commissioners court or courts within 10 days after holding of an election shall make a canvass of the returns and declare the results of the election.

(b) The court or courts shall enter an order on the minutes of the court or courts as to the results.

Acts 1969, 61st Leg., p. 3000, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.039 by Acts 1971, 62nd Leg., p. 3287, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 130.040. BOARD OF TRUSTEES: UNION, COUNTY, OR JOINT-COUNTY JUNIOR COLLEGE.** A union junior college, a county junior college, or a joint-county junior college shall be governed, administered, and controlled by and under the direction of a board of trustees of seven members unless the number of members is increased as authorized by Section 130.082(d).

Acts 1969, 61st Leg., p. 3000, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.040 by Acts 1971, 62nd Leg., p. 3288, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 2001, 77th Leg., ch. 1324, Sec. 1, eff. June 16, 2001.

**Sec. 130.041. ELECTION OF TRUSTEES OF UNION, COUNTY, AND JOINT-COUNTY JUNIOR COLLEGE.** The original trustees of a union or a county junior college shall be elected at large from the junior college district by the qualified voters of the district under the rules and regulations provided for in Section 130.042 of this code.

Acts 1969, 61st Leg., p. 3000, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.041 by Acts 1971, 62nd Leg., p. 3288, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 130.042. ORIGINAL BOARD.** (a) The original trustees shall be elected at the same election at which the creation of the district is determined.

(b) Any candidate desiring to be voted upon as a first trustee shall present a petition to the commissioners court or courts within three days before the order authorizing the election is issued by the commissioners court or courts, and shall accompany his petition with a petition signed by not less than two percent of the qualified voters in the district, requesting that his name be placed on the ticket as a candidate for trustee.

(c) The seven candidates for junior college trustee receiving the highest number of votes at the election shall be declared trustees of the district.

Acts 1969, 61st Leg., p. 3001, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.042 by Acts 1971, 62nd Leg., p. 3288, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 130.043. ORGANIZATION.** After the election of the original trustees, the board of trustees shall be organized and constituted, pursuant to the provisions of Section 130.082 of this code and be governed by the provisions thereof.

Acts 1969, 61st Leg., p. 3001, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.043 by Acts 1971, 62nd Leg., p. 3288, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 130.044. ELECTION OF TRUSTEES BY THE POSITION METHOD.** (a) The board of trustees of a district may, by a majority vote of the trustees, if a quorum is present and voting, adopt a numbered position system of electing members to the board.

(b) If the board adopts a numbered position system, candidates are voted on and elected separately for positions on the board according to the number of the position to which they seek election. The official ballots shall contain:

- (1) the phrase "Official Ballot for the Purpose of Electing Trustees";
- (2) the name of the junior college district;
- (3) the number of each position to be filled; and
- (4) the list of candidates under the position to which they seek election.

(c) Within 10 days from the date of adoption of the numbered position system, the trustees shall determine by lot which position each will hold on the board. The members in Class 1 shall draw for positions one and two; the members in Class 2 shall draw for positions three and four; and the members in Class 3 shall draw for positions five, six, and seven.

(d) A person desiring election to a numbered position on the board must, not later than 5 p.m. of the 45th day before the date of the election, file with the board of trustees a written application, designating the number of the position on the board of trustees for which he desires to become a candidate, and requesting that his name be placed on the ballot. An application may not be filed earlier than the 30th day before the date of the filing deadline. Each candidate who files an application is entitled to have his name printed on the official ballot beneath the number of the position designated in his application. A person who fails to file the application required by this section may not have his name printed on the official ballot. A candidate is eligible to have his name printed on the ballot under only one position to be filled at the election.

(e) In the election each voter may vote for only one candidate for each numbered position. The candidate receiving the most votes for each numbered position voted on in the election is entitled to serve as a trustee on the board, in the position to which he is elected.

(f) Notice of an election in a district must be given in the manner and for the time required under the law authorizing the creation of the district, except where there is a conflict with the provisions of this section, then this section is controlling.

(g) The board of trustees of a district with a population greater than one million may require that an application filed under Subsection (d) be accompanied by a filing fee not to exceed \$200 as determined by the board or, instead of the filing fee, a petition signed by a number of registered voters of the district not to exceed 200 as determined by the board.

Acts 1971, 62nd Leg., p. 3288, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1987, 70th Leg., ch. 508, Sec. 4, eff. Sept. 1, 1987. Amended by: Acts 2005, 79th Leg., Ch. 1149 (H.B. 2956), Sec. 1, eff. September 1, 2005.

## **SUBCHAPTER D. CHANGES IN DISTRICT BOUNDARIES**

**Sec. 130.061. EXTENSION OF BOUNDARIES OF A JUNIOR COLLEGE DISTRICT COEXTENSIVE WITH AN INDEPENDENT SCHOOL DISTRICT.** The district boundaries of an independent school district junior college shall automatically be extended so that the boundary lines of the two districts, independent school district and junior college district, shall remain identical when:

- (1) the junior college district was created with the same boundary lines as an independent school district;
- (2) the boundaries of the independent school district are extended by consolidation, attachment of territory, or otherwise; and
- (3) the board of trustees of the independent school district is also the governing board of the junior college.

Acts 1969, 61st Leg., p. 3001, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.061 by Acts 1971, 62nd Leg., p. 3289, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 130.062. ENLARGED DISTRICT: CREATION; RESOLUTION; ORDER.** (a) If the creation of the junior college district and the extension of the boundaries of the independent school district both occurred prior to March 17, 1950, the added territory of the independent school district may be brought into the junior college district in the manner prescribed by this section.

(b) A petition requesting that such territory be added to the junior college district signed by a majority of the registered voters of the territory may be presented to the governing board of the junior college district.

(c) The board shall determine whether the petition is signed by the required majority and if such determination is affirmative and if the board shall also determine that the facilities of the junior college district may be extended to cover adequately the scholastics of the added territory, the board shall pass an order admitting such territory. The order shall describe by metes and bounds the junior college district as extended; and a copy of the order shall be filed with the county superintendent. Thereafter, the territory shall be a part of the junior college district for all intents and purposes.

Acts 1969, 61st Leg., p. 3001, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.062 by Acts 1971, 62nd Leg., p. 3289, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 88, eff. Sept. 1, 1993.

**Sec. 130.063. EXTENSION OF JUNIOR COLLEGE DISTRICT BOUNDARIES.** (a) Subject to Subsection (b), territory may be annexed to a junior college district by contract under Section 130.064 or election under Section 130.065, if the territory:

- (1) is contiguous to the annexing junior college district; or
- (2) is located in the service area of the annexing district established under Subchapter J.

(b) Territory may be annexed to a junior college district as provided by this section only if the territory is located wholly within a single school district, county, or municipality. This subsection does not prohibit a junior college district from conducting annexation elections or other annexation procedures for more than one territory at the same time.

(c) A junior college district may not annex territory under this section that is included in the boundaries of another junior college district.

(d) Except as provided by Subsection (e), a junior college district may not annex territory under this section if a campus of the Texas State Technical College System is located:

- (1) within the county in which the territory is located; and
- (2) outside the junior college district.

(e) This section does not prevent a junior college district from annexing territory located in Brown County.

Acts 1969, 61st Leg., p. 3002, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.063 by Acts 1971, 62nd Leg., p. 3290, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1981, 67th Leg., p. 3056, ch. 802, Sec. 1, eff. Aug. 31, 1981; Acts 1999, 76th Leg., ch. 1397, Sec. 1, eff. Aug. 30, 1999. Amended by: Acts 2005, 79th Leg., Ch. 1100 (H.B. 2221), Sec. 4, eff. June 18, 2005. Acts 2013, 83rd Leg., R.S., Ch. 1076 (H.B. 3332), Sec. 1, eff. June 14, 2013.

**Sec. 130.065. ANNEXATION BY ELECTION.** (a) On presentation to the governing board of a junior college district of a petition proposing the annexation of territory to the district, the governing board may call an election on the question of annexing the territory. The petition must:

- (1) contain an accurate description of the territory proposed for annexation; and
- (2) be signed by a number of registered voters in the territory proposed to be annexed equal to at least five percent of the registered voters in that territory as of the most recent general election for state and county officers.

(b) Before the governing board of the junior college district may order an annexation election, the board must hold a public hearing within the territory proposed for annexation. The hearing must be held not earlier than the 45th day and not later than the 30th day before the date the board issues the order for the election.

(c) Not later than the 30th day before the date of a public hearing held under Subsection (b), the board shall complete and publish a service plan for the territory proposed for annexation. The service plan is informational only and must include:

- (1) the maximum property tax rate that the board may adopt;
- (2) the most recent property tax rate adopted by the board and any tax rate increase proposed or anticipated to occur after the annexation;
- (3) the tuition rate that would apply after annexation for a student who resides in the district;
- (4) the tuition and fees that would apply under Section 130.0032(d) for a student who resides outside the district;
- (5) plans for providing educational services in the territory, including proposed or contemplated campus and facility expansion in the territory;
- (6) plans for cooperation with local workforce agencies; and
- (7) any other elements consistent with this subchapter prescribed by rule of the Texas Higher Education Coordinating Board.

(d) The governing board shall issue an order for an election to be held in the territory proposed for annexation on a uniform election date that is not less than 45 days after the date of the order and that affords enough time to hold the election in the manner provided by law. The board shall give notice of the election in the manner provided by law for notice by the county judge of a general election.

(e) The governing board shall conduct the election in accordance with the Election Code.

(f) The election shall be held only in the territory proposed for annexation, and only those registered voters residing in that territory are permitted to vote.

(g) The ballot shall be printed to provide for voting for or against the proposition: "Approving the annexation by the \_\_\_\_\_ (name of junior college district) of the following territory: \_\_\_\_\_ (with the blank filled in with a description of the territory proposed for annexation), and authorizing the imposition of an ad valorem tax for junior college purposes, which is currently set at a rate of \_\_\_\_\_ (with the blank filled in with the ad valorem tax rate of the district for the current year or, if that rate has not been adopted, the tax rate for the preceding year) per \$100 valuation of taxable property."

(h) The measure is adopted if the measure receives a favorable vote of a majority of those voters voting on the measure.

(i) If the measure is adopted, the governing board of the district shall enter an order declaring the result of the election and that the territory is annexed to the junior college district on the date specified in the order.

(j) If the proposition is adopted and the governing board is elected from single-member districts, the governing board in the annexation order entered under Subsection (i) shall assign the new territory to one or more of the current single-member districts.

(k) The annexation of territory and any resulting change in the single-member districts from which members of the governing board are elected does not affect the term of a member of the governing board serving on the date the annexation or redistricting takes effect. The governing board shall provide that each member of the governing board representing a single-member district who is holding office on the date the annexation takes effect serve the remainder of the member's term and represent a single-member district in the expanded junior college district for that term regardless of whether the member resides in that single-member district.

(l) If the measure is not adopted at the election, another election to annex all or part of the same territory may not be held earlier than one year after the date of the election at which the measure is not adopted.

Acts 1969, 61st Leg., p. 3002, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.065 by Acts 1971, 62nd Leg., p. 3290, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 89, eff. Sept. 1, 1993.

Amended by: Acts 2005, 79th Leg., Ch. 1100 (H.B. 2221), Sec. 5, eff. June 18, 2005. Acts 2011, 82nd Leg., R.S., Ch. 37 (S.B. 1226), Sec. 1, eff. September 1, 2011.

#### **Sec. 130.068. EXTENDING BOUNDARIES OF JUNIOR COLLEGE DISTRICT IN DISTRICT'S SERVICE AREA.**

(a) The governing board of a junior college district may order an election on the question of establishing expanded boundaries for the junior college district to encompass all of the territory located within the district's service area established by Subchapter J, other than territory located in the service area of another junior college district, if more than 35 percent of the total number of students who enrolled in the junior college district in the most recent academic year resided outside of the existing junior college district.

(b) The governing board of a junior college district may order an election on the question of establishing expanded boundaries for the junior college district to encompass part of the territory located within the district's service area established by Subchapter J, other than territory located in the service area of another junior college district, if more than 15 percent of the high school graduates for each of the preceding five academic years in the territory proposed to be added to the district have enrolled in the junior college district.

(c) Except as otherwise provided by this section, Section 130.065 applies to an action taken under this section, including the provisions of Section 130.065 requiring a petition to be submitted before an election may be called.

(d) A junior college district may not adopt new boundaries for the district under this section that extend within the service area of another junior college district.

Acts 1969, 61st Leg., p. 3004, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.067 by Acts 1971, 62nd Leg., p. 3292, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by: Acts 2005, 79th Leg., Ch. 1100 (H.B. 2221), Sec. 6, eff. June 18, 2005.

#### **Sec. 130.070. DISANNEXATION OF TERRITORY COMPRISING AN INDEPENDENT SCHOOL DISTRICT.** (a)

The territory of an independent school district which is the only school district that has been annexed to a countywide independent school district junior college district in an adjoining county may be disannexed from such countywide independent school district junior college district and constituted as a separate independent school district junior college district in accordance with the provisions of this section, provided that the countywide independent school district junior college district has no outstanding bonded indebtedness which was incurred after the annexation of such independent school district.

(b) The proposed disannexation and creation of a separate junior college district shall be initiated by a petition signed by not less than five percent (5%) of the registered voters of the independent school district seeking disannexation. The petition shall be presented to the board of trustees of the independent school district seeking to be disannexed, which shall pass upon the legality and genuineness of the petition and forward the petition, if approved, to the coordinating board.

(c) If the petition is found to be in order and all statutory provisions have been complied with, the coordinating board shall approve the petition and notify the board of trustees of the independent school district seeking to be disannexed, of such approval. The board of trustees of the independent school district seeking disannexation shall then order an election to be held

in the school district within a time not less than twenty (20) days nor more than thirty (30) days after the order is issued. At the election the ballots shall be printed to provide for voting for or against the proposition: "Disannexation of the \_\_\_\_\_ Independent School from the \_\_\_\_\_ Junior College District, and creation of the \_\_\_\_\_ Junior College District with boundaries coterminous with the boundaries of the \_\_\_\_\_ Independent School District" (the blanks to be filled in as appropriate). All expenses incurred in holding the election shall be paid by the independent school district ordering such election.

(d) The board of trustees shall make a canvass of the returns and declare the result of the election within ten (10) days after holding the election and shall enter an order on the minutes of the board as to the result of the election. If a majority of the votes cast are in favor of disannexation and creation of a separate junior college district, such independent school district shall be deemed disannexed and constituted as a separate junior college district.

(e) If the creation of the separate junior college district is approved, it shall be governed by the provisions of this code relating to independent school district junior colleges. The offices of the representatives of the disannexed independent school district on the governing body of the countywide independent school district junior college district shall be terminated, and the remaining members of that governing body shall continue to serve for the terms for which they were elected.

(f) Any petition for disannexation and creation of a separate junior college district may also incorporate a request for the proper authorities, in the event an election is ordered for the creation of a new district, to submit at the same election, either as a part of the disannexation issue or as a separate issue, the questions of issuing bonds and levying bond taxes and levying maintenance taxes, in the event the district is created, not to exceed the limits provided in Section 130.122 of this code.

Added by Acts 1972, 62nd Leg., 4th C.S., p. 37, ch. 16, Sec. 1, eff. Oct. 30, 1972. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 90, eff. Sept. 1, 1993.

## **SUBCHAPTER E. BOARDS OF TRUSTEES OF JUNIOR COLLEGE DISTRICTS**

**Sec. 130.081. GOVERNING BOARD OF JUNIOR COLLEGE OF INDEPENDENT SCHOOL DISTRICT.** In each junior college district which is controlled and managed by, and under the jurisdiction of, the governing board of an independent school district or a city school district, such governing board shall be constituted and chosen in accordance with the laws of this state applicable to the governing board of such independent school district or city school district.

Acts 1969, 61st Leg., p. 3004, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.071 by Acts 1971, 62nd Leg., p. 3293, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 130.082. GOVERNING BOARD OF JUNIOR COLLEGE OF OTHER THAN INDEPENDENT SCHOOL DISTRICT.** (a) Except as provided by Section 130.081 or another section of this subchapter, the governing boards of all junior college districts shall be constituted and chosen as described in the provisions of this section.

(b) The official name of the governing board of the junior college district shall be the board of trustees.

(c) The official name of a junior college district shall be the "\_\_\_\_\_ Junior College District" unless the board of trustees of the district elects to call the district a community college district, in which event the official name of the junior college district shall be the "\_\_\_\_\_ Community College District." The board shall designate an appropriate and locally pertinent descriptive word or words to be filled in the appropriate blank (and may change such designation when deemed advisable) by resolution or order; provided that no two districts shall have the same or substantially similar names. A district may change its name under Section 130.005 or 130.0051. All resolutions or orders designating or changing names shall be filed immediately with the Texas Higher Education Coordinating Board and the first name filed shall have priority, and the district shall be advised of any previous filing of any identical or substantially similar name. The name of any junior college district existing on September 1, 1997, shall remain the same until and unless it is changed under this chapter, and any change in the name of a junior college district made before that date is validated and is deemed to have been properly made. Another district may not use the name of any district whose name change is validated under this subsection.

(d) The number of members or trustees of the governing board shall be either seven or nine, in accordance with the laws applicable to the junior college district on the effective date of this code or on the date of the creation of a new district or a new board. Any seven-member board may be increased to nine, and the two additional members shall be appointed by resolution or order of the board for terms of office as prescribed in Subsection (e) of this section. Any vacancy occurring on the board through death, resignation, or otherwise, shall be filled by a special election ordered by the board or by appointment by resolution or order of the board. A person appointed to fill a vacancy in a trustee district must be a resident of that trustee district. A person appointed to fill a vacancy in the representation of the district at large must be a resident of the district at large. A special election to fill a board vacancy is conducted in the same manner as the district's general election except as provided by the applicable provisions of the Election Code. The person appointed to fill the unexpired term shall serve until the next regular election of members to the board, at which time the position shall be filled by election for a term appropriately



shortened to conform with what regularly would have been the length of the term for that position. Each member of the board shall be a resident, qualified voter of the district and shall take the proper oath of office before taking up the duties thereof. Members of a board shall not receive any remuneration or emolument of office, but they shall be entitled to reimbursement for their actual expenses incurred in performing their duties, to the extent authorized and permitted by the board. The board shall elect one of its members as president of the board, and the president shall preside at meetings of said board and perform such other duties and functions as are prescribed by the board. The president of the board shall have a vote the same as the other members. The board shall elect a secretary of the board who may or may not be a member of the board, and who shall be the official custodian of the minutes, books, records, and seal of said board, and who shall perform such other duties and functions as are prescribed by the board. The board shall be authorized to elect any other officers as deemed necessary or advisable. Officers of the board shall be elected at the first regular meeting of the board following the regular election of members of the board in even-numbered years, or at any time thereafter in order to fill a vacancy. Said board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a president, dean, or other administrative officer, and upon the president's recommendation to employ faculty and other employees of the junior college. Said board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with this section.

(e) The basic term of office of a member of the board shall be six years, and one-third of the members of the board shall be elected at large in the district at regular elections to be held on the first Saturday in April in each even-numbered year; provided that with a seven-member board two members shall be elected in two consecutive even-numbered years and three members shall be elected in the following even-numbered year. The members of each board in office at the effective date of this act, and all subsequent members of the board, shall remain in office until the expiration of the terms for which they were elected or appointed, and until their successors shall have been elected and qualified; provided that where any existing board has held its regular elections for members of the board in odd-numbered years prior to the effective date of this act, the board shall nevertheless hold its next regular election on the first Saturday in April of the next even-numbered year following the effective date of this act, and the term of office of each incumbent member of the board shall, in effect, be lengthened by one year so as to comply with the foregoing provisions of this act. Upon the creation of a new board, or in any other situation where necessary, the members of the board shall choose by lot the terms for which they shall serve, so as to comply with the foregoing provisions. If a board is increased from seven to nine members, one of the members shall be appointed to serve until the first election at which two members otherwise would have been elected, and the other shall be appointed to serve until the second election at which two members otherwise would have been elected, and three members shall be elected for six-year terms at each election.

(f) Members of a board shall be elected at large from each junior college district at regular elections to be called and held by the board for such purpose, at the expense of the district, on the first Saturday in April in each even-numbered year. Said elections shall be held in accordance with the Texas Election Code except as hereinafter provided, and all resident, qualified electors of the district shall be permitted to vote. Each such election shall be called by resolution or order of the board, and notice of each such election shall be given by publishing an appropriate notice, in a newspaper of general circulation in the district, at least 10 days prior to the date of the election, setting forth the date of the election, the polling place or places, the numbers of the positions to be filled, the candidates for each position and any other matters deemed necessary or advisable.

(g) The board shall designate a number for the position held by each member of the board, from one upward in consecutive numerical order in such manner that the lowest numbers shall be assigned to the members whose terms of office expire in the shortest length of time, provided that any such position number designations on existing boards under existing law at the effective date of this act shall remain in effect. At each election candidates shall be voted upon and be elected separately for each position on the board, and the name of each candidate shall be placed on the official ballot according to the number of the position for which he or she is running. A candidate receiving a majority of the votes cast for all candidates for a position shall be declared elected. If no candidate receives such a majority, then the two candidates receiving the highest number of votes shall run against each other for the position. The run-off election for all positions shall be held on a date that complies with law and shall be ordered, notice thereof given, and held, as provided herein for regular elections. Any resident, qualified elector of the district may have his or her name placed as a candidate on the official ballot for any position to be filled at each regular election by filing with the secretary of the board a written application therefor signed by the applicant, not later than 5 p.m. of the 45th day before the date of the election. An application may not be filed earlier than the 30th day before the date of the filing deadline. Such application must state the number of the position for which he or she is a candidate, or the name of the incumbent member of the board holding the position for which he or she desires to run. The location on the ballot of the names of candidates for each position shall be chosen by lot by the board. A candidate shall be eligible to run for only

one position at each election.

(h) Notwithstanding anything in this code to the contrary, the provisions of all or any part of the laws of this state in effect immediately prior to the effective date of this act and relating to the name of any junior college district or the name of its governing board, or to the number of members of its governing board, or the procedures and times of electing or choosing said members, shall remain in effect under the following conditions. If, at any time before the effective date of this act (but not thereafter), the governing board of any junior college district shall specify by resolution or order the particular provisions of the aforesaid laws applicable to it which it desires to remain in effect, then such particular provisions shall continue to apply to said board and its district; provided that at any time thereafter the governing board may make this section in its entirety applicable to it and its district by appropriate resolution or order, and thereby permanently cancel the effect of the aforesaid particular provisions of other laws. All resolutions and orders permitted by this section shall be filed immediately with the Coordinating Board, Texas College and University System.

(i) The election of trustees of a countywide junior or community college district that contains a city with a population of more than 1.18 million located primarily in a county with a population of 2.5 million or more shall be held on the first Saturday in April of each even-numbered year. When a runoff election is necessary, the board may order the election for a date to coincide with the date of the runoff election for city officials, if the city is holding a runoff election; otherwise, the board shall set the date of the runoff election for not later than three weeks following the regular election.

(j) Notwithstanding the election dates prescribed by this section, an election held under this section shall be held on a uniform election date as provided by law.

Acts 1969, 61st Leg., p. 3004, ch. 889, Sec. 1. Renumbered from Education Code Sec. 51.072 by Acts 1971, 62nd Leg., p. 3294, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 2035, ch. 673, Sec. 1, eff. June 20, 1975; Acts 1977, 65th Leg., p. 1386, ch. 554, Sec. 1, eff. June 15, 1977; Acts 1983, 68th Leg., p. 4806, ch. 844, Sec. 2, eff. Aug. 29, 1983; Acts 1987, 70th Leg., ch. 54, Sec. 25(j), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 508, Sec. 5, eff. Sept. 1, 1987; Acts 1989, 71st Leg., 1st C.S., ch. 2, Sec. 1, eff. July 18, 1989; Acts 1991, 72nd Leg., ch. 597, Sec. 63, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 570, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 13, eff. Sept. 1, 2001. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 13, eff. September 1, 2011; ; H.B. 4559, 88th Leg., R.S., Sec. 25, eff. Sept. 1, 2023.

**Sec. 130.0821. GOVERNING BOARD OF CERTAIN COUNTYWIDE COMMUNITY COLLEGE DISTRICTS.** (a) The members of the governing board of a countywide community college district that contains a city with a population of more than 384,500 residents shall be elected from single-member trustee districts.

(b) The board of trustees shall divide the district into the appropriate number of compact trustee districts which contain as nearly as practicable an equal number of inhabitants according to the last preceding federal census. Residents of each trustee district shall be entitled to elect one member of the board, and each candidate seeking to represent a trustee district must reside in the trustee district he seeks to represent. Trustees shall, during their term of office, reside within the trustee district from which they were elected.

(c) Members of the board of trustees of the district shall serve for staggered terms of six years with the terms of one-third of the members, as nearly as may be, expiring in each even-numbered year.

(d) Repealed by Acts 1991, 72nd Leg., ch. 365, Sec. 2, eff. Sept. 1, 1991.

(e) Not later than the 90th day after the earliest date on which the board of trustees may recognize and act on the publication of the federal decennial census under Section 2058.001, Government Code, the board of trustees shall redivide the district into the appropriate number of trustee districts if the census data indicates that the population of the most populous trustee district exceeds the population of the least populous district by more than 10 percent. Within 90 days following the effective date of an order or resolution of the board of trustees to increase the number of board members, the board of trustees shall redivide the district into the appropriate number of trustee districts as increased. At the next district election following the redistricting of the district under this subsection, each trustee district shall elect a member of the board unless the board of trustees determines that trustees shall be elected from the new trustee districts as provided by Section 130.0826, and the members elected shall draw lots for the appropriate number of two-year, four-year, and six-year terms as needed to establish staggered terms as required by Subsection (c).

(f) Any election held pursuant to the terms of this section shall be conducted in accordance with the provisions of Subsection (i), Section 130.082 of this code.

(g) Trustees elected under the provisions of this section take office on the first Tuesday in May.

(h) A district described by Subsection (a) of this section that has previously adopted or been required to implement single-member district representation in connection with a judicial proceeding may continue to operate under that plan.

Added by Acts 1977, 65th Leg., p. 1868, ch. 743, Sec. 1, eff. Aug. 29, 1977. Amended by Acts 1991, 72nd Leg., ch. 365, Sec. 1, 2, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 89, Sec. 1, eff. May 11, 2001; Acts 2001, 77th Leg., ch. 1324, Sec. 2, eff. June 16, 2001.

**Sec. 130.0822. ELECTION FROM SINGLE-MEMBER TRUSTEE DISTRICTS.** (a) The board of trustees of a junior college district may order that all or a majority of the trustees of the district be elected from single-member trustee districts.

(b) An order of the board adopted under Subsection (a) of this section must be entered not later than the 120th day before the day of the first election of trustees from single-member trustee districts.

(c) The appointment and election of trustees of the junior college district are subject to Section 130.082 of this code, except as otherwise provided by this section.

(d) If the board orders that trustees shall be elected from single-member trustee districts, the board shall divide the junior college district into the appropriate number of trustee districts, based on the number of members of the board that are to be elected from single-member districts, and shall number each trustee district.

(e) The trustee districts must be compact and contiguous, and must be as nearly as practicable of equal population according to the last preceding federal census.

(f) Trustee districts must be drawn not later than the 90th day before the day of the first election of trustees from single-member districts.

(g) The board may provide for trustees holding office on the date of the initial election of trustees from single-member districts to serve the remainder of their terms and to represent a trustee district for that term without having residency in that trustee district.

(h) Except in the case of residents of a trustee district who are represented by a trustee serving in accordance with Subsection (g) of this section, residents of each trustee district are entitled to elect one trustee to the board. A candidate for trustee must be a resident of the trustee district the candidate seeks to represent. A trustee other than a trustee serving in accordance with Subsection (g) of this section vacates the office if he or she ceases to reside in the trustee district he or she represents.

(i) Any vacancy on the board shall be filled by appointment made by the remaining members of the board. The appointed person serves for the unexpired term.

(j) After each redistricting, all positions on the board shall be filled unless the board of trustees determines that trustees shall be elected from the new trustee districts as provided by Section 130.0826. The trustees then elected shall draw lots for staggered terms as provided by Section 130.082.

(k) Not later than the 90th day before the day of the first regular junior college district trustee election at which trustees may officially recognize and act on the last preceding federal census, the board shall redivide the district into the appropriate number of trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than 10 percent. Redivision of the district shall be in the manner provided for the initial division of the district.

(l) This section does not apply to a junior college district to which Section 130.081, 130.083, 130.0821, or 130.088 of this code applies, or to a junior college district required by other law to elect trustees from single-member districts. This section does not apply to the election of trustees in any district in which the election of trustees is governed by a court order so long as that order remains in effect. This section does apply to an independent school district junior college district governed by a separate board of trustees.

Added by Acts 1989, 71st Leg., ch. 1029, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 89, Sec. 2, eff. May 11, 2001.

**Sec. 130.0823. ELECTION BY POSITION IN CERTAIN DISTRICTS.** (a) This section applies to a junior college that elects a governing board of seven members, with four members elected from respective commissioner precincts and three members elected at large.

(b) The governing board of the junior college may order that the board members elected at large be elected instead by position. The order must be entered not later than the 120th day before the first election of a trustee by position.

(c) The board may provide for trustees holding office on the date of the initial election of trustees by position to serve the remainder of their terms and to represent a position for that term.

Added by Acts 1999, 76th Leg., ch. 1070, Sec. 1, eff. Aug. 30, 1999.

**Sec. 130.0824. GOVERNING BOARD OF TEXARKANA COLLEGE DISTRICT.** (a) Notwithstanding any other provision of this subchapter, the governing board of the Texarkana College District may by resolution or order of the board decrease the number of board members from nine to seven, with four members elected from respective commissioner precincts and three members elected at large.

(b) A resolution or order of the governing board under this section must establish transition terms of office to conform to elections held in even-numbered years and staggered six-year terms, with the initial board terms of three members expiring in 2014, of two members expiring in 2016, and of two members expiring in 2018.

Added by Acts 2013, 83rd Leg., R.S., Ch. 825 (S.B. 1855), Sec. 1, eff. September 1, 2013.

**Sec. 130.0825. WRITE-IN VOTING IN ELECTION FOR MEMBERS OF GOVERNING BODY.** (a) In a general or

special election for members of the governing body of a junior college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers.

(b) A declaration of write-in candidacy must be filed not later than the deadline prescribed by Section 146.054, Election Code, for a write-in candidate in a city election.

(c) Subchapter B, Chapter 146, Election Code, applies to write-in voting in an election for members of the governing body except to the extent of a conflict with this section.

(d) The secretary of state shall adopt rules necessary to implement this section.

Added by Acts 1997, 75th Leg., ch. 1343, Sec. 1, eff. June 20, 1997. Amended by Acts 1999, 76th Leg., ch. 666, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 925, Sec. 10, eff. Nov. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 33, eff. September 1, 2005. Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 45, eff. September 1, 2011. Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 51(2), eff. September 1, 2011.

**Sec. 130.0826. OPTION TO CONTINUE IN OFFICE FOLLOWING REDISTRICTING.** (a) The board of trustees of any junior college district that elects some or all of its members from single-member districts and in which the trustees serve staggered terms may provide for the trustees in office at the first election after the junior college district is redistricted to serve for the remainder of their terms in accordance with this section.

(b) If the board of trustees provides for the trustees in office to serve for the remainder of their terms in accordance with this section, the trustee districts established by the redistricting plan shall be filled as the staggered terms of trustees in office expire. When the board of trustees adopts a redistricting plan, the board shall determine from which new trustee district the position of each trustee in office will be filled as it becomes vacant.

(c) This section does not authorize a trustee of a junior college district to continue in office after a redistricting plan takes effect if the member no longer resides in the district from which the trustee was elected.

Added by Acts 2001, 77th Leg., ch. 89, Sec. 3, eff. May 11, 2001.

For contingent expiration of this section, see Subsection (e).

**Sec. 130.0828. ADDITIONAL TRUSTEES FOR WEATHERFORD JUNIOR COLLEGE DISTRICT.** (a) Notwithstanding any other law, in addition to the members of the board of trustees of the Weatherford Junior College District elected or appointed under other provisions of this subchapter, the commissioners court of each county in which a branch campus of the district is located and that imposed a branch campus maintenance tax under Section 130.253 on September 1, 2017, shall appoint one member to serve on the district's board of trustees.

(b) Members of the board of trustees appointed under this section serve two-year terms and may be appointed to serve successive terms. The commissioners court shall appoint initial members to serve a term beginning December 1, 2017.

(c) Except as provided by Subsection (d), a member of the board of trustees appointed under this section may participate in the decision-making of the board to the same extent as any other member of the board, including by voting on any budget that affects the entire district.

(d) A member of the board of trustees appointed under this section:

(1) may not participate in the decision-making of the board in matters related to:

(A) the imposition of a tax; or

(B) an issue that only affects a campus located in the junior college district;

(2) is not counted for purposes of determining whether a quorum of the board is present for the purpose of Subdivision (1); and

(3) may not serve as an officer of the board of trustees.

(e) Unless this section is continued in effect by the legislature, this section expires on December 1, 2027.

Added by Acts 2017, 85th Leg., R.S., Ch. 58 (H.B. 2194), Sec. 1, eff. September 1, 2017.

**Sec. 130.08285. GOVERNING BOARD OF TRINITY VALLEY COMMUNITY COLLEGE DISTRICT.** (a) Notwithstanding any other provision of this chapter, the governing board of the Trinity Valley Community College District may by resolution or order of the governing board increase the number of board members to 11.

(b) A resolution or order of the governing board under this section must:

(1) establish transition terms of office to conform to elections held in even-numbered years and staggered six-year terms; and

(2) require the initial board members to draw lots to determine the members' terms, with:

(A) five members serving terms of two years;

(B) three members serving terms of four years; and

(C) three members serving terms of six years.

Added by Acts 2017, 85th Leg., R.S., Ch. 181 (S.B. 286), Sec. 1, eff. September 1, 2017.

Redesignated from Education Code, Section 130.0828 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(8), eff. September 1, 2019.

**Sec. 130.0829. GOVERNING BOARD OF PARIS JUNIOR COLLEGE DISTRICT.** (a) Notwithstanding any other provision of this subchapter, the governing board of the Paris Junior College District may provide by resolution or order of the board for the election of nine board members as follows:

(1) eight members elected from respective commissioner precincts and evenly allocated among those precincts; and

(2) one member elected at large.

(b) A resolution or order of the governing board under Subsection (a) must establish transition terms of office to conform to elections held in even-numbered years and staggered six-year terms.

(c) Notwithstanding Section 41.0052, Election Code, the governing board of the Paris Junior College District by resolution or order of the board may change the date on which the district holds its general election for board members to the November uniform election date. The governing board shall adjust the terms of office to conform to a change made to the election date under this subsection.

Added by Acts 2017, 85th Leg., R.S., Ch. 1112 (H.B. 4276), Sec. 1, eff. September 1, 2017.

**Sec. 130.083. GOVERNING BOARD IN ENLARGED JUNIOR COLLEGE DISTRICT.** (a) From and after May 22, 1969, those junior college districts which were on May 22, 1969, operating under Chapter 15, Acts of the 58th Legislature, 1963 (Article 2815o-1b, Vernon's Texas Civil Statutes), and to which one, or more, school districts has been annexed for junior college purposes only, may, by a majority vote of the board of regents of the junior college district, choose to operate and be governed by a board of regents.

(b) Each school district which has been annexed to the junior college district for junior colleges purposes only shall be represented by at least one member of the board of regents. If the assessed tax rolls exceed \$67,500,000, the school district shall be represented by one member of the board of regents for each \$67,500,000 of assessed value, or a major fraction thereof, on the junior college tax roll, located within the school district. The original junior college district shall be represented on the board of regents by a number of regents arrived at according to the same formula.

(c) The total number of members of the board of regents of the junior college district shall never exceed 14. When the valuation of the enlarged district increases to the point that the number of regents exceeds 14 under the formula described in Subsection (b) of this section then the board of regents of the junior college district shall set a formula, based on proportional tax values, of representation, which will produce a total of 14 members of the board of regents.

(d) The terms of office of the regents authorized by this act shall be six years. Those regents serving as regents on May 22, 1969, shall continue in office for the remainder of their respective terms and then until such time as their successors shall have been elected and qualified, and thereafter in each even-numbered year three regents shall be elected from the area originally forming the junior college district to succeed those regents whose terms are expiring, but if the number of regents becomes more or less than nine, the formula set out in Subsection (e) of this section shall be followed. All new regents added to the board of regents under the provisions of this section shall be appointed by the board of regents which orders the enlargement of the membership of such board, and shall serve until election specified in Subsection (e) of this section. All vacancies on the board of regents shall be filled at once for the unexpired term only by appointments made by the remaining members of such board.

(e) Where additional regent positions are provided under the terms of this section, the board of regents at the time of such authorization shall designate by resolution duly recorded in the minutes of such board the term to be served by each such additional regent, provided that the first regent authorized and appointed shall serve only until the next regular regent election, the second such regent shall serve until the regent election two years after the next regular regent election, and the third regent shall serve until the regent election four years after the next regular regent election, with additional regents which may be authorized to follow the same rotation of terms until all terms of additional regents provided under the terms of this section have been fixed to expire at the next regular regent election, or at the regent election two years after the next regular regent election, or at the regent election four years after the next regular election. Additional regents appointed to such terms and until such times as their successors shall have been elected and qualified, and thereafter the terms of such regents shall be for six years.

(f) Regent elections in all parts of the districts affected by the provisions of this section shall be held at the times and in the manner now provided for public junior colleges by general law. The qualified voters residing in the school district represented shall be entitled to vote in such elections. Each regent to be elected shall be a resident of the school district he is to represent and each regent to represent the original college district shall be a resident of the original college district.

(g) The provisions of this section shall be cumulative of existing laws governing elections of regents in public junior college districts.

Added by Acts 1971, 62nd Leg., p. 3296, ch. 1024, art. 1, Sec. 1, eff. Sept. 1, 1971.

**Sec. 130.0845. REMOVAL OF TRUSTEE FOR NONATTENDANCE OF BOARD MEETINGS.** (a) It is a ground for removal of a member of the board of trustees of a junior college district that the member is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year, not counting an absence for which the member is excused by a majority vote of the board.

(b) The validity of an action of the board of trustees is not affected by the fact that the action is taken when a ground for removal of a member of the board exists.

(c) A member of a board of trustees may be removed for a ground provided by this section, using the procedures provided by Subchapter B, Chapter 87, Local Government Code, for removing a county official.

Added by Acts 2005, 79th Leg., Ch. 673 (S.B. 114), Sec. 1, eff. September 1, 2005.

**Sec. 130.088. BOARD OF TRUSTEES OF CERTAIN JUNIOR COLLEGE DISTRICTS.** (a) If an independent school district board that has control and management of a junior college district that contains all or part of a city with a population of more than 1,500,000 divests itself of control and management under Section 130.016 or 130.017 of this code, the appointment and election of trustees of the junior college district are subject to Sections 130.018 and 130.082 of this code, except as otherwise provided by this section.

(b) The board of trustees consists of nine members elected from trustee districts.

(c) If the board of trustees of the independent school district that divests itself of management and control of the junior college district is elected from nine single-member districts, the trustees appointed for the junior college district shall have the same initial single-member district boundaries. For the initial board members of the junior college district appointed by the independent school district board of trustees, three members shall serve terms of two years, three members shall serve terms of four years, and three members shall serve terms of six years. The trustees shall draw lots to determine the length of their terms. The terms of the initial board members shall expire on the last day of December of the odd-numbered year that does not exceed their terms.

(d) Each trustee district must be compact and contiguous and of a population to the extent practicable equal to other trustee districts.

(e) The general election for trustees shall be held every two years on the first Tuesday after the first Monday in November of the odd-numbered year or on the uniform election date chosen by the prior board under prior law.

(f) The board of trustees of the independent school district shall designate a number for each trustee district. At each election candidates are voted on and elected separately for each trustee district, and a candidate's name is placed on the official ballot according to the number of the district for which the candidate is running.

(g) The voters of each trustee district elect one trustee.

(h) If a trustee changes residence to a location outside the district from which the trustee is elected, the trustee vacates the office. Except as provided by Subsection (i) of this section, a district boundary change that results in the trustee who represents the district no longer being a resident of the district does not affect the trustee's term. That trustee serves for the remainder of the term to which elected. If the trustee changes residence to a location that is neither in the district as it existed on the date the trustee was elected to the current term nor in the new district, the trustee's seat on the board is vacated.

(i) If a change in district boundaries occurs as a result of redistricting and places the residence of a trustee whose office is not next up for election outside the numbered district for which the trustee was elected and the trustee fails to move his residence within the new boundaries of that numbered district before the 75th day preceding the date of the first election for which the boundary changes are effective, the office is vacated and shall be filled at that election.

(j) If new territory is added to the district, the board shall temporarily assign the territory to one or more trustee districts as appropriate. Not later than the 180th day after the publication of a federal census, the board shall revise district boundaries to take account of district population changes.

(k) To be entitled to a place on the ballot, a candidate for trustee must file an application for a place on the ballot with the board secretary not later than 5 p.m. of the 45th day before election day. An application may not be filed earlier than the 30th day before the date of the filing deadline.

(l) To be elected, a trustee candidate must receive a majority of the total number of votes received by all the candidates for the position. If no candidate receives the vote required for election to a position, the board shall order a runoff election to be held in accordance with the applicable provisions of the Election Code.

(m) Trustees serve for six-year staggered terms. The terms of three members expire on the last day of December of each odd-numbered year.

(n) The board shall fill by appointment a board vacancy. The remaining members of the board, not later than the 30th day after the date on which the vacancy occurs, shall select a suitable person who resides in the applicable district to fill the board vacancy until the next regular trustee election. If the board for any reason fails or refuses to appoint a person to fill the board vacancy, the board shall order an election for the purpose of filling the vacancy for the remainder of the unexpired term. The election shall be held on the next uniform election date provided by the Election Code as long as that date does not occur before the 90th day after the date on which the vacancy occurs.

Added by Acts 1987, 70th Leg., ch. 556, Sec. 1, eff. Sept. 1, 1987.

# ***Selected Provisions, Texas Tax Code—TITLE 1. PROPERTY TAX CODE, SUBTITLE B. PROPERTY TAX ADMINISTRATION***

## ***CHAPTER 6. LOCAL ADMINISTRATION***

**Sec. 6.0301. BOARD OF DIRECTORS IN POPULOUS COUNTIES.** (a) This section applies only to an appraisal district established in a county with a population of 75,000 or more.

(b) Sections 6.031, 6.034, and 6.10 do not apply to an appraisal district to which this section applies.

(c) The appraisal district is governed by a board of nine directors. Five directors are appointed by the taxing units that participate in the district in the manner prescribed by Section 6.03. Three directors are elected by majority vote at the general election for state and county officers by the voters of the county in which the district is established. The county assessor-collector serves as an ex officio director.

(d) To be eligible to serve on the board of directors, an individual other than the county assessor-collector must be a resident of the district and must have resided in the district for at least two years immediately preceding the date the individual takes office. An individual who is otherwise eligible to serve on the board is not ineligible because of membership on the governing body of a taxing unit. An employee of a taxing unit that participates in the district is not eligible to serve on the board unless the individual is also a member of the governing body or an elected official of a taxing unit that participates in the district.

(e) Members of the board of directors appointed by the taxing units participating in the district serve staggered four-year terms beginning on January 1 of every other even-numbered year. Elected members of the board of directors serve staggered four-year terms beginning on January 1 of every other odd-numbered year.

(f) If a vacancy occurs in an appointive position on the board of directors, each taxing unit that is entitled to vote under Section 6.03 may nominate by resolution adopted by its governing body a candidate to fill the vacancy. The taxing unit shall submit the name of its nominee to the chief appraiser within 45 days after notification from the board of directors of the existence of the vacancy, and the chief appraiser shall prepare and deliver to the board of directors within the next five days a list of the nominees. The board of directors shall appoint by majority vote of its members one of the nominees to fill the vacancy.

(g) If a vacancy occurs in an elective position on the board of directors, the board of directors shall appoint by majority vote of its members a person to fill the vacancy. A person appointed to fill a vacancy in an elective position must have the qualifications required of a director elected at a general election.

S. B. 2, 88<sup>th</sup> Leg., 2d C. S., Sec. 5.03, eff. July 1, 2024, contingent on voter approval of H.J.R. 2, 88<sup>th</sup> Leg., 2d C.S. on Nov. 7, 2023.

**Sec. 6.032. BALLOT PROCEDURES FOR ELECTED DIRECTORS; FILING FEE OR PETITION.** (a) Except as provided by this section, Chapter 144, Election Code, applies to a candidate for an elective position on an appraisal district board of directors.

(b) An application for a place on the ballot must be filed with the county judge of the county in which the appraisal district is established and be accompanied by a filing fee prescribed by Subsection (c) of this section or a petition in lieu of the filing fee that satisfies the requirements prescribed by Section 141.062, Election Code, and Subsection (d) of this section.

(c) The filing fee for a place on the ballot is:

- (1) \$400 for a county with a population of 200,000 or more; or
- (2) \$200 for a county with a population of less than 200,000.

(d) The minimum number of signatures that must appear on the petition authorized by Subsection (b) is the lesser of:

(1) 500; or

(2) two percent of the total vote received in the county by all the candidates for governor in the most recent gubernatorial general election, unless that number is less than 50, in which case the required number of signatures is the lesser of:

(A) 50; or

(B) 20 percent of that total vote.

(e) A filing fee received under this section shall be deposited in the county treasury to the credit of the county general fund.

(f) The secretary of state shall adopt rules as necessary to implement this section.

S. B. 2, 88<sup>th</sup> Leg., 2d C. S., Sec. 5.04, eff. Oct. 12, 2023, contingent on voter approval of H.J.R. 2, 88<sup>th</sup> Leg., 2d C.S. on Nov. 7, 2023.



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# ***Selected Provisions, Texas Water Code—TITLE 2. WATER ADMINISTRATION, SUBTITLE E. GROUNDWATER MANAGEMENT***

## **CHAPTER 36. GROUNDWATER CONSERVATION DISTRICTS**

### **SUBCHAPTER B. CREATION OF DISTRICT**

**Sec. 36.012. COMPOSITION OF DISTRICT.** (a) A district may include all or part of one or more counties, cities, districts, or other political subdivisions.

(b) A district may not include territory located in more than one county except on a majority vote of the voters residing within the territory in each county sought to be included in the district at an election called for that purpose.

(c) The boundaries of a district must be coterminous with or inside the boundaries of a management area or a priority groundwater management area.

(d) A district may consist of separate bodies of land separated by land not included in the district.

(e) A majority of the voters in a segregated area must approve the creation of the district before that area may be included in the district.

(f) This section does not apply to districts created under Section 36.0151.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 4.22, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 966, Sec. 2.33, eff. Sept. 1, 2001.

**Sec. 36.017. CONFIRMATION AND DIRECTORS' ELECTION FOR DISTRICT IN A MANAGEMENT AREA.** (a) For a district created under Section 36.015, not later than the 120th day after the date all temporary directors have been appointed and have qualified, the temporary directors shall meet and order an election to be held within the boundaries of the proposed district to approve the creation of the district and to elect permanent directors.

(b) In the order calling the election, the temporary directors shall designate election precincts and polling places for the election. In designating the polling places, the temporary directors shall consider the needs of all voters for conveniently located polling places.

(c) The temporary directors shall publish notice of the election at least one time in at least one newspaper with general circulation within the boundaries of the proposed district. The notice must be published before the 30th day preceding the date of the election.

(d) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of the \_\_\_\_\_ Groundwater Conservation District." If the district levies a maintenance tax for payment of its expenses, then an additional proposition shall be included with the following language: "The levy of a maintenance tax at a rate not to exceed \_\_\_\_\_ cents for each \$100 of assessed valuation." The same ballot or another ballot must provide for the election of permanent directors, in accordance with Section 36.059.

(e) Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the temporary board, and the board shall canvass the returns and declare the result. The board shall file a copy of the election result with the commission.

(f) If a majority of the votes cast at the election favor the creation of the district, the temporary board shall declare the district created and shall enter the result in its minutes.

(g) If a majority of the votes cast at the election are against the creation of the district, the temporary board shall declare the district defeated and shall enter the result in its minutes. The temporary board shall continue operations in accordance with Subsection (h).

(h) If the majority of the votes cast at the election are against the creation of the district, the district shall have no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all the debts are paid.

(i) If a majority of the votes cast at the election are against the levy of a maintenance tax, the district shall set fees authorized by this chapter to pay for the district's regulation of groundwater in the district.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 966, Sec. 2.39, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 415 (H.B. 2767), Sec. 2, eff. June 10, 2015.

**Sec. 36.0171. TAX AUTHORITY AND DIRECTORS' ELECTION FOR DISTRICT IN A PRIORITY GROUNDWATER MANAGEMENT AREA.** (a) For a district created under Section 36.0151, not later than the 120th day after the date all temporary directors have been appointed and have qualified, the temporary directors shall meet and order an election to be held within the boundaries of the proposed district to authorize the district to assess taxes and to elect permanent directors.

(b) In the order calling the election, the temporary directors shall designate election precincts and polling places for the election. In designating the polling places, the temporary directors shall consider the needs of all voters for conveniently located polling places.

(c) The temporary directors shall publish notice of the election at least once in at least one newspaper with general circulation within the boundaries of the proposed district. The notice must be published before the 30th day preceding the date of the election.

(d) The ballot for the election must be printed to provide for voting for or against the proposition: "The levy of a maintenance tax by the \_\_\_\_\_ Groundwater Conservation District at a rate not to exceed \_\_\_\_\_ cents for each \$100 of assessed valuation." The same ballot or another ballot must provide for the election of permanent directors, in accordance with Section 36.059.

(e) Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the temporary board, and the board shall canvass the returns, declare the result, and turn over the operations of the district to the elected permanent directors. The board shall file a copy of the election result with the commission.

(f) If a majority of the votes cast at the election favor the levy of a maintenance tax, the temporary board shall declare the levy approved and shall enter the result in its minutes.

(g) If a majority of the votes cast at the election are against the levy of a maintenance tax, the temporary board shall declare the levy defeated and shall enter the result in its minutes.

(h) If the majority of the votes cast at the election are against the levy of a maintenance tax, the district shall set fees authorized by this chapter in accordance with Section 35.013(g-1) to pay for the district's regulation of groundwater in the district.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 2.40, eff. Sept. 1, 2001. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 886 (S.B. 313), Sec. 6, eff. June 17, 2011. Acts 2015, 84th Leg., R.S., Ch. 415 (H.B. 2767), Sec. 3, eff. June 10, 2015.

**Sec. 36.018. INCLUSION OF MUNICIPALITY.** (a) If part of the territory to be included in a district is located in a municipality, a separate voting district may not be established in the municipality for the purpose of determining whether the municipality as a separate area is to be included in the district.

(b) If for any other reason the territory in a municipality is established as a separate voting district, the failure by the voters in the municipal territory to confirm the creation of the district or the annexation of territory to a district does not prevent the territory in the municipality from being included in the district.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1995.

**Sec. 36.019. CONFIRMATION ELECTION IN DISTRICT INCLUDING LAND IN MORE THAN ONE COUNTY.**

(a) A district, the major portion of which is located in one county, may not be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is approved by a majority of the voters of the other county voting in an election called for that purpose.

(b) This section does not apply to districts created under Section 36.0151.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 966, Sec. 2.41, eff. Sept. 1, 2001.

**Sec. 36.020. BOND AND TAX PROPOSAL.** (a) At an election to create a district, the temporary directors may include a proposition for the issuance of bonds or notes, the levy of taxes to retire all or part of the bonds or notes, and the levy of a maintenance tax. The maintenance tax rate may not exceed 50 cents on each \$100 of assessed valuation.

(b) The board shall include in any bond and tax proposition the maximum amount of bonds or notes to be issued and their maximum maturity date.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.

## **SUBCHAPTER C. ADMINISTRATION**

**Sec. 36.051. BOARD OF DIRECTORS.** (a) The governing body of a district is the board of directors, which shall consist of not fewer than five and not more than 11 directors elected for four-year terms. The number of directors may be changed as determined by the board when territory is annexed by the district.

(b) A member of a governing body of another political subdivision is ineligible for appointment or election as a director. A director is disqualified and vacates the office of director if the director is appointed or elected as a member of the governing body of another political subdivision. This subsection does not apply to any district with a population less than 50,000.

(c) Vacancies in the office of director shall be filled by appointment of the board. If the vacant office is not scheduled for election for longer than two years at the time of the appointment, the board shall order an election for the unexpired term to be held as part of the next regularly scheduled director's election. The appointed director's term shall end on qualification of the director elected at that election.

(d) In a district with a population of less than 50,000, the common law doctrine of incompatibility does not disqualify:

(1) a member of the governing body or officer of another political subdivision other than a municipality or county from serving as a director of the district; or

(2) a director of the district from serving as a member of the governing body or officer of another political subdivision other than a municipality or county.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 78, Sec. 1, eff. May 19, 2003.

**Sec. 36.052. OTHER LAWS NOT APPLICABLE.** (a) Other laws governing the administration or operations of districts created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, shall not apply to any district governed by this chapter. This chapter prevails over any other law in conflict or inconsistent with this chapter, except any special law governing a specific district shall prevail over this chapter.

(b) Notwithstanding Subsection (a), the following provisions prevail over a conflicting or inconsistent provision of a special law that governs a specific district:

(1) Sections 36.107-36.108;

(2) Sections 36.159-36.161; and

(3) Subchapter I.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1010, Sec. 4.27, eff. Sept. 1, 1997.

**Sec. 36.054. OFFICERS.** (a) After a district is created and the directors have qualified, the board shall meet, elect a president, vice president, secretary, and any other officers or assistant officers as the board may deem necessary and begin the discharge of its duties.

(b) After each directors' election, the board shall meet and elect officers.

(c) The president is the chief executive officer of the district, presides at all meetings of the board, and shall execute all documents on behalf of the district. The vice president shall act as president in case of the absence or disability of the president. The secretary is responsible for seeing that all records and books of the district are properly kept and shall attest the president's signature on all documents.

(d) The board may appoint another director, the general manager, or any employee as assistant or deputy secretary to assist the secretary, and any such person shall be entitled to certify as to the authenticity of any record of the district, including but not limited to all proceedings relating to bonds, contracts, or indebtedness of the district.

(e) After any election or appointment of a director, a district shall notify the executive director within 30 days after the date of the election or appointment of the name and mailing address of the director chosen and the date that director's term of office expires. The executive director shall provide forms to the district for such purpose.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.

**Sec. 36.055. SWORN STATEMENT, BOND, AND OATH OF OFFICE.** (a) As soon as practicable after a director is elected or appointed, that director shall make the sworn statement prescribed by the constitution for public office.

(b) As soon as practicable after a director has made the sworn statement, and before beginning to perform the duties of office, that director shall take the oath of office prescribed by the constitution for public officers.

(c) Before beginning to perform the duties of office, each director shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of that director's duties. All bonds of the directors shall be approved by the board and paid for by the district.

(d) The sworn statement shall be filed as prescribed by the constitution. The bond and oath shall be filed with the district and retained in its records. A duplicate original of the oath shall also be filed with the secretary of state within 10 days after its execution and need not be filed before the new director begins to perform the duties of office.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 249, Sec. 1, eff. Aug. 30, 1999.

**Sec. 36.059. GENERAL ELECTIONS.** (a) All elections shall be generally conducted in accordance with the Election Code

except as otherwise provided for by this chapter. Write-in candidacies for any district office shall be governed by Subchapter C, Chapter 146, Election Code.

(b) The directors of the district shall be elected according to the precinct method as defined by Chapter 12, page 1105, Special Laws, Acts of the 46th Legislature, Regular Session, 1939. To be qualified to be elected as a director, a person must be a registered voter in the precinct that the person represents. If any part of a municipal corporation is a part of one precinct, then no part of the municipal corporation shall be included in another precinct, except that a municipal corporation having a population of more than 200,000 may be divided between two or more precincts. In a multicounty district, not more than two of the five precincts may include the same municipal corporation or part of the same municipal corporation.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.

**Chapter 12, page 1105, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, Sec. 1(b)** describes "elections held in separate precincts for election of one (1) director in each precinct," terming this the "precinct method." Under Water Code § 36.052(a), this "precinct method" provision trumps other laws governing groundwater districts, except special laws creating them. Another generally applicable law, Water Code § 49.103(d), states that the geographical distribution of single-member districts must be "equitable," both for voters and "within the district generally." The special laws creating districts frequently establish district-specific rules that are different from Section 36.059(b)'s requirement.

## **SUBCHAPTER F. BONDS AND NOTES**

**Sec. 36.180. ELECTION.** (a) Bonds or notes secured in whole or in part by taxes may not be issued by the district until authorized by a majority vote of the qualified voters of the district at an election called for that purpose.

(b) The board may order an election, and the order calling the election shall state the nature and the date of the election, the hours during which the polls will be open, the location of the polling places, the amount of bonds or notes to be authorized, and the maximum maturity of the bonds or notes.

(c) At an election to authorize bonds or notes payable wholly from ad valorem taxes, the ballots must be printed to provide for voting for or against the proposition: "The issuance of (bonds or notes) and the levy of taxes for payment of the (bonds or notes)." At any election to authorize bonds or notes payable from both ad valorem taxes and revenues, the ballots must be printed to provide for voting for or against: "The issuance of (bonds or notes) and the pledge of net revenues and the levy of ad valorem taxes adequate to provide for the payment of the (bonds or notes)."

(d) The board shall canvass the returns and declare the results of the election. If a majority of the votes cast at the election favor the issuance of the bonds or notes, the bonds or notes may be issued by the board, but if a majority of the votes cast at the election do not favor issuance of the bonds or notes, the bonds or notes may not be issued.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.

## **SUBCHAPTER G. DISTRICT REVENUES**

**Sec. 36.201. LEVY OF TAXES.** (a) The board may annually levy taxes to pay the bonds issued by the district that are payable in whole or in part by taxes.

(b) The board may annually levy taxes to pay the maintenance and operating expenses of the district at a rate not to exceed 50 cents on each \$100 of assessed valuation.

(c) The board may not levy a tax to pay the maintenance and operating expenses of the district under this section until the tax is approved by a majority of the electors voting at an election in the district held for that purpose. The district may:

(1) hold an election for approval of the tax at the same time and in conjunction with an election to authorize bonds, following the procedures applicable to a bond election; or

(2) hold a separate election for approval of the tax in accordance with Subsection (d).

(d) An order calling a separate election for approval of a tax under this section must be issued at least 15 days before the date of the election, and the election notice must be published at least twice in a newspaper of general circulation in the district. The first publication of the notice must be at least 14 days before the date of the election.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.

## **SUBCHAPTER J. ADDING TERRITORY TO DISTRICT**

**Sec. 36.328. ELECTION TO RATIFY ANNEXATION OF LAND.** (a) Annexation of the territory by petition filed under

Section 36.325 is not final until ratified by a majority vote of the voters in the territory to be added. An election in the existing district accepting the addition of land is not required.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The inclusion of (briefly describe additional area) in the \_\_\_\_\_ District." If the district levies a property tax for payment of its maintenance and operating expenses, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed \_\_\_\_\_ cents on each \$100 of assessed valuation for payment of maintenance and operating expenses of the district."

(c) The amount of the tax included in the proposition shall be the maximum amount that the district is authorized to levy. If the district has outstanding or authorized bonded indebtedness, the proposition shall include language providing for the assumption by the additional area of a proportional share of the bonded indebtedness of the district.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by: Acts 2015, 84th Leg., R.S., Ch. 415 (H.B. 2767), Sec. 20, eff. June 10, 2015.

**Sec. 36.329. NOTICE AND PROCEDURE OF ELECTION.** The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters are governed by the Election Code.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.

## SUBCHAPTER K. CONSOLIDATION OF DISTRICTS

**Sec. 36.354. ELECTIONS TO APPROVE CONSOLIDATION.** (a) An election to ratify the consolidation is required in each district that initiates consolidation. An election is not required in a district that does not initiate consolidation.

(b) The board of each district that is required by Subsection (a) to conduct an election shall order an election in the district only after the board of each district to be consolidated has agreed on the terms and conditions of consolidation. The directors of each district conducting an election shall order the election to be held on the same day in each district. The election shall be held and notice given in the manner provided by the Election Code.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "The consolidation of (names of the districts to be consolidated) in the \_\_\_\_\_ District." If the district levies a property tax for payment of its bonded indebtedness, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed \_\_\_\_\_ cents on each \$100 of assessed valuation for payment of bonds." If the district levies a property tax for payment of its maintenance and operating expenses, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed \_\_\_\_\_ cents on each \$100 of assessed valuation for payment of maintenance and operating expenses of the district."

(d) A district may be consolidated only if a majority of the electors in each district required by Subsection (a) to conduct an election vote in favor of the consolidation. If more than two districts are consolidating, failure of any one district to ratify the consolidation shall not prevent the consolidation of the other districts.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1025, Sec. 2, eff. June 18, 1999.

**Sec. 36.355. GOVERNING CONSOLIDATED DISTRICTS.** (a) After two or more districts are consolidated, they become one district and are governed as one district.

(b) During the transition period, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) If the consolidated district elects directors, directors for the consolidated district shall be elected in the same manner and for the same term as directors elected at a confirmation election. The directors' election shall be set for the next regular election.

Added by Acts 1995, 74th Leg., ch. 933, Sec. 2, eff. Sept. 1, 1995.

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## Title 4. GENERAL LAW DISTRICTS

### CHAPTER 49. PROVISIONS APPLICABLE TO ALL DISTRICTS

#### SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

**Sec. 49.052. DISQUALIFICATION OF DIRECTORS.** (a) A person is disqualified from serving as a member of a board of a district that includes less than all the territory in at least one county and which, if located within the corporate area of a city or cities, includes within its boundaries less than 75 percent of the incorporated area of the city or cities, if that person:

(1) is related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the board, or the manager, engineer, attorney, or other person providing professional services to the district;

(2) is an employee of any developer of property in the district or any director, manager, engineer, attorney, or other person providing professional services to the district or a developer of property in the district in connection with the district or property located in the district;

(3) is a developer of property in the district;

(4) is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district;

(5) (A) is a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or

(B) is a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence, establishing a commercial business within the district, or qualifying as a director; or

(6) during the term of office, fails to maintain the qualifications required by law to serve as a director.

(b) Within 60 days after the board determines a relationship or employment exists which constitutes a disqualification under Subsection (a), it shall replace the person serving as a member of the board with a person who would not be disqualified.

(c) Any person who wilfully occupies an office as a member of a board and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) is guilty of a misdemeanor and, on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of the fact that the member of the board was disqualified to serve.

(f) This section shall not apply to special water authorities, districts described in Section 49.181(h)(1)(D), or a district where the principal function of the district is to provide irrigation water to agricultural lands or to provide nonpotable water for any purpose.

(g) A board by unanimous vote of its remaining members may remove a board member only if that board member has missed one-half or more of the regular meetings scheduled during the prior 12 months. Any board member so removed may file a written appeal with the commission within 30 days after receiving written notice of the board action. The commission may reinstate a removed director if the commission finds that the removal was unwarranted under the circumstances, including the reasons for absences, the time and place of the meetings missed, the business conducted at the meetings missed, and any other facts or circumstances the commission may deem relevant.

(h) This subsection applies only to a district that is located wholly within the boundaries of a municipality with a population of more than 1.5 million, that is governed by Chapter 375, Local Government Code, and that is governed by an appointed board consisting of nine or more members. Notwithstanding Subsection (f) or (g), a person is considered to have resigned from serving as a member of the board if the person fails to attend three consecutive meetings of the board. The remaining board members by majority vote may waive the resignation under this subsection if fairness requires that the absences be excused on the basis of illness or other good cause.



(i) Notwithstanding any other law, a director is eligible to serve on the board of a district governed by Chapter 375, Local Government Code, regardless of the municipality in which the director resides, if:

(1) the district is located within the boundaries of a municipality with a population of more than 1.8 million;

and

(2) all or a part of the district is located more than five miles from the downtown city hall of that municipality.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 248, Sec. 6, eff. June 18, 2003. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 156 (H.B. 1901), Sec. 2, eff. May 28, 2011.

**Sec. 49.054. OFFICERS.** (a) After a district is created and the directors have qualified, the board shall meet, elect a president, vice-president, secretary, and any other officers or assistant officers as the board may deem necessary, and begin the discharge of its duties.

(b) After each directors election, the board shall meet and elect officers.

(c) The president is the chief executive officer of the district, presides at all meetings of the board, and shall execute all documents on behalf of the district unless the board by resolution authorizes the general manager or other employee of the district to execute a document or documents on behalf of the district. The vice-president shall act as president in case of the absence or disability of the president. The secretary is responsible for seeing that all records and books of the district are properly kept and may attest the president's signature on documents.

(d) Repealed by Acts 2003, 78th Leg., ch. 1276, Sec. 18.007.

(e) The board may appoint another director, the general manager, or any employee as assistant or deputy secretary to assist the secretary, and any such person shall be entitled to certify as to the authenticity of any record of the district, including but not limited to all proceedings relating to bonds, contracts, or indebtedness of the district.

(f) After any election or appointment of a director, a district shall notify the executive director within 30 days after the date of the election or appointment of the name and mailing address of the director chosen and the date that director's term of office expires. The executive director shall provide forms to the district for such purpose.

(g) This section does not apply to special water authorities.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1259, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1354, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 69, Sec. 5, eff. May 14, 2001; Acts 2001, 77th Leg., ch. 1423, Sec. 1, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 18.007, eff. Sept. 1, 2003.

**Sec. 49.055. SWORN STATEMENT, BOND, AND OATH OF OFFICE.** (a) As soon as practicable after a director is elected or appointed, that director shall make the sworn statement prescribed by the constitution for public office.

(b) As soon as practicable after a director has made the sworn statement, and before beginning to perform the duties of office, that director shall take the oath of office prescribed by the constitution for public officers.

(c) Before beginning to perform the duties of office, each director shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of that director's duties. All bonds of the directors shall be approved by the board and paid for by the district.

(d) The sworn statement shall be filed as prescribed by the constitution. The bond and oath shall be filed with the district and retained in its records. A duplicate original of the oath shall also be filed with the secretary of state within 10 days after its execution and need not be filed before the new director begins to perform the duties of office.

(e) This section does not apply to special water authorities.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 249, Sec. 2, eff. Aug. 30, 1999.

## SUBCHAPTER D. ELECTION PROVISIONS

**Sec. 49.101. GENERAL.** All elections shall be generally conducted in accordance with the Election Code except as otherwise provided for by this code. Write-in candidacies for any district office shall be governed by Subchapter C, Chapter 146, Election Code.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

The following section was amended by the 88th Legislature. Pending publication of the current statutes, see H.B. 2815, 88th Legislature, Regular Session, for amendments affecting the following section.

**Sec. 49.102. CONFIRMATION AND DIRECTOR ELECTION.** (a) Before issuing any bonds or other obligations, an election shall be held within the boundaries of the proposed district on a uniform election date provided by Section 41.001, Election Code, to determine if the proposed district shall be established and, if the directors of the district are required by law

to be elected, to elect permanent directors.

(b) Notice of a confirmation or director election shall state the day and place or places for holding the election, the propositions to be voted on, and, if applicable, the number of directors to be voted on.

(c) The ballots for a confirmation election shall be printed to provide for voting "For District" and "Against District." Ballots for a directors election shall provide the names of the persons appointed by the governing body who qualified and are serving as temporary directors at the time the election is called. If the district has received an application by a write-in candidate, the ballots shall also have blank places after the names of the temporary directors in which a voter may write the names of any candidates appearing on the list of write-in candidates required by Section 146.031, Election Code.

(d) Immediately after the confirmation and director election, the presiding judge shall take returns of the results to the temporary board. The temporary board shall canvass the returns and declare the results at the earliest practicable time.

(e) If a majority of the votes cast in the election favor the creation of the district, then the temporary board shall declare that the district is created and enter the result in its minutes. If a majority of the votes cast in the election are against the creation of the district, the temporary board shall declare that the district was defeated and enter the result in its minutes. A copy of the order shall be filed with the commission not later than the 30th day after the date of the election.

(f) The order canvassing the results of the confirmation election shall contain a description of the district's boundaries and shall be filed with the executive director and in the deed records of the county or counties in which the district is located not later than the 30th day after the date of the election.

(g) The temporary board shall also declare the persons receiving the highest number of votes for directors to have been elected as permanent directors.

(h) Unless otherwise agreed, the elected directors shall decide the initial terms of office by lot, with a simple majority of the elected directors serving until the second succeeding directors election and the remaining elected directors serving until the next directors election.

(i) A district, at an election required under Subsection (a), may submit to the qualified voters of the district the proposition of whether a plan as authorized by Section 49.351 should be implemented or entered into by the district.

(j) The provisions of this section requiring a confirmation election do not apply to a district exercising the powers of Chapter 375, Local Government Code, or any district created by a special Act of the legislature that does not require a confirmation election.

(k) Notwithstanding any other law, if the board determines that it is in the best interest of the district and the voters of the district for the district to administer an election under this section, the district shall establish precincts and designate polling locations inside the boundaries of the district.

(l) Section 43.075, Local Government Code, does not apply to a district until the board declares the district is created under Subsection (e) of this section.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 4, eff. June 17, 2001. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 6, eff. September 1, 2013. Acts 2019, 86th Leg., R.S., Ch. 608 (S.B. 911), Sec. 2, eff. September 1, 2019; H.B. 2815, 88th Leg., R.S., Sec. 14, eff. June 18, 2023.

**Sec. 49.1025. QUALIFIED VOTERS IN CONFIRMATION ELECTION.** (a) In this section, "developer of property in the district" has the meaning assigned by Section 49.052(d).

(b) A voter in a confirmation election or an election held jointly with a confirmation election on the same date and in conjunction with the confirmation election to authorize taxes and bonds must be a qualified voter of the district. For the purposes of an election described by this subsection, a person is not a qualified voter if the person:

(1) on the date of the election:

(A) is a developer of property in the district;

(B) is related within the third degree of affinity or consanguinity to a developer of property in the district;

(C) is an employee of a developer of property in the district; or

(D) has resided in the district less than 30 days; or

(2) received monetary consideration from a developer of property in the district in exchange for the person's vote.

(c) In addition to the procedures for accepting a voter under Section 63.001, Election Code, the election officer shall provide to the voter the form of the affidavit required by this section. The election officer must receive a completed affidavit before marking the voter as accepted under Section 63.001(e), Election Code. If the voter does not submit a completed affidavit to the election officer or the information stated on the affidavit demonstrates the voter is not a qualified voter as provided by this section, the voter may be accepted only to vote provisionally under Section 63.011, Election Code.

(d) The district shall submit original or certified copies of voter affidavits to the office of the attorney general in a

transcript of the proceedings of the confirmation election.

(e) The office of the attorney general shall prescribe the form of the voter affidavit.

(f) The voter affidavit must require the voter to state under oath:

(1) the address of the voter and that the voter resides in the territory of the district;

(2) the date the voter changed the voter's residence to the address provided under Subdivision (1); and

(3) that the voter, to the best of the voter's knowledge, believes that the voter's registration is effective on the date of the election.

(g) The affidavit must include the following statement:

"I am not a developer of property in the district, related within the third degree of affinity or consanguinity to a developer of property in the district, or an employee of a developer of property in the district. I have not received monetary consideration from a developer of property in the district for my vote in this election."

(h) Compliance with this section or the validity of a voter affidavit may only be challenged in an election contest under Title 14, Election Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 848 (H.B. 2358), Sec. 1, eff. January 1, 2018.

**Sec. 49.103. TERMS OF OFFICE OF DIRECTORS.** (a) Except as provided by Section 49.102, the members of the board of a district shall serve staggered four-year terms.

(b) Unless a district holds its general election for officers on a date as otherwise provided by statute, after confirmation of a district, an election shall be held on the uniform election date, provided by Section 41.001, Election Code, in May of each even-numbered year to elect the appropriate number of directors.

(c) The permanent directors may assign a position number to each director's office, in which case directors shall thereafter be elected by position and not at large.

(d) A district may provide for the election of all directors, or a majority of directors, from single-member districts, which shall be geographically described within the boundaries of the district in a manner that is equitable for the electors within such districts and within the district generally.

(e) Section 49.002 notwithstanding, in all areas of conflict the provisions of Subsections (a) and (b) shall take precedence over all prior statutory enactments.

(f) This section does not apply to:

(1) any special law district or authority that is not required by the law creating the district or authority to elect its directors by the public; or

(2) a special utility district operating under Chapter 65.

(g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 105, Sec. 32, eff. September 1, 2013.

(h) If authorized by the board in the proceedings calling a director election, the secretary of the board or the secretary's designee, on receipt of the certification required by Section 2.052(b), Election Code, shall post notice that the election is not to be held. The notice must be posted, on or before the commencement of early voting, at each polling place that would have been used in the election. If the notice is timely posted:

(1) the board or the board's designee is not required to:

(A) post or publish notice of the election;

(B) prepare or print ballots and election materials; or

(C) hold early and regular voting; and

(2) the board shall meet at the earliest practicable time to declare each unopposed candidate elected to office.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 340, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 9, eff. June 18, 2003. Amended by: Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 5, eff. October 1, 2005. Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 26.006, eff. September 1, 2011. Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 7, eff. September 1, 2013. Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 32, eff. September 1, 2013. Acts 2017, 85th Leg., R.S., Ch. 127 (H.B. 999), Sec. 1, eff. September 1, 2017.

**Sec. 49.104. ALTERNATIVE ELECTION PROCEDURES.** (a) Notwithstanding the provisions and requirements of the Election Code and general laws, any two or more districts situated in the same county and in which substantially all of the land is being or has been developed as part of a single community development plan and which are served by common water supply and waste disposal systems may by mutual agreement designate a common election office and common early and regular polling places within one or more of the districts, but outside the boundaries of one or more of the districts, for the conduct of director election proceedings and early and regular balloting in director elections. This alternative election procedure may only be used if the common election office and polling places so designated:

(1) are within buildings open to the public;

(2) are within the boundaries of at least one of the districts;

- (3) meet the requirements of the Election Code and general laws as polling places; and
- (4) are located not more than five miles from any portion of the boundaries of any of the participating districts.

(b) Such districts may also agree on and designate a common election officer and common early and regular voting officials for some or all of the director elections to be simultaneously conducted at a common location, any of whom may be nonelective employees of one or more of the districts, so long as the early and regular voting officials are qualified voters within at least one of the districts.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995.

**Sec. 49.1045. CERTIFICATION OF ELECTION RESULTS IN LESS POPULOUS DISTRICTS.** (a) This section applies only to a district that:

- (1) has 10 or fewer registered voters; and
  - (2) holds an election jointly with a county in which the district is wholly or partly located.
- (b) A district may provide for an inquiry into and certification of the voting results of an election under this section

if:

- (1) the election results indicate that the number of votes cast in the election was greater than the number of registered voters in the district;
- (2) the board determines that the election results are likely to be disputed in court; and
- (3) the board can determine from the official list of registered voters prepared by the county voter registrar or county elections administrator for the district election which voters were qualified to vote in the district election and can determine from the signature roster from the joint election who voted in the joint election.

(c) To certify the district votes, the board by rule shall adopt a procedure to determine for each person who signed the signature roster as a voter in the joint election:

- (1) whether the person's address on the day of the election was in the district; and
- (2) how the person voted in the district election.

(d) The certified votes are the official election results.

(e) Certification of the results under this section does not preclude the filing of an election contest.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 8, eff. September 1, 2013.

**Sec. 49.105. VACANCIES.** (a) Except as otherwise provided in this code, a vacancy on the board and in other offices shall be filled for the unexpired term by appointment of the board not later than the 60th day after the date the vacancy occurs.

(b) If the board has not filled a vacancy by appointment before the 61st day after the date the vacancy occurs, a petition, signed by more than 10 percent of the registered voters of the district, requesting the board to fill the vacancy by appointment may be presented to the board.

(c) If the number of directors is reduced to fewer than a majority or if a vacancy continues beyond the 90th day after the date the vacancy occurs, the vacancy or vacancies may be filled by appointment by the commission if the district is required by Section 49.181 to obtain commission approval of its bonds or by the county commissioners court if the district was created by the county commissioners court, regardless of whether a petition has been presented to the board under Subsection (b). An appointed director shall serve for the unexpired term of the director he or she is replacing.

(d) In the event of a failure to elect one or more members of the board of a district resulting from the absence of, or failure to vote by, the qualified voters in an election held by the district, the current members of the board or temporary board holding the positions not filled at such election shall be deemed to have been elected and shall serve an additional term of office, or, in the case of a temporary board member deemed elected under this subsection, the initial term of office.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1354, Sec. 10, eff. Sept. 1, 1999. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 9, eff. September 1, 2013.

**Sec. 49.106. BOND ELECTIONS.** (a) Before an election is held to authorize the issuance of bonds, other than refunding bonds, there shall be filed in the office of the district and open to inspection by the public an engineer's report covering the land, improvements, facilities, plants, equipment, and appliances to be purchased or constructed and their estimated cost, together with maps, plats, profiles, and data fully showing and explaining the report. The engineer's report is not:

- (1) part of the proposition or propositions to be voted on; or
- (2) a contract with the voters.

(b) Notice of a bond election shall contain the proposition or propositions to be voted on, which includes the estimate of the probable cost of design, construction, purchase, and acquisition of improvements and additions thereto, and incidental expenses connected with such improvements and the issuance of bonds.

(c) A bond election may be held on the same day as any other district election. The bond election may be called by a separate election order or as a part of any other election order. The board may submit multiple purposes in a single proposition at an election.

(d) A bond election may be called as a result of an agreement to annex additional territory into the district.

(e) A district's authorization to issue bonds resulting from an election held under this section, or any other law that allows for the qualified voters of a district to authorize the issuance of bonds by a district, remains in effect after the election unless the district is dissolved.

(f) The board may submit new bond authorization and refunding bond authorization in a single proposition at an election.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 5, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1423, Sec. 5, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 10, eff. June 18, 2003; H.B. 2815, 88<sup>th</sup> Leg., R.S., Sec. 16, eff. June 18, 2023.

**Sec. 49.107. OPERATION AND MAINTENANCE TAX.** (a) A district may levy and collect a tax for operation and maintenance purposes, including funds for planning, constructing, acquiring, maintaining, repairing, and operating all necessary land, plants, works, facilities, improvements, appliances, and equipment of the district and for paying costs of proper services, engineering and legal fees, and organization and administrative expenses.

(b) An operation and maintenance tax may not be levied by a district until it is approved by a majority of the electors voting at an election held for that purpose. After such a tax has been authorized by the district's voters, the board shall be authorized to levy the tax and have it assessed and collected as other district taxes.

(c) An operation and maintenance tax election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

(d) The proposition in an operation and maintenance tax election may be for a specific maximum rate or for an unlimited rate. The ballot for an operation and maintenance tax election shall be printed to provide for voting for or against the proposition: "An Operation and Maintenance Tax" and either "Not to exceed \_\_\_\_\_ (\$ \_\_\_\_\_) Per One Hundred Dollars (\$100) Valuation of Taxable Property" or "At an Unlimited Rate," as applicable. The ballot may describe the general purpose and state the constitutional authorization of the operation and maintenance tax.

(e) If a district has any surplus operation and maintenance tax funds that are not needed for the purposes for which they were collected, the funds may be used for any lawful purpose.

(f) Before a district reimburses a developer of property in the district, as that term is defined in Section 49.052(d), or its assigns, from operation and maintenance tax funds, for planning, constructing, or acquiring facilities, the district shall obtain approval by the executive director.

(g) Sections 26.04, 26.042, 26.05, 26.061, 26.07, and 26.075, Tax Code, do not apply to a tax levied and collected under this section or an ad valorem tax levied and collected for the payment of the interest on and principal of bonds issued by a district.

(h) To the extent authorized by Section 59, Article XVI, Texas Constitution, an operation and maintenance tax to be used for recreational facilities, as defined by Section 49.462, levied by a district located in a county with a population of more than 3.3 million or in a county adjacent to that county may not exceed 10 cents per \$100 of assessed valuation of taxable property in the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 6, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 343, Sec. 2. Amended by: Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 86, eff. January 1, 2020. Acts 2019, 86th Leg., R.S., Ch. 1128 (H.B. 2590), Sec. 2, eff. September 1, 2019. Acts 2021, 87th Leg., R.S., Ch. 884 (S.B. 1438), Sec. 8, eff. June 16, 2021.

**Sec. 49.108. CONTRACT ELECTIONS.** (a) A contract may provide that the district will make payment under the contract from proceeds from the sale of notes or bonds, from taxes, or from any other income of the district or any combination of these.

(b) A district may make payments under a contract from taxes other than operation and maintenance taxes after the provisions of the contract have been approved by a majority of the qualified voters voting at an election held for that purpose. A contract approved by the qualified voters of a district may contain a provision stating that the contract may be modified or amended by the board without voter approval.

(c) A contract election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

(d) A contract approved by the voters will constitute an obligation against the taxing power of the district to the extent provided in the contract.

(e) A district that is required under Section 49.181 to obtain approval by the commission of the district's issuance of bonds must obtain approval by the executive director before the district enters into an obligation under this section to collect tax for debt that exceeds three years. This subsection does not apply to contract taxes that are levied to pay for a district's share

of bonds that have been issued by another district and approved by the commission or bonds issued by a municipality.

(f) Sections 26.04, 26.042, 26.05, 26.061, 26.07, and 26.075, Tax Code, do not apply to a tax levied and collected for payments made under a contract approved in accordance with this section.

(g) On or before the first day for early voting by personal appearance at an election held to authorize a contract, a substantially final form of the contract must be filed in the office of the district and must be open to inspection by the public. The contract is not required to be attached as an exhibit to the order calling the election to authorize the contract.

(h) A single contract may contain multiple purposes or provisions for multiple facilities authorized by one or more constitutional provisions. The contract may generally describe the facilities to be acquired or financed by the district without reference to specific constitutional provisions. A contract described by this subsection may be submitted for approval in a single proposition at an election.

(i) A contract between districts to provide facilities or services is not required to specify the maximum amount of bonds or expenditures authorized under the contract if:

(1) the contract provides that the service area cannot be enlarged without the consent of at least two-thirds of the boards of directors of the districts that are:

(A) included in the service area as proposed to be enlarged; or

(B) served by the facilities or services provided in the contract;

(2) the contract provides that bonds or expenditures, payable wholly or partly from contract taxes, are issued or made:

(A) on an emergency basis; or

(B) to purchase, construct, acquire, own, operate, repair, improve, or extend services or facilities necessary to comply with changes in applicable regulatory requirements; or

(3) the contract provides that the bonds or expenditures require prior approval by any district that is obligated to pay debt service on those bonds or to pay for those expenditures wholly or partly with contract taxes.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 6, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1160, Sec. 1, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1423, Sec. 7, eff. June 17, 2001. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 10, eff. September 1, 2013. Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 87, eff. January 1, 2020. Acts 2021, 87th Leg., R.S., Ch. 884 (S.B. 1438), Sec. 9, eff. June 16, 2021.

**Sec. 49.109. AGENT DURING ELECTION PERIOD.** The board may appoint a person, including a district officer, employee, or consultant, to serve as the district's agent under Section 31.123, Election Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 11, eff. September 1, 2013.

**Sec. 49.110. ELECTION JUDGE.** (a) The notice requirements for the appointment of a presiding election judge under Section 32.009, Election Code, do not apply to an election held by a district.

(b) To serve as an election judge in an election held by a district, a person must be a registered voter of the county in which the district is wholly or partly located. To the extent of any conflict with Section 32.051, Election Code, this section controls.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 11, eff. September 1, 2013.

**Sec. 49.111. EXEMPTIONS FROM USE OF ACCESSIBLE VOTING SYSTEMS.** (a) Notwithstanding Sections 61.012 and 61.013, Election Code, a district is exempt from the acquisition, lease, or use of an electronic voting system for an election if:

(1) the election is a confirmation election or an election held jointly with a confirmation election on the same date and in conjunction with the confirmation election, except for an election in which a federal office appears on the ballot;

(2) the most recently scheduled district directors' election was not held, as provided by Section 2.053(b), Election Code; or

(3) fewer than 250 voters voted at the most recently held district directors' election.

(b) A district eligible for the exemption under Subsection (a) must publish notice in a newspaper of general circulation in an area that includes the district or mail notice to each voter in the district regarding the district's intention to hold an election without providing a voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance. The notice must be published or mailed not later than the later of:

(1) the 75th day before the date of the election; or

(2) the date on which the district adopts the order calling the election.

(c) The notice required by Subsection (b) must:

(1) provide that any voter in the district may request the use of a voting station that meets the accessibility requirements for voting by a person with a disability; and

(2) provide information on how to submit such a request.

(d) The district shall comply with a request for an accessible voting station if the request is received not later than the 45th day before the date of the election.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 11, eff. September 1, 2013.

**Sec. 49.112. CANCELLATION OF ELECTION; REMOVAL OF BALLOT MEASURE.** Before the first day of early voting by personal appearance, the board by order or resolution may cancel an election called at the discretion of the district or may remove from the ballot a measure included at the discretion of the district. A copy of the order or resolution must be posted during the period for early voting by personal appearance and on election day at each polling place that is used or that would have been used in the election.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 11, eff. September 1, 2013.

**Sec. 49.113. NOTICE FOR FILING FOR PLACE ON BALLOT.** A notice required by Section 141.040, Election Code, must be posted at the district's administrative office in the district or at the public place established by the district under Section 49.063 of this chapter not later than the 30th day before the deadline for a candidate to file an application for a place on the ballot of a district directors' election.

Added by Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 11, eff. September 1, 2013.

## **SUBCHAPTER J. ANNEXATION OR EXCLUSION OF LAND**

**Sec. 49.302. ADDING LAND BY PETITION OF LESS THAN ALL THE LANDOWNERS.** (a) In addition to the method of adding land to a district described in Section 49.301, defined areas of land, whether or not they are contiguous to the district, may be annexed to the district in the manner set forth in this section.

(b) A petition requesting the annexation of a defined area signed by a majority in value of the owners of land in the defined area, as shown by the tax rolls of the central appraisal district of the county or counties in which such area is located, shall describe the land by metes and bounds or by lot and block number if there is a recorded plat of the area and shall be filed with the secretary of the board.

(c) It shall be the duty of the board to pass an order fixing a time and place at which the petition for annexation shall be heard that shall not be less than 30 days from the day of the order calling the hearing.

(d) The secretary of the board shall issue a notice setting forth the time and place of the hearing and describing the area proposed to be annexed. Notice of the hearing shall be given by posting copies of the notice in three public places in the district and in one public place in the area proposed to be annexed for at least 14 days before the day of the hearing and by publishing a copy of the notice in a newspaper of general circulation in the county or counties in which the area proposed to be annexed is located one time at least 14 days before the day of the hearing.

(e) If upon the hearing of the petition it is found by the board that the proposed annexation of the area to the district is feasible, practicable, and to the advantage of the district and if the district's system and other improvements of the district are sufficient or will be sufficient to supply the added land without injuring land already in the district, then the board, by order entered in its minutes, may receive the proposed area as an addition to and to become a part of the district. The order adding the proposed territory to the district need not include all of the land described in the petition if at the hearing a modification or change is found necessary or desirable by the board.

(f) A copy of the order annexing land to the district, attested by the secretary of the board, shall be filed and recorded in the deed records of the county or counties in which the district is located if the land is finally annexed to the district.

(g) After the order is recorded the area shall be a component part of the district.

(h) The annexed area shall bear its pro rata share of all bonds, notes, or other obligations or taxes that may be owed, contracted, or authorized by the district to which it has been added.

(i) Before the added area shall be subject to all or any part of the bonds, notes, obligations, or taxes created before the annexation of the area to the district, the board shall order an election to be held in the district, as enlarged by reason of the annexation of the area, on the question of the assumption of the bonds, notes, obligations, and taxes by the annexed area.

(j) At the same election, the board may also submit a proposition on the question of whether the annexed area should assume its part of the bonds of the district payable in whole or in part from taxes that have been voted previously but not yet issued or sold and the levy of an ad valorem tax on all taxable property within the area annexed along with a tax on the rest of the district for the payment of the bonds.

(k) If the election results favorably, the district shall be authorized to issue its voted but unissued tax bonds even though the boundaries of the district have been changed since the original election approving the bonds.

(l) At the election called for the purpose of determining whether the annexed area shall assume the bonds, notes, or other obligations or taxes of the district, the board in a separate proposition may also submit the question of whether the board should be authorized to issue bonds payable in whole or in part from taxes to provide service to the area annexed.

(m) In the event that the district has bonds, notes, or obligations or taxes that may be owed, contracted, or authorized at the time an area is annexed or if the district has voted but unissued bonds payable in whole or in part from taxes at the time of an annexation, the board may provide in its order annexing an area to the district that the annexation will not be complete or final unless the indebtedness, tax or bond, note, or other obligation assumption election results favorably to the assumption of the district's outstanding bonds, notes, or other obligations and voted but unissued bonds.

(n) If the board elects to submit the question of whether the board should be authorized to issue bonds to provide service to the area annexed, the board may also provide in its order annexing an area to the district that the annexation will not be complete unless the election results favorably to the issuance of bonds to serve the annexed area.

(o) Whenever an election is ordered to be held in the district for the purpose of the assumption of bonds, notes, or other obligations or taxes or the assumption of voted but unissued bonds by reason of the annexation of any area, then the election shall be held and notice given as provided for bond elections held by the district.

(p) The district has the same right and duty to furnish service to the annexed land that it previously had to furnish service to other land in the district, and the board shall endeavor to serve all land in the district without discrimination.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 22, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1423, Sec. 20, eff. June 17, 2001. Amended by: Acts 2017, 85th Leg., R.S., Ch. 761 (S.B. 1987), Sec. 4, eff. June 12, 2017. Acts 2017, 85th Leg., R.S., Ch. 965 (S.B. 2014), Sec. 3, eff. September 1, 2017.

**Sec. 49.303. EXCLUDING LAND OR OTHER PROPERTY FROM DISTRICT.** (a) A district may exclude land or other property from the district under this subchapter if the district has no outstanding bonds payable in whole or in part from taxes.

(b) If a district has no outstanding bonds payable in whole or in part from taxes, the board may, on its own motion, call a hearing on the question of the exclusion of land or other property from the district under the provisions of this subchapter, if the exclusions are practicable, just, or desirable.

(c) If a district has no outstanding bonds payable in whole or in part from taxes, the board may hold a hearing on the exclusion of land or other property from the district if a landowner or property owner submits a signed petition to the secretary of the board evidencing the consent of the owners of a majority of the acreage proposed to be excluded and a majority of the taxable property in the district, as reflected by the most recent certified tax roll of the district.

(d) A district that has previously held an election at which approval was given for the issuance of bonds payable in whole or in part from taxes may not rely on that election for the issuance of the bonds if after the bond election, but before the bonds are issued, land or other property is excluded from the district as provided by this subchapter. The board must call and hold another bond election and receive voter approval before issuing those bonds.

(e) A district may not exclude land or other property from the district under this section if the district has issued bonds payable in whole or in part from taxes and those bonds are outstanding.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 248, Sec. 22, eff. June 18, 2003.

**Sec. 49.316. DIVISION OF DISTRICT.** (a) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(b) An order dividing a district may create one or more new districts and may provide for the continuation of the district.

(c) An order dividing the district shall:

- (1) name any new district;
- (2) include the metes and bounds description of the territory of each of the districts;
- (3) appoint temporary directors for any new district; and
- (4) provide for the division of assets and liabilities between the districts.

(d) The board may adopt an order dividing the district before or after the date the board holds an election to confirm the district's creation.

(e) The district may be divided only if the district:

- (1) has never issued any bonds; and
- (2) is not imposing ad valorem taxes.

(f) A new district created by the division of the district may not, at the time the new district is created, contain any land outside the area of the district at the time of creation.



(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

(h) A new district created by the division of the district shall hold a confirmation and directors' election.

(i) If the creation of a new district is confirmed, the new district shall provide the election date and results to the commission.

(j) A new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

(k) Municipal consent to the creation of the district and to the inclusion of land in the district acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

(l) The district may continue to rely on confirmation, directors', bond, and tax elections held before the division.

Added by H.B. 2815, 88<sup>th</sup> Leg., R.S., Sec. 20, eff. June 18, 2023.

## SUBCHAPTER L. FIRE DEPARTMENTS

**Sec. 49.351. FIRE DEPARTMENTS.** (a) A district providing potable water or sewer services or facilities may, separately or jointly with another district, municipality, or other political subdivision, establish, operate, and maintain, finance with ad valorem taxes, mandatory fees, or voluntary contributions, and issue bonds for a fire department to perform all fire-fighting services within the district as provided in this subchapter and may provide for the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply.

(b) After complying with the requirements of this section, the district or districts shall provide an adequate system and water supply for fire-fighting purposes, may purchase necessary land, may construct and purchase necessary buildings, facilities, and equipment, and may employ or contract with a fire department to employ all necessary personnel including supervisory personnel to operate the fire department.

(c) For financing a plan approved in accordance with this section, bonds and ad valorem taxes must be authorized and may be issued or imposed as provided by law for the authorization and issuance of other bonds and the authorization and imposition of other ad valorem taxes of the district.

(d) Two or more districts may contract to operate a joint fire department for their districts and shall include in the contract a system for joint administration and operation of the fire department, the extent of services to be provided, a method for funding the department from funds of each district, and any other terms and conditions the parties consider necessary.

(e) A district may contract with any other person to perform fire-fighting services within the district.

(f) Before a district imposes an ad valorem tax or issues bonds payable wholly or partly from ad valorem taxes to finance the establishment of a fire department, contracts to operate a joint fire department, or contracts with another person to perform fire-fighting services within the district, the district must comply with Subsections (g), (h), and (i).

(g) A district or districts proposing to act jointly shall develop a detailed plan for the establishment, operation, and maintenance of the proposed department, including a detailed presentation of all financial requirements. If a district is entering into a contract under Subsection (e), the district shall develop a plan that describes the contract and includes a presentation of the financial requirements under the contract. A plan required by this subsection may be included in a plan or report otherwise required by this title for the creation of a district or may be submitted to the commission for approval at any time after the creation of the district.

(h) If a plan was not approved by the commission at the time of the district's creation, after adoption of the plan and any contract by the board, the plan and financial presentation, together with any contract and a written report in a form prescribed by the executive director describing existing fire departments and fire-fighting services available within 25 miles of the boundaries of the district, shall be submitted to the executive director for consideration by the commission under rules adopted by the commission. Before the commission approves the application, it must find that it is economically feasible for the district to implement the plan and meet the provisions of any contract and shall take into consideration in giving its approval the general financial condition of the district and the economic feasibility of the district carrying out the plan or meeting the obligations of the contract. A plan approved by the commission as part of the creation of a district does not require further commission approval unless the district materially alters the plan.

(i) After approval of a plan by the commission, the district shall hold an election to approve the plan, approve bonds payable wholly or partly from ad valorem taxes, and impose ad valorem taxes for financing the plan. The election may be held in conjunction with an election required by Section 49.102.

(j) The operation of a fire department or provision of fire-fighting services is an essential public necessity, and a district may discontinue any and all services, including water and sewer service, to any person who fails to timely pay fire department service fees or any other assessment adopted by the district to support the fire department or the provision of fire-

fighting services.

(k) In this section, "fire-fighting services" means all of the customary and usual services of a fire department, including fire suppression, fire prevention, training, safety education, maintenance, communications, medical emergency services, photography, and administration.

(l) A district providing potable water or sewer service to household users may, as part of its billing process, collect from its customers a voluntary contribution on behalf of organizations providing fire-fighting services to the district. A district that chooses to collect a voluntary contribution under this subsection must give reasonable notice to its customers that the contribution is voluntary. Water and sewer service may not be terminated as a result of failure to pay the voluntary contribution.

(m) If a customer makes a partial payment of a district bill for water or sewer service and includes with the payment a voluntary contribution for fire-fighting services under Subsection (l), the district shall apply the voluntary contribution first to the bill for water or sewer service, including any interest or penalties imposed. The district shall use any amount remaining for fire-fighting services.

(n) Notwithstanding any other provision of this section, a district may not charge a fee to a recreational vehicle park, as defined by Section 13.087, on the basis of connections the park provides for the park's transient customers. A fee charged to a recreational vehicle park must be based on the park's nonsubmetered master meter connection.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 23, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1423, Sec. 23, eff. June 17, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 24, eff. June 18, 2003. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 20, eff. September 1, 2013. Acts 2013, 83rd Leg., R.S., Ch. 991 (H.B. 2152), Sec. 2, eff. September 1, 2013. Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(62), eff. September 1, 2015. Acts 2019, 86th Leg., R.S., Ch. 1128 (H.B. 2590), Sec. 3, eff. September 1, 2019.

## SUBCHAPTER N. RECREATIONAL FACILITIES

**NOTE: The addition of El Paso County is not effective unless and until voter approval of a Constitutional Amendment on November 7, 2023.**

**Sec. 49.4645. DISTRICT IN CERTAIN COUNTIES: BONDS FOR RECREATIONAL FACILITIES.** (a) A district all or part of which is located in Bastrop County, Bexar County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Montgomery County, El Paso County, or Fort Bend County may issue bonds supported by ad valorem taxes to pay for the development and maintenance of recreational facilities only if the bonds are authorized by a majority vote of the voters of the district voting in an election held for that purpose. Except as provided by Subsection (a-1), the outstanding principal amount of bonds, notes, and other obligations issued to finance parks and recreational facilities supported by ad valorem taxes may not exceed an amount equal to one percent of the value of the taxable property in the district as shown by the tax rolls of the central appraisal district at the time of the issuance of the bonds, notes, and other obligations. To establish the value of the taxable property in a district under this section, the district may use an estimate of the value provided by the central appraisal district. The district may not issue bonds supported by ad valorem taxes to pay for the development and maintenance of:

- (1) indoor or outdoor swimming pools; or
- (2) golf courses.

(a-1) The outstanding principal amount of bonds, notes, and other obligations issued to finance a recreational facility under Subsection (a) may exceed an amount equal to one percent but not three percent of the value of the taxable property in the district or, if supported by contract taxes under Section 49.108, the value of the taxable property in the districts making payments under the contract, if the district has:

- (1) a ratio of debt to certified assessed valuation of 10 percent or less;
- (2) a credit rating that conforms to commission rules;
- (3) a credit enhanced rating on the district's proposed bond issue that conforms to commission rules; or
- (4) a contract with a political subdivision or an entity acting on behalf of a political subdivision under which the political subdivision or the entity agrees to provide to the district taxes or other revenues, as consideration for the district's development or acquisition of the facility, including a contract under Section 49.108.

(b) On or before the 10th day before the first day for early voting by personal appearance at an election held to authorize the issuance of bonds for the development and maintenance of recreational facilities, the board shall file in the district office for review by the public a park plan covering the land, improvements, facilities, and equipment to be purchased or constructed and their estimated cost, together with maps, plats, drawings, and data fully showing and explaining the park plan. The park plan is not part of the proposition to be voted on, does not create a contract with the voters, and may be amended at any time after the election held to authorize the issuance of bonds for the development and maintenance of recreational facilities provided under the plan. The estimated cost stated in the amended park plan may not exceed the amount of bonds authorized at that election.

(c) Notice of a bond election for the development and maintenance of recreational facilities must contain the proposition to be voted on, which must include the estimate of the probable cost of design, construction, purchase, acquisition, and maintenance of improvements and additions and incidental expenses connected with the improvements and the issuance of bonds.

(d) A bond election for the development and maintenance of recreational facilities may be held on the same day as another district election. The board may call a bond election by a separate election order or as part of another election order. The board may submit multiple purposes in a single proposition at an election.

(e) The board may call a bond election for the development and maintenance of recreational facilities as a result of an agreement to annex additional territory into the district.

(f) This section does not apply to a district all or part of which:

(1) is located in Montgomery County; and

(2) includes land within a planned community of at least 15,000 acres of land, of which a majority of the developed acreage is subject to restrictive covenants containing ad valorem assessments.

Added by Acts 2003, 78th Leg., ch. 343, Sec. 6, eff. Sept. 13, 2003. Amended by: Acts 2007, 80th Leg., R.S., Ch. 291 (H.B. 1127), Sec. 1, eff. June 15, 2007. Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 23, eff. September 1, 2013. Acts 2021, 87th Leg., R.S., Ch. 463 (H.B. 1410), Sec. 1, eff. June 14, 2021, S.B. 938, 88th Leg., R.S., Sec. 1, cont. eff. November 7, 2023.

## **CHAPTER 50. PROVISIONS GENERALLY APPLICABLE TO DISTRICTS**

### **SUBCHAPTER A. GENERAL PROVISIONS**

Without reference to the amendment of Subsecs. (a) and (d), this chapter was repealed by Acts 1995, 74th Leg., R.S., Ch. 715, Sec. 39, eff. September 1, 1995.

**Sec. 50.004. WRITE-IN VOTING IN CERTAIN DISTRICTS.** (a) In a general election for board members under this chapter or Chapter 51, 52, 53, 54, 55, or 58 of this code, a write-in vote may not be counted unless the name written in appears on the list of write-in candidates.

(b), (c) Repealed by Acts 1995, 74th Leg., ch. 715, Sec. 39, eff. Sept. 1, 1995.

(d) A declaration of write-in candidacy must be filed not later than 5 p.m. of the 45th day before election day. However, if a candidate whose name is to appear on the ballot dies or is declared ineligible after the 48th day before election day, a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 42nd day before election day.

(e), (f) Repealed by Acts 1995, 74th Leg., ch. 715, Sec. 39, eff. Sept. 1, 1995.

Added by Acts 1993, 73rd Leg., ch. 83, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 667, Sec. 4, eff. Sept. 1, 1995.

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## **CHAPTER 51. WATER CONTROL AND IMPROVEMENT DISTRICTS**

### **SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT**

**Sec. 51.035. INCLUSION OF CITY, TOWN, OR MUNICIPAL CORPORATION IN DISTRICT.** (a) No city, town, or municipal corporation may be included within any district created under this chapter unless the proposition for the creation of the district has been adopted by a majority of the electors in the city, town, or municipal corporation.

(b) Any municipal corporation included within a district shall be a separate voting district, and the ballots cast within the municipal corporation shall be counted and canvassed separately from the remainder of the district.

(c) No district which includes a city, town, or municipal corporation may include land outside of the municipal corporation unless the election to confirm and ratify the creation of the district favors the creation of the district independent of the vote within the municipal corporation.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.036. CONFIRMATION ELECTION IN DISTRICT INCLUDING LAND IN MORE THAN ONE COUNTY.**

No district, the major portion of which is located in one county, may be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is adopted by those voting in the other county.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.037. EXCLUSION OF PARTS OF DISTRICT; DISSOLUTION.** (a) If any portion of a district governed by Sections 51.035 and 51.036 of this code, votes against the creation of the district and the remainder of the district votes for the creation, the district is confirmed and ratified in those portions of the district voting for the creation, and the district is composed only of those portions.

(b) The excluded portions of the district shall be excluded from all debts and obligations incurred after the election; however, all land and property included in the original district shall be subject to the payment of taxes for the payment of all debts and obligations, including organization expenses, incurred while it was a part of the district.

(c) If a district is created and portions of the proposed district are excluded by the vote in those portions, 10 percent of the voters in the district may file with the board a petition asking for a new election on the issue. A new election shall be ordered and held for the remaining portion of the district or the district organization may be dissolved by order of the board and a new district formed.

(d) A petition requesting a new election shall be filed within 30 days after the day on which the result of the election is canvassed and declared by the board.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.049. MASTER DISTRICT; PROCEDURE.** (a) The Commission shall have exclusive jurisdiction to hear and determine petitions for the creation of a master district.

(b) Each district composing part of a master district shall, for all purposes of an election, constitute a separate voting unit. No existing district may be included in a master district unless the proposal is approved by a majority of the qualified electors of the constituent district voting in the election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.050. MASTER DISTRICT; DIRECTORS.** A master district may have directors which number five, seven, or any other uneven number up to 21.

(b) The number shall be determined at the time of the creation of the district and may thereafter be changed by the directors of the district in a manner to conform to the requirements for equitable representation for the various areas of the master district.

(c) The election and qualification of the directors shall, where applicable, be controlled as provided by the other provisions of this chapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

### **SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

**Sec. 51.072. QUALIFICATIONS FOR DIRECTOR.** (a) To be qualified for election as a director, a person must:

- (1) be a resident of the state;
- (2) own land subject to taxation in the district or be a qualified voter in the district; and

(3) be at least 18 years of age.

(b) Section 49.052 does not apply to a district governed by this chapter whose principal purpose is providing water for irrigation.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 5, eff. Sept. 1, 1995. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 24, eff. September 1, 2013.

**Sec. 51.0731. ELECTION DATE FOR CERTAIN DIRECTORS.** The election date for directors of a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district shall be the first Saturday in April.

Added by Acts 1973, 63rd Leg., p. 1539, ch. 559, Sec. 2, eff. June 15, 1973. Amended by Acts 1975, 64th Leg., p. 625, ch. 256, Sec. 1, eff. Sept. 1, 1975.

**Sec. 51.0732. UNIFORM ELECTION DATE.** Notwithstanding the election date prescribed by Section 51.0731 of this code, an election held under that section shall be held on a uniform election date as provided by law.

Added by Acts 1987, 70th Leg., ch. 54, Sec. 25(l), eff. Sept. 1, 1987.

**Sec. 51.075. APPLICATION TO GET ON BALLOT.** A candidate for the office of director or other elective office may file an application with the secretary of the board to have the candidate's name printed on the election ballot. The application must be signed by the applicant or by at least 10 qualified electors of the district and must be filed not later than 5 p.m. of the 45th day before the date of the election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1989, 71st Leg., ch. 1009, Sec. 1, eff. Sept. 1, 1989.

**Sec. 51.076. SELECTION OF DIRECTORS IN CERTAIN DISTRICTS.** (a) In a district created after June 18, 1967, with boundaries coterminous with the boundaries of a county, the commissioners court may provide in the order granting the petition for creation that the directors are to be selected either as provided in Section 49.102 or by the "commissioners precinct method," which provides for the election of two directors from each commissioners precinct in the county and the election of one director from the county at large.

(b) If the commissioners court provides for the commissioners precinct method, it may appoint two qualified directors from each commissioners precinct and one director from the county at large, who shall serve until their successors are elected and have qualified. Except for the provisions of this subsection, Section 51.026 of this code applies to the appointment of the initial directors.

(c) The directors appointed by the commissioners court under Subsection (b) of this section shall order an election in the district on the second Tuesday in January following the creation of the district. The two persons receiving the highest number of votes in each precinct are the directors from that precinct, and the person receiving the highest number of votes from the county at large is the director at large.

(d) Of the two persons elected from each commissioners precinct, the person who receives the highest number of votes in each precinct shall serve for four years and until his successor is elected and has qualified, and the person receiving the second highest number of votes in each precinct shall serve for two years and until his successor is elected and has qualified. The person who is elected from the county at large shall serve for four years and until his successor is elected and has qualified. At each election after the first election, a person who is elected director shall serve for four years and until his successor is elected and has qualified.

(e) To be qualified for election as a director from a commissioners precinct, a person must be 21 years of age, a citizen of the state, and own land subject to taxation in the commissioners precinct from which he is elected.

(f) To be qualified for election as a director from the county at large, a person must possess the qualifications specified in Section 51.072 of this code.

(g) If a vacancy occurs in the office of director between regular elections, the vacancy shall be filled for the unexpired term at a special election in the director's precinct. The special election shall be called by a majority of the remaining members of the board within 8 days after the vacancy occurs and to be held not more than 40 days after the vacancy occurs.

(h) Except as otherwise provided in this section, all laws relating to the election and qualification of directors of a district shall govern and control the election and qualification of directors selected by the commissioners precinct method whether the precinct election is regular or special.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 5212, ch. 951, Sec. 3, eff. Jan. 1, 1984; Acts 1995, 74th Leg., ch. 715, Sec. 6, eff. Sept. 1, 1995.

**Sec. 51.085. DISTRICT TAX ASSESSOR AND COLLECTOR.** The board may appoint one person to the office of tax assessor and collector, or it may order an election to fill that office.

## SUBCHAPTER D. POWERS AND DUTIES

**Sec. 51.158. ELECTION TO APPROVE A CONTRACT WITH THE UNITED STATES.** (a) The electors of the district shall vote to approve every contract involving the payment of construction charges to the United States. The provisions of this chapter relating to the election to approve the validation of district bonds shall be followed, including the prosecution of an action in court to determine the validity of the contract.

(b) The notice of election shall state the maximum amount, exclusive of operation and maintenance charges, water rental charges, interest, and penalties, payable by the district to the United States under the contract.

(c) The ballot shall be printed to provide for voting for or against the proposition: "The contract with the United States and levy of taxes to make payments under the contract." This is the only proposition which may appear on the ballot.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## SUBCHAPTER E. ELECTION PROVISIONS

**Sec. 51.221. ELIGIBILITY TO VOTE: MAVERICK COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1.** (a) In this section, "district" means the Maverick County Water Control and Improvement District No. 1.

(b) A person is eligible to vote in an election conducted by the district if the person:

(1) is 18 years of age or older;

(2) is a United States citizen;

(3) is an individual who holds title to or an interest in title to irrigable farmland or ranch land within the boundaries of the district; and

(4) receives and uses irrigation water delivered by the district by and through the district's canal system.

(c) A person eligible to vote under Subsection (b) must register with the district not later than the 30th day before the date of a district election in order to vote in that district election. The district shall file with the county clerk of Maverick County a certified copy of the list of the district's registered voters not later than the 25th day before the date of each district election.

Added by Acts 2001, 77th Leg., ch. 60, Sec. 1, eff. Sept. 1, 2001.

## SUBCHAPTER K. ISSUANCE OF BONDS

**Sec. 51.405. ELECTION ON PRELIMINARY BONDS.** (a) The proposition for the issuance of preliminary bonds shall be submitted to the electors of the district.

(b) The election may be held at the same time as the election to confirm the creation of the district or at a later time.

(c) The board shall make an estimate of the expenses to be paid with the proceeds of the preliminary bonds and shall include this estimate in the notice of election.

Acts 1971, 62nd Leg., p. 336, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.410. ENGINEER'S REPORT.** (a) Before an election is held to authorize the issuance of bonds, an engineer's report, which includes the plans and improvements to be constructed together with maps, plats, profiles, and data showing and explaining the engineer's report, shall be filed in the office of the district and shall be available for public inspection.

(b) The engineer's report shall contain a detailed estimate of the cost of improvements, including the cost of any property to be purchased, and an estimate of the time required to complete the improvements to the degree to which they may provide service.

(c) The board shall consider the engineer's report and may make changes in the report and note them in the minutes.

Acts 1971, 62nd Leg., p. 337, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.411. ELECTION ORDER.** (a) After the engineer's report is filed and approved, the board may order an election in the district to authorize the issuance of the bonds.

(b) In the order, the board shall estimate the total amount of money needed to cover the items listed in Section 51.409 of this code.

(c) The election order shall state:



- (1) the proposed maximum interest rate on the bonds;
- (2) the maximum maturity date of the bonds;
- (3) the time and places for holding the election; and
- (4) the names of the election officers.

(d) The election order shall be entered in the minutes of the board.

Acts 1971, 62nd Leg., p. 337, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.413. BALLOTS.** (a) The proposition to be voted on shall be the issuance of the total amount of bonds covered by the engineer's estimate plus additional estimates made by the board.

(b) The ballots shall be printed to provide for voting for or against: "The issuance of bonds and the levy of taxes to pay for the bonds."

(c) If a contract is proposed with the United States under the federal reclamation laws, the ballots shall be printed to provide for voting for or against: "The contract with the United States and the levy of a tax to pay the contract."

Acts 1971, 62nd Leg., p. 338, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.414. VOTE AT ELECTION.** (a) Bonds of a district operating under the provisions of Article III, Section 52, of the Texas Constitution, may be issued only with the approval of two-thirds of the electors of the district participating in the election.

(b) In a district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, bonds may be issued or indebtedness created only with the approval of a majority of the electors of the district participating in the election.

Acts 1971, 62nd Leg., p. 338, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.452. ELECTION.** (a) If the district proposes to issue bonds which will be secured under either Section 51.450(b)(2) or 51.450(b)(3) of this code, the proposition shall be presented at an election held under Section 51.413 of this code.

(b) The ballots for the election shall be printed to provide for voting for or against one of the following propositions:

(1) "The issuance of bonds and the pledge of net revenue for the payment of the bonds.";

(2) "The issuance of bonds, the pledge of net revenue, and the creation of a lien on physical property to secure payment of the bonds."; or

(3) "The issuance of bonds, the pledge of net revenue, and the levy of adequate taxes to pay the bonds."

Acts 1971, 62nd Leg., p. 348, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.453. HEARING AND ELECTION ON CERTAIN BONDS.** (a) A district which plans to issue bonds payable from and secured by a pledge of net revenue and a lien on the physical property, either or both, without the levy of taxes, is not required to hold a hearing to exclude land or adopt a plan of taxation.

(b) The proposition for issuance of bonds may be submitted at the election held to confirm the creation of the district or at an election called by the board.

Acts 1971, 62nd Leg., p. 348, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## SUBCHAPTER L. TAX PLAN

**Sec. 51.521. PROCEDURE FOR ELECTION.** (a) The election shall conform to the provisions of this code relating to an election to authorize the issuance of construction bonds.

(b) The board shall submit the appropriate issues to the electors, and the issues may be submitted on the same ballot to be used in another election.

(c) The notice of election shall define the area to be designated and the plan of taxation to be applied.

Acts 1971, 62nd Leg., p. 353, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.522. ELECTION NOT REQUIRED IN SEPARATE ELECTION PRECINCT.** If proposed improvements are considered to be required to promote the public welfare or if the owners of the land in a defined area file a petition acknowledged as required for deeds requesting the district to provide improvements and assess a tax only in the defined area, it is not necessary to constitute the area a separate election precinct and have a separate election in that area.

Acts 1971, 62nd Leg., p. 353, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.523. BALLOTS.** The ballot for an election under this subchapter shall be printed to provide for voting for or against substantially the proposition: "Designation of the area, issuance of bonds, levy of a tax to retire the bonds, and levy of a maintenance tax."

Acts 1971, 62nd Leg., p. 353, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 105 (S.B. 902), Sec. 26, eff. September 1, 2013.

**Sec. 51.524. DECLARING RESULT AND ISSUING ORDER.** If a majority of the electors approve the proposal, the board shall declare the result and, by order, shall establish the area and define it by metes and bounds or designate the specific property and shall fix the tax basis for the area or property. A certified copy of the order shall be recorded in the minutes of the district and shall constitute notice.

Acts 1971, 62nd Leg., p. 354, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.526. ELECTION IN SEPARATE ELECTION PRECINCT.** (a) If the improvements to be provided in a defined area are considered peculiarly for the benefit of that area and not required to conserve the public or general welfare in the district as a whole, and if the proposed improvements in that area will require the imposition of a tax only on the property in the area, the defined area is constituted a separate election precinct in which a separate election shall be held to determine if the improvements will be provided and a separate tax levied.

(b) The election shall be held in the manner provided for issuance of bonds under this subchapter.

(c) If a majority of the electors in the defined area approve the propositions, the district shall provide money when necessary and shall provide the improvements and levy the tax.

(d) At an election in the defined area, each qualified elector of the district who owns property in the defined area may elect to vote in the area and not in the precinct of his residence.

Acts 1971, 62nd Leg., p. 354, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## **SUBCHAPTER P. DISSOLUTION OF DISTRICT**

**Sec. 51.796. ELECTION TO APPROVE DISSOLUTION OF DISTRICT AND ISSUANCE OF DISSOLUTION BONDS.** The board shall enter an order calling an election to determine whether or not the district shall be dissolved and bonds issued to pay the district's indebtedness and estimated expenses.

Acts 1971, 62nd Leg., p. 380, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.797. MAXIMUM AMOUNT, INTEREST RATE, AND MATURITY OF BONDS.** The maximum amount of bonds to be voted on and issued shall not be more than the total amount of the approved valid, enforceable indebtedness and the estimate of expenses, exclusive of the estimated cost of collection of taxes. The maximum amount of bonds, exclusive of interest and expenses of collection, to be issued for fees and expenses of dissolution of the district shall not be more than an amount equal to \$2 times the number of acres in the district. The bonds shall mature serially over a period of not more than seven years.

Acts 1971, 62nd Leg., p. 380, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.798. NOTICE OF ELECTION.** (a) The president and secretary of the board shall issue notice of the election, stating:

- (1) the findings of the board with reference to the dissolution of the district;
- (2) the amount of bonds to be issued;
- (3) the interest rate on the bonds; and
- (4) the time and place of the election.

(b) The notice also shall contain a statement of the estimates and the expenses incurred and to be incurred in the dissolution of the district and the collection of taxes for the payment of the bonds and shall state that the bonds will be payable by the levy of taxes on the taxable property in the district in proportion to the values of the property as provided in Section 51.804 of this code.

(c) The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the day of the election.

Acts 1971, 62nd Leg., p. 380, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.799. PROCEDURE FOR HOLDING ELECTION.** (a) The ballots for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the district and issuance of dissolution bonds and the levy of taxes for the payment of the bonds."

(b) The election shall be conducted and returns made and canvassed according to the provisions in this chapter for

construction bond elections.

Acts 1971, 62nd Leg., p. 380, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.832. PROCEDURE FOR HOLDING ELECTION.** (a) An election to determine whether or not the district shall be dissolved shall be held in accordance with the provisions of Subchapter E, of this chapter.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The dissolution of district."

(c) The returns of the election shall be canvassed and the result declared by the board. The board shall enter an order in its minutes declaring the result of the election, which order shall be made and entered in accordance with Section 51.034 of this code. The order shall be filed in the office of the county clerk and recorded in the deed records of the county as provided in Section 51.034 of this code.

Acts 1971, 62nd Leg., p. 387, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.833. ELECTION IN DISTRICT INCLUDING CITY, TOWN, OR MUNICIPAL CORPORATION.** In an election to dissolve a district in which a city, town, or municipal corporation is located, the city, town, or municipal corporation shall be a separate voting precinct, and the ballots cast in the city, town, or municipal corporation shall be counted and canvassed to show the result of the election there. If the city, town, or municipal corporation votes against the dissolution of the district and the balance of the district votes for the dissolution of the district, the district shall be dissolved.

Acts 1971, 62nd Leg., p. 387, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 51.834. SUBSEQUENT ELECTION.** If the proposition to dissolve the district fails to carry at the election held for that purpose, no other election for the same purpose shall be held within one year after the date of the election.

Acts 1971, 62nd Leg., p. 387, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## **CHAPTER 51A. METROPOLITAN WATER CONTROL AND IMPROVEMENT DISTRICTS AND SUBDISTRICTS**

**Sec. 51A.002. REFUNDING BONDS.** (a) A district may issue bonds to refund all or part of its outstanding bonds, notes, or other obligations, including matured but unpaid interest. Except as otherwise provided by this section, Section 51.438 applies to refunding bonds issued under this section.

(b) Refunding bonds may be payable from:

- (1) the same source as the bonds, notes, or other obligations being refunded;
- (2) the source described by Subdivision (1) and additional sources; or
- (3) sources other than the source described by Subdivision (1).

(c) A district must publish notice of intent to issue refunding bonds at least once a week for two consecutive weeks in a newspaper of general circulation within the district and at least 15 days before the date of the meeting of the board at which it is proposed to issue the bonds. Before the issuance of the bonds, if a petition signed by not less than 10 percent of the registered voters of the district is filed with the district calling for a referendum on the refunding bond issue, the board shall, at its next meeting, order an election to be held within the district to determine whether the bonds shall be issued. The election shall be held in the manner prescribed by Chapter 1251, Government Code, for the issuance of municipal bonds.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.004(a), eff. September 1, 2015.

**Sec. 51A.003. CREATION OF SUBDISTRICTS.** (a) The commission may create subdistricts over designated territory within the boundaries of a district as provided by this section.

(b) A petition that contains the substance of the requirements of Sections 51.013 and 51.014 must be filed with the commission.

(c) The commission shall have notice of the hearing on the petition given in the manner required by Section 51.018.

(d) The hearing must be conducted in the manner provided by Section 51.020, and the commission shall grant or refuse the petition in the manner provided by Section 51.021. An appeal from the decision of the commission must be made in the manner provided by Sections 51.022 through 51.025. The commission shall appoint five directors to serve as the subdistrict board, each of whom must meet the qualifications provided by Section 51.072.

(e) Not later than the 60th day after the date on which a petition for the creation of a subdistrict is granted by the commission, the subdistrict board shall adopt an order calling elections within the boundaries of the subdistrict in the manner provided by Subchapter D, Chapter 49, to:

- (1) confirm the creation of the subdistrict in the manner provided by Section 49.102;
- (2) authorize the issuance of bonds by the subdistrict or by the district on behalf of the subdistrict to be repaid by ad valorem taxes, revenue, or ad valorem taxes and revenue derived by the subdistrict;
- (3) authorize a tax within the boundaries of the subdistrict to make payments under a contract with the district to support refunding bonds of the district in accordance with the exclusions procedure provided by Section 51A.005;
- (4) authorize a maintenance tax within the boundaries of the subdistrict in the manner provided by Section 49.107; and
- (5) elect a permanent board of directors for the subdistrict in the manner provided by Subchapter D, Chapter 49, and Section 51.075.

(f) A subdistrict:

- (1) may sue and be sued in its own name;
- (2) until excluded from the boundaries of the district in accordance with Section 51A.005, has concurrent jurisdiction with the district that is in the territory within the boundaries of the subdistrict; and
- (3) may exercise the rights and powers of the district within the boundaries of the subdistrict.

(g) The ad valorem plan of taxation applies to each subdistrict, and a hearing for exclusions of land from a subdistrict is not necessary before an election under Subsection (e) is held.

(h) A subdistrict may be dissolved in the same manner as a district.

(i) A subdistrict is governed by Chapter 51 and all other general laws of this state to the extent those laws are not inconsistent with this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.004(a), eff. September 1, 2015.

**Sec. 51A.004. SUBDISTRICT BONDS.** (a) Before adopting an order calling elections under Section 51A.003(e), the engineer for a subdistrict shall present a report to the subdistrict board that conforms to Section 51.410 with regard to the bonds to be issued by the subdistrict or by the district on behalf of the subdistrict.

(b) After the engineer's report is filed and approved, the subdistrict board shall order an election within the boundaries of the subdistrict to authorize the issuance of bonds by the subdistrict or by the district on behalf of the subdistrict in accordance

with this chapter and Sections 49.106 and 51.411.

(c) Bonds authorized at an election within the subdistrict may only be repaid from ad valorem taxes imposed on all taxable property within the boundaries of the subdistrict or income, increment, and revenue derived from the ownership or operation of any part of the assets of the subdistrict or any combination of those sources. The district is not liable for the repayment of those bonds except as provided by this subsection.

(d) A subdistrict may issue refunding bonds as provided by Section 51A.002.

(e) Bonds issued by a subdistrict or by the district on behalf of the subdistrict are investment securities under Chapter 2257, Government Code, are public securities under Chapter 1201, Government Code, and are subject to the general laws of this state relating to bonds of a water control and improvement district to the extent that those general laws are not inconsistent with this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.004(a), eff. September 1, 2015.

**Sec. 51A.005. EXCLUSION OF TERRITORY WITHIN SUBDISTRICT.** (a) A subdistrict board shall call an election within the subdistrict to coincide with the confirmation election under Section 51A.003(e) at which a proposition shall be submitted to the voters to authorize the subdistrict to enter into a contract with the district under which the subdistrict would impose an unlimited ad valorem tax on all taxable property within the subdistrict to repay to the district a portion of the district's total outstanding indebtedness. That portion would be calculated by multiplying the total outstanding indebtedness of the district on the date of the first payment under the proposed contract by a percentage equal to the proportion of the total taxable property within the district borne by the total taxable property within the subdistrict, as of the date of the preceding tax roll.

(b) The ballots in the election under Subsection (a) shall be printed to provide for voting for or against the following proposition: "The execution of a contract and the imposition of taxes to pay for the contract." A copy of the proposed contract shall be available at the office of the district for inspection before the election. The election shall otherwise be conducted in conformity with the provisions of Chapter 51 relating to elections to approve a tax-supported contract with the United States.

(c) If the proposition is approved at the election under Subsection (a), the board of the district shall, on receipt of a petition that conforms substantially to Section 49.305 and describes the territory within the subdistrict, conduct a hearing not later than the 30th day after the date of receipt of the petition on the exclusion of the subdistrict from the boundaries of the district.

(d) If the subdistrict board establishes at the hearing that the subdistrict has been created, has authorized the issuance of bonds by the subdistrict or by the district on behalf of the subdistrict, has authorized the tax-supported contract payment, and has elected a permanent board of directors, the board of the district shall, at the conclusion of the hearing, enter an order approving the contract supported by a tax within the subdistrict and excluding all land within the subdistrict from the boundaries of the district contingent only on the completion of the refunding bond issue.

(e) Refunding bonds may be issued by a district to implement the exclusion of land within a subdistrict under any terms that are considered advisable by the board of the district and are only subject to the interest rate limitations imposed by the constitution and laws of this state. If refunding bonds are not issued by a district on or before the 30th day after the date of the hearing at which the subdistrict establishes all items in Subsection (d), all property within the subdistrict is considered excluded from the boundaries of the district on the expiration of the 30th day after the date of the hearing.

(f) Any subdistrict located within a service area as defined by a United States Environmental Protection Agency grant used by a district to expand its wastewater treatment plant shall obtain wastewater treatment services to the extent of capacity provided with the United States Environmental Protection Agency grant proceeds from the wastewater treatment plant constructed with the prior proceeds of the United States Environmental Protection Agency grant in accordance with the terms of a contract approved by the governing bodies of the subdistrict and the district.

(g) To reduce the cost of services to its residents and taxpayers, the subdistrict shall use the employees, consultants, staff, and services of the district and reimburse the district for all costs of furnishing those services. The services may be terminated for good cause. The subdistrict and the district shall submit to arbitration any dispute between the subdistrict and the district.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.004(a), eff. September 1, 2015.

**Sec. 51A.006. WATER AND SEWER RATES.** A district shall establish rates for all services to subdistricts after the exclusion of the subdistricts from the boundaries of the district. The rates may not exceed 150 percent of the rates for similar services for residents of the district.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.004(a), eff. September 1, 2015.

**Sec. 51A.007. ELECTION DATES.** An election authorized by this chapter may be held on any day of the year other than a general election date and is not limited to the uniform election dates established by Section 41.001(a), Election Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 19.004(a), eff. September 1, 2015.

## CHAPTER 53. FRESH WATER SUPPLY DISTRICTS

### SUBCHAPTER B. CREATING AND DIVIDING A DISTRICT

**Sec. 53.021. OFFICERS TO BE ELECTED.** In the election, five supervisors are elected.

Acts 1971, 62nd Leg., p. 399, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 1423, Sec. 28, eff. June 17, 2001.

**Sec. 53.029. DIVISION OF OR ASSUMPTION OF AUTHORITY BY CERTAIN DISTRICTS.** (a) This section applies to a district located in a county that:

(1) has a population of 1.3 million or more and in which a municipality with a population of more than one million is primarily located; or

(2) is adjacent to a county having the characteristics described by Subdivision (1).

(b) A district covered by this section may be divided into two new districts if it has no outstanding bonded debt and is not levying ad valorem taxes. The division procedure is prescribed by Sections 53.030 to 53.041 of this code.

(c) The board of a district covered by this section may order an election to be held in the district to determine whether the district should assume the rights, authority, privileges, and functions of a road district under Article III, Section 52(b)(3), of the Texas Constitution. The election shall be ordered, conducted, and the results canvassed in the manner provided by the applicable provisions of this chapter and the Election Code. The ballots for the election shall be printed to provide for voting for or against: The assumption by the \_\_\_\_\_ Fresh Water Supply District of the rights, authority, privileges, and functions of a road district under Article III, Section 52(b)(3), of the Texas Constitution. If a majority of the persons voting in the election vote in favor of the proposition, the district shall assume the rights, authority, privileges, and functions of a road district operating under Article III, Section 52(b)(3), of the Texas Constitution, Chapter 257, Transportation Code, and other general laws of this state relating to road districts.

(d) A district operating as a road district may not issue bonds or otherwise lend its credit for road district purposes except on approval of not less than two-thirds of the qualified voters of the district voting at an election called and held for that purpose. The total amount of bonds, notes, and other obligations of the district issued or incurred under this subsection may not exceed one-fourth of the assessed valuation of real property in the district.

(e) A district that has adopted the rights, authority, privileges, and functions of a road district in the manner provided by Subsection (c) may, following approval of a construction contract by the district's governing body, reimburse expenditures as provided by Sections 257.003(a), (b) and (d), Transportation Code, without any additional approval or determination under Section 257.003, Transportation Code.

Acts 1971, 62nd Leg., p. 400, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 598, ch. 237, Sec. 139, eff. Sept. 1, 1981; Acts 1987, 70th Leg., ch. 122, Sec. 1, eff. May 19, 1987; Acts 1991, 72nd Leg., ch. 597, Sec. 110, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 30.277, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 146, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 248, Sec. 26, eff. June 18, 2003; H.B. 2815, 88<sup>th</sup> Leg., R.S., Sec. 26, eff. June 18, 2023.

**Sec. 53.030. ORDERING ELECTION.** The board may order a special election on its own motion or on presentation of a petition signed by 20 or more qualified property taxpaying electors of the district.

Acts 1971, 62nd Leg., p. 400, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 53.031. ORDER: METES AND BOUNDS.** The petition for election and the order and notices of election must set forth the metes and bounds of the two proposed new districts.

Acts 1971, 62nd Leg., p. 400, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 53.032. ORDER: TIME OF ELECTION.** In the order the board shall set the time for the election, which must be held before the expiration of the 30th day after the day the order is made.

Acts 1971, 62nd Leg., p. 400, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 53.033. ORDER: ELECTION OF SUPERVISORS.** The board shall include in the order a statement that if the election results in division of the district, the two new districts will each be governed by a board of five supervisors elected in the same election.

Acts 1971, 62nd Leg., p. 401, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 53.034. ORDER: DIVISION OF PROPERTY AND MONEY.** In the election order the board shall state in a general way how the properties and any money on hand will be divided between the two new districts if the election is in favor of dividing into two districts. The basis set by the board is controlling.  
Acts 1971, 62nd Leg., p. 401, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 53.040. ELECTED SUPERVISORS TAKE OFFICE.** If the election results in a division of the district, the five candidates receiving the most votes in each new district shall be declared elected. They shall immediately qualify in accordance with Section 49.055.  
Acts 1971, 62nd Leg., p. 402, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 11, eff. Sept. 1, 1995.

**Sec. 53.041. COMPLETING MEMBERSHIP OF THE BOARD.** If no supervisors are elected, or if a full board is not elected, the commissioners court shall appoint the needed members of the board.  
Acts 1971, 62nd Leg., p. 402, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 53.042. NEWLY ELECTED SUPERVISORS--TERM OF OFFICE.** The newly elected supervisors hold office until the new district's next supervisors election.  
Acts 1971, 62nd Leg., p. 402, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 12, eff. Sept. 1, 1995.

### **SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

**Sec. 53.061. CREATION OF DISTRICT.** A commissioners court may create one or more fresh water supply districts in its county by following the procedure prescribed in Sections 53.011-53.029 of this code.  
Acts 1971, 62nd Leg., p. 402, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 53.062. BOARD OF SUPERVISORS.** A district created under this chapter is governed by a board of five elected supervisors.  
Acts 1971, 62nd Leg., p. 402, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 2665, ch. 720, Sec. 2, eff. Aug. 31, 1981; Acts 1995, 74th Leg., ch. 715, Sec. 13, eff. Sept. 1, 1995.

**Sec. 53.063. SUPERVISOR'S QUALIFICATIONS.** (a) Except as provided by Subsection (b), to be qualified for election as a supervisor:

- (1) a person must be:
  - (A) a resident of this state;
  - (B) the owner of taxable property in the district; and
  - (C) at least 18 years of age; or
- (2) a person must be a registered voter of the district.

(b) To be qualified for election as a supervisor of a district located wholly or partly in Denton County, a person must be a registered voter of the district.

Acts 1971, 62nd Leg., p. 402, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1999, 76th Leg., ch. 1354, Sec. 13, eff. Sept. 1, 1999. Amended by: Acts 2007, 80th Leg., R.S., Ch. 912 (H.B. 2984), Sec. 1, eff. September 1, 2007. Acts 2011, 82nd Leg., R.S., Ch. 393 (S.B. 512), Sec. 1, eff. September 1, 2011.

**Sec. 53.072. ASSESSOR AND COLLECTOR'S QUALIFICATIONS.** To be qualified for election as assessor and collector, a person must be a resident of the district and a qualified voter in the district.  
Acts 1971, 62nd Leg., p. 404, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 53.073. ASSESSOR AND COLLECTOR'S TERM OF OFFICE.** The first elected assessor and collector holds office until the next general election of officers following his election. The succeeding assessor and collectors hold office for terms of two years. The board shall fill any vacancy in the office of assessor and collector by appointment for the unexpired term.  
Acts 1971, 62nd Leg., p. 404, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## SUBCHAPTER E. GENERAL FISCAL PROVISIONS

**Sec. 53.145. PAYMENT OF ELECTION EXPENSES.** The board shall pay all expenses of calling and holding each election, except the creation election, from any district funds except the interest and sinking fund.  
Acts 1971, 62nd Leg., p. 413, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## SUBCHAPTER F. BOND AND TAX PROVISIONS

**Sec. 53.171. POWER TO ISSUE BONDS.** (a) A district may issue bonds to secure indebtedness for any purpose authorized by this chapter, Chapter 49, or other applicable laws.

(b) A district may not issue tax bonds or incur any debt which is to be paid with tax revenue unless an election is first held in the district and the proposition is approved by a majority of the electors of the district who vote in the election.

Acts 1971, 62nd Leg., p. 414, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by: Acts 2007, 80th Leg., R.S., Ch. 635 (H.B. 713), Sec. 2, eff. September 1, 2007.

**Sec. 53.172. ORDERING BOND ELECTION.** After the creation of a district and the qualification of the supervisors, the board may order an election in the district to authorize a bond issue. At this election, the board shall submit only a proposition authorizing the issuance of bonds and the levy of a tax to pay the bonds. The ballots shall be printed to allow for voting for or against the proposition: "The issuance of bonds and the levy of taxes to pay the bonds."

Acts 1971, 62nd Leg., p. 414, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 15, eff. Sept. 1, 1995.

**Sec. 53.183. ELECTION REQUIRED.** (a) A district may not issue bonds as authorized in Section 53.182 of this code unless an election is first held in the district and the proposition is approved by a majority of the electors of the district who vote in the election.

(b) If the election is held to authorize revenue bonds only, the board shall have the ballots printed to allow for voting for or against the proposition: "The issuance of bonds and the pledge of net revenues for the payment of the bonds."

(c) If the election is held to authorize combination tax and revenue bonds, the board shall have the ballots printed to allow for voting for or against the proposition: "The issuance of bonds to be paid for from an adequate pledge of net revenues and levy of ad valorem taxes."

(d) Except as provided in this section, the provisions of Sections 53.172-53.175 of this code, relating to tax bond elections, apply to elections held under this section.

Acts 1971, 62nd Leg., p. 417, ch. 58, Sec. 1, eff. Aug. 30, 1971.



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## **CHAPTER 54. MUNICIPAL UTILITY DISTRICTS**

### **SUBCHAPTER F. ISSUANCE OF BONDS**

**Sec. 54.505. ELECTION ON TAX BONDS.** Bonds payable solely from revenues may be issued by resolution or order of the board without an election, but no bonds, except refunding bonds, payable wholly or partially from ad valorem taxes shall be issued until authorized by a majority vote of the resident electors of the district voting in an election called and held for that purpose. An election is not required to pledge revenues to the payment of bonds.

Added by Acts 1971, 62nd Leg., p. 796, ch. 84, Sec. 1. Amended by Acts 2003, 78th Leg., ch. 248, Sec. 31, eff. June 18, 2003.

**Sec. 54.507. NOTICE OF BOND ELECTION.** (a) Repealed by Acts 1995, 74th Leg., ch. 715, Sec. 43, eff. Sept. 1, 1995.

(b) All or any part of any facilities or improvements which may be acquired by a district by the issuance of its bonds may be included in one single proposition to be voted on at the election or the bonds may be submitted in several propositions. A bond election may also be held on the same day as the confirmation election. The bond election may be called by a separate election order or as a part of the order calling the confirmation election.

(c) If a majority of the votes cast at the election are in favor of the issuance of the bonds, the bonds may be issued by the board if the confirmation election results favorably to the confirmation of the district.

Added by Acts 1971, 62nd Leg., p. 796, ch. 84, Sec. 1. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 43, eff. Sept. 1, 1995.

### **SUBCHAPTER H. ADDING AND EXCLUDING TERRITORY; CONSOLIDATING AND DISSOLVING DISTRICTS**

**Sec. 54.728. CONSOLIDATION OF DISTRICTS.** (a) Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 54.729-54.733 of this code.

(b) One or more districts governed by the provisions of this chapter and one or more districts governed by the provisions of Chapter 375, Local Government Code, may consolidate into one district as provided by this subsection and Sections 54.729-54.733 of this code. The initial directors of the consolidated district shall be elected and serve terms as provided by Section 49.103 of this code. The consolidation agreement under this subsection may provide that the consolidated district continue operating with the powers, authorities, duties, responsibilities, and board of directors of one of the original districts before consolidation.

(c) After the initial election of directors, a district consolidated under Subsection (b) is governed as agreed by either:

(1) an elected board of directors, who must be elected at a general election in the manner and for the terms provided by Section 49.103; or

(2) an appointed board of directors, who must be appointed as provided under Chapter 375, Local Government Code.

H.B. 2815, 88<sup>th</sup> Leg., R.S., Sec. 29, eff. June 18, 2023.

**Sec. 54.729. ELECTIONS TO APPROVE CONSOLIDATION.** (a) After the board of each district has agreed on the terms and conditions of consolidation, which may include the assumption by each district of the bonds, notes, or other obligations and voted but unissued bonds of the other consolidating districts payable in whole or in part from taxation, the levy of taxes to pay for the bonds, and adoption of a name for the consolidated district, the board shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district and shall give notice of the election for the time and in the manner provided by law for bond elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation.

Added by Acts 1971, 62nd Leg., p. 810, ch. 84, Sec. 1. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 19, eff. Sept. 1, 1995.

### **SUBCHAPTER J. SERVICES FOR CERTAIN DEFINED AREAS AND DESIGNATED PROPERTY**

**Sec. 54.806. PROCEDURE FOR ELECTION.** (a) Before bonds may be issued or taxes may be imposed for the defined area or designated property, the bonds or taxes must be approved by the voters in the defined area or within the boundaries of the designated property. The election shall be conducted as provided by Section 49.106 for an election to authorize the issuance

of bonds or Section 49.107 for an election to authorize the imposition of an operation and maintenance tax.

(b) The board may submit the issues to the voters on the same ballot to be used in another election.

(c) The notice of election must describe the area to be defined or property to be designated and must otherwise conform to the provisions of this chapter relating to notice of bond elections.

Added by Acts 1987, 70th Leg., ch. 600, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 1997, 75th Leg., ch. 1070, Sec. 33, eff. Sept. 1, 1997. Amended by: Acts 2019, 86th Leg., R.S., Ch. 1128 (H.B. 2590), Sec. 14, eff. September 1, 2019.

## **CHAPTER 55. WATER IMPROVEMENT DISTRICTS**

### **SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION TO ARTICLE XVI, SECTION 59, DISTRICT**

**Sec. 55.031. VOTING PRECINCTS.** (a) The commissioners court, at the time it orders the election, shall order creation of one or more election precincts in the district and shall designate polling places in each precinct.

(b) The election precincts created under this section shall remain the election precincts of the district until changed by an order of its board.

Acts 1971, 62nd Leg., p. 430, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.032. ELECTION OFFICIALS.** The commissioners court shall appoint two judges and two clerks for each polling place, and designate one of the judges to be presiding judge. If an officer fails to serve, his place shall be filled in the manner provided by the general election law.

Acts 1971, 62nd Leg., p. 430, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.037. DIRECTORS.** The commissioners court shall declare the five persons receiving the most votes to be elected directors. If not all five positions can be determined because of a tie vote, the commissioners court shall fill the necessary positions by selecting among the tying candidates.

Acts 1971, 62nd Leg., p. 431, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.044. MULTI-COUNTY DISTRICT: NOTICE OF ELECTION.** On receiving a certified copy of the findings of the commission authorizing the election, the commissioners court of each county shall have notices of the election posted, in the manner provided for an election to create a single-county district, for not less than 15 nor more than 30 days before the date of the election.

Acts 1971, 62nd Leg., p. 432, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.045. MULTI-COUNTY DISTRICT: RULES GOVERNING ELECTION.** Except as provided by the succeeding sections, the election shall be held, the returns made and canvassed, and the results declared, as provided in the case of a single-county district.

Acts 1971, 62nd Leg., p. 433, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.046. MULTI-COUNTY DISTRICT: ELECTION RETURNS, CANVASS, RESULT.** (a) The commission shall designate the county judge of one of the counties in the proposed district to act as a canvassing board to receive and canvass the votes cast and to declare the result of the election.

(b) In each county, the officers appointed by the commissioners court to hold the election shall return the results to the commissioners court and shall return all ballot boxes to the county clerk.

(c) On receiving the returns of the election, the commissioners court shall canvass the returns and certify the result of the election in the county to the county judge appointed to act as canvassing board.

(d) When the county judge receives the returns from all the counties, he shall canvass the returns and certify the result of the election to the commissioners court of each county, which shall enter the result of the election in its permanent records.

(e) If the proposition to create the district is carried, the county judge acting as the canvassing board shall make and transmit to each commissioners court an appropriate order declaring that the district is created and describing its boundaries. He shall also issue certificates of election to the persons elected as directors, who shall proceed with the organization of the district as otherwise provided by this chapter.

Acts 1971, 62nd Leg., p. 433, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.047. EXCLUSION OF CITY, UNINCORPORATED AREA, OR COUNTY VOTING AGAINST DISTRICT.**

(a) As used in this section:

(1) "city" includes town or other municipal corporation; and

(2) "unincorporated area" means an area not included within the boundaries of a city.

(b) Each city included within the boundaries of the proposed district shall be treated as a separate voting unit, and the votes cast in the city shall be counted and canvassed to show the result of the election in the city. No city shall be included in the district unless the majority of the votes cast in the city favor creation of the district.

(c) If the proposed district includes both incorporated and unincorporated areas in a county, the unincorporated area

shall not be included in the district unless the majority of the votes cast in the unincorporated area favor creation of the district.

(d) No district, the major portion of which is in one county, shall be organized to include land in another county unless the majority of the votes cast in the other county favor creation of the district.

(e) If any portion of a proposed district, under the provisions of this section, votes against creation of the district, and the remaining area of the proposed district votes for the district, then the proposition shall be adopted and the district confirmed except as to the territory voting against the district.

(f) All property in the territory of the district as originally proposed is subject to taxation for the payment of all debts and obligations, including organization expenses, incurred while part of the district.

(g) If at least 10 percent of the qualified electors of the area remaining in the district file a petition with the board of directors requesting a new election on creation of the district, then a new election shall be ordered and held for the remaining area, or the district organization may be dissolved by order of the board of directors and a new district formed.

Acts 1971, 62nd Leg., p. 433, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.053. CONVERSION OF ARTICLE III, SECTION 52 DISTRICT TO ARTICLE XVI, SECTION 59 DISTRICT.** (a) A water improvement district created subject to the limitations of Article III, Section 52, of the Texas Constitution, may be converted into a water improvement district operating under the authority of Article XVI, Section 59, of the Texas Constitution, as provided by this section.

(b) On the petition of 20 percent of the owners of land in the district, the board of directors shall order an election to determine whether the district shall be converted to a district operating under Article XVI, Section 59, of the Texas Constitution. The election shall be conducted under the rules applicable to general elections in the district. The ballots shall be printed to provide for voting for or against: "Conservation and Reclamation."

(c) The board shall canvass the returns, make an order declaring the result of the election, and have the order recorded in the deed records of the county or counties in which the district is located. If the result of the election is affirmative, the district begins operating under Article XVI, Section 59, of the Texas Constitution, without change of name or impairment of its obligations, when the order is recorded.

Acts 1971, 62nd Leg., p. 435, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## **SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

**Sec. 55.101. BOARD OF DIRECTORS.** The governing body of a district is a board of five directors.

Acts 1971, 62nd Leg., p. 435, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 24, eff. Sept. 1, 1995.

**Sec. 55.102. QUALIFICATIONS OF DIRECTORS.** To be qualified for election as a director, a person must be a resident of the state, own land subject to taxation in the district, and be at least 18 years of age at the time of the election. Section 49.052 does not apply to a district governed by this chapter whose principal purpose is providing water for irrigation.

Acts 1971, 62nd Leg., p. 435, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 25, eff. Sept. 1, 1995.

**Sec. 55.103. APPLICATION TO GET ON BALLOT.** (a) A person qualified to serve as a director may file an application with the secretary to have the applicant's name printed on the election ballots. The application must be signed by the applicant or by at least 10 qualified electors of the district and must be filed not later than 5 p.m. of the 45th day before the date of the election.

(b) Only persons for whom applications are filed under this section may have their names printed on the ballots. However, nothing in this section prevents write-in votes.

Acts 1971, 62nd Leg., p. 435, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1989, 71st Leg., ch. 1009, Sec. 3, eff. Sept. 1, 1989.

**Sec. 55.107. OPTIONAL CONVERSION TO STAGGERED TERMS.** (a) The board, by resolution adopted before December 1 of any year on the vote of at least four directors, may adopt the system of staggered two-year terms of office as provided by this section.

(b) On the first available election date as provided by Article 2.01b of Vernon's Texas Election Code in the first even-numbered year immediately succeeding adoption of the resolution, five directors shall be elected. Of the five elected, the two receiving the fewest votes shall serve for two years and the other three shall serve for four years. However, if the vote is such that two of them do not receive fewer votes than the other three, then the directors shall determine by lot which two will serve two years and which three will serve four years.

(c) After the election provided for in Subsection (b) of this section, on the same date in each following even-numbered year there shall be an election to elect successors for the directors whose terms expire, to hold office for terms of four years.

Acts 1971, 62nd Leg., p. 436, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 981, ch. 367, Sec. 25, eff. June 10, 1981; Acts 1983, 68th Leg., p. 5215, ch. 951, Sec. 8, eff. Jan. 1, 1984.

**Sec. 55.108. APPOINTMENT OF DIRECTORS IN CERTAIN DISTRICTS.** (a) If the petition to create a district proposes a district which would contain no more than 12,000 acres of land, and if at least 60 percent of the land is owned by persons who do not reside in the district, the petition may request that the directors be appointed by the commissioners court. If so, the directors shall be appointed instead of elected. The commissioners court shall appoint the directors at the time otherwise fixed for electing directors, or if the court is not in session at that time, it shall appoint the directors as soon as possible.

(b) The owners of land in the district may file petitions with the commissioners court expressing their choice of persons to be selected as directors. If the owners of at least 60 percent of the land agree on the persons to be appointed, the commissioners court shall appoint those persons. Otherwise, the court shall appoint suitable, qualified persons as directors.  
Acts 1971, 62nd Leg., p. 436, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## SUBCHAPTER L. ISSUANCE OF BONDS

**Sec. 55.491. BOND ELECTION.** After the district is created, the members of the board are qualified, the maps, profiles, specifications, and estimate are filed, and after the assessor and collector has made and returned the assessment roll, the board may order a bond election to be held in the district at the earliest possible legal time.  
Acts 1971, 62nd Leg., p. 464, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.497. NECESSARY VOTE.** (a) In a district operating under the authority of Article III, Section 52, of the Texas Constitution, a two-thirds vote of persons voting in the election is required to adopt a proposition to issue bonds or to enter into a contract with the United States.

(b) In a district operating under the authority of Article XVI, Section 59, of the Texas Constitution, a majority vote of persons voting in the election is required to adopt a proposition to issue bonds or to enter into a contract with the United States.  
Acts 1971, 62nd Leg., p. 465, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.526. NOTICE OF LIMITATION OF DEBT.** Once a week for two consecutive weeks in a newspaper published in the district, the board shall publish notice of the adoption of a resolution to limit the district's power to incur debt. The notice shall state that the resolution will take effect unless a petition against the proposed limitation signed by 10 percent of the qualified property taxpaying electors of the district is presented within 30 days after the first publication of notice.  
Acts 1971, 62nd Leg., p. 472, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.527. LIMITATION ELECTION.** (a) If a petition is filed under Section 55.526 of this code, the limitation of the power to incur debt will not take effect unless it is approved at a general or special election held in the district. The election will be held in the manner provided for holding other general and special elections in the district.

(b) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Limiting during the term of \_\_\_\_\_ years, the maximum debt of the district to 25 percent of the assessed value of the real property."  
Acts 1971, 62nd Leg., p. 472, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## SUBCHAPTER N. TAXATION ON A BENEFIT BASIS

**Sec. 55.651. ELECTION TO DETERMINE METHOD OF TAXATION.** (a) A district which operates under the provisions of Article XVI, Section 59, of the Texas Constitution, may, at the time the district is created or before bonds are issued, submit to the voters of the district the question of whether the district will levy, assess, and collect taxes on the ad valorem basis or on the benefit basis.

(b) The question shall be presented to the voters at the time and in the manner provided by the board.

(c) The ballots for the election shall be printed to provide for voting for or against the following proposition: "The levy of taxes on the benefit basis instead of the ad valorem basis."

(d) The election shall be governed by the provisions of this chapter.

(e) If a majority of the persons voting in the election favor the proposition, the district shall levy, assess, and collect its taxes on the benefit basis.

Acts 1971, 62nd Leg., p. 484, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.670. FIXING TAX AS EQUAL SUM ON EACH ACRE.** At the election at which the plan of taxation is determined or at any other time before the bonds are issued, the voters of a district which is not operating under a contract with the United States may vote on the proposition of whether or not benefits for tax purposes shall be fixed as an equal sum on each acre of land that is irrigated or to be irrigated by gravity flow from the canal system of the district. The benefit per acre shall be voted on as it is applied to land in the district that can be irrigated by gravity flow from the irrigation system and also the benefit to land in the district that cannot be irrigated by gravity flow.

Acts 1971, 62nd Leg., p. 487, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 55.671. ELECTION.** (a) If the board desires to submit the question of whether or not to adopt the method of assessing benefits provided in Section 55.670 of this code, it shall order an election to be held in the district and shall submit the proposition in the manner provided for other district elections.

(b) The ballots for the election shall be printed to provide for voting for or against: "Uniform assessment of benefits of \$ \_\_\_\_\_ per acre on all irrigable land in the district, and the assessment of \$ \_\_\_\_\_ per acre on all nonirrigable land in the district."

(c) The board shall determine the amounts which shall fill the spaces in the proposition. The amount of charge per acre may be found by dividing the number of acres of land into the amount of debt to be incurred by the district in providing for irrigation.

(d) If a majority of the persons voting in the election vote in favor of the proposition, it shall be adopted.

Acts 1971, 62nd Leg., p. 487, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## CHAPTER 56. DRAINAGE DISTRICTS

### SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

**Sec. 56.061. CREATION OF BOARD.** (a) A district is governed by a board of three directors unless special law provides otherwise.

(b) When a district is established, the commissioners court shall appoint three directors for the district to serve until permanent directors are elected.

Acts 1971, 62nd Leg., p. 502, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1999, 76th Leg., ch. 222, Sec. 1, eff. Sept. 1, 1999.

**Sec. 56.062. ELIGIBILITY REQUIREMENTS FOR DIRECTORS.** To be eligible to serve as a director, a person must satisfy the requirements of Section 141.001(a), Election Code.

Added by Acts 2001, 77th Leg., ch. 298, Sec. 3, eff. Sept. 1, 2001.

**Sec. 56.064. ELECTION OF DIRECTORS.** (a) For any district in which special law requires that directors be appointed, except when the special law otherwise provides, on petition of a majority of the real property taxpayers of a district requesting an election of district directors, the commissioners court shall immediately order an election to be held at the earliest legal time. The election shall be held as other elections under Chapter 49.

(b) The first elected directors of the districts in Calhoun, Matagorda, and Victoria Counties hold office until May 15 of the next succeeding odd-numbered year. Subsequent directors of the district are elected every two years on the first Saturday in May in each odd-numbered year, for a term of two years beginning on May 15 following the election.

Acts 1971, 62nd Leg., p. 503, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1975, 64th Leg., p. 1847, ch. 575, Sec. 1, 2, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 5216, ch. 951, Sec. 10, eff. Jan. 1, 1984; Acts 1987, 70th Leg., ch. 54, Sec. 25(o), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 59, Sec. 1, eff. May 5, 1989; Acts 1995, 74th Leg., ch. 715, Sec. 27, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 222, Sec. 2, eff. Sept. 1, 1999.

**Sec. 56.0641. ELECTION PROCEDURES.** (a) In those districts referred to in Subsection (b) of Section 56.064, until otherwise ordered by the board of directors, the three persons receiving the highest number of votes at each election are elected. By order made before the 60th day preceding an election for directors, the board of directors in those districts referred to in Subsection (b) of Section 56.064 may order that the election of directors for that district shall be by position or place, designated as Place No. 1, Place No. 2, and Place No. 3. The order shall designate the place numbers in relation to the directors then in office, and these place designations shall be observed in all future elections. The person receiving the highest number of votes for each position or place is elected. Once the board of directors has adopted the place system for election, neither that board nor their successors may rescind the action.

(b) A person wishing to have his name printed on the ballot as a candidate for director in those districts referred to in Subsection (b) of Section 56.064 shall file a signed application with the secretary of the board of directors not later than 5 p.m. of the 31st day preceding the election.

(c) The board of directors in those districts referred to in Subsection (b) of Section 56.064 shall order the election, appoint the election judges, canvass the returns, and declare the results of the election. In other respects, the procedures for conducting the election and for voting are as specified in the Texas Election Code. The expenses of holding the election shall be paid out of the construction and maintenance fund of the district.

Added by Acts 1975, 64th Leg., p. 1847, ch. 575, Sec. 3, eff. Sept. 1, 1975. Amended by Acts 1999, 76th Leg., ch. 222, Sec. 3, eff. Sept. 1, 1999.

### SUBCHAPTER F. ISSUANCE OF BONDS AND NOTES

**Sec. 56.211. REFUNDING BOND ELECTION.** (a) If indebtedness to be refunded includes obligations other than voted bonds, in any district operating under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, before the refunding bonds may be issued, a majority of the electors of the district voting at an election called for that purpose must vote in favor of issuing the refunding bonds and levying a tax to pay for the bonds.

(b) The board shall call the election and the secretary of the board shall give notice of the time and places for holding the election.

(c) The notice shall be signed by the secretary and shall

- (1) state the purpose of the election;
- (2) state the proposition to be voted on;



- (3) define the election precincts;
- (4) prescribe the polling places in the district; and
- (5) list the names of the election officers.

(d) The notice shall be published once a week for three consecutive weeks in a newspaper of general circulation in the county in which the district is located, but if a newspaper is not published in the county, the notice shall be published in the nearest county. The first publication shall be at least 20 days before the day of the election.

Acts 1971, 62nd Leg., p. 518, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, Sec. 8, eff. May 31, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 11, eff. Sept. 1, 2001.

**Sec. 56.249. AUTHORIZING TAXATION ON THE BENEFIT BASIS FOR EXISTING DISTRICT.** (a) A district may levy taxes on the benefit basis as provided in this section.

(b) Any person may present to the board a petition, signed by 75 of the resident freehold taxpayers of the district whose land would be affected or by one-third of the freehold resident taxpayers of the district whose land would be affected if there are less than 75 in the district, requesting that taxes of the district be levied on the benefit basis and showing that the levy of taxes on the benefit basis will be fair and equitable to all landowners in the district.

(c) At the same meeting at which the petition is presented, the board shall schedule a hearing on the petition for either a regular meeting or a special meeting called for that purpose to be held during the period beginning on the 30th day and ending with the 60th day after the day the petition is presented.

(d) The board shall give notice of the time and place of the hearing by posting a copy of the petition and the order of the board at five public places in the county during the 20-day period immediately preceding the day of the hearing. The board shall post one of the copies at the courthouse door and the other four copies at four places within the boundaries of the district.

(e) At the hearing, any person whose land would be affected may appear before the board and may support or oppose the levy of taxes on a benefit basis and may offer testimony to show whether or not the levy of taxes on the benefit basis will be fair and equitable to landowners in the district. The board has exclusive jurisdiction to hear and determine this issue and matters relating to it and has exclusive jurisdiction in all subsequent proceedings. The board may adjourn the hearing from day to day, and judgments of the board are final.

(f) If the board finds that levying taxes on the benefit basis will not be fair and equitable to landowners in the district, an order shall be entered dismissing the petition, and the district shall continue to levy taxes on an ad valorem basis, but if the board finds that levying taxes on the benefit basis will be fair and equitable to landowners in the district, the board shall order an election to be held in the district.

(g) An election to approve the levy of taxes on the benefit basis must be held on the earliest legal date that occurs on or after the 30th day after the date the board orders the election. Notice of the election shall be given in the same manner as notice is given for the hearing on the petition. The board shall name polling places within the district and shall appoint judges and other necessary election officers. The ballots shall be printed to provide for voting for or against the following proposition: "The levy of taxes in the district on the benefit basis."

(h) At least two-thirds of those persons voting in the election must vote in favor of the proposition for it to carry.

(i) If the proposition carries at the election, the order of the board canvassing the election shall provide that taxes of the district are to be levied on the benefit basis, but if the proposition fails to carry at the election, the order of the board canvassing the election shall provide that taxes of the district are to continue to be levied on an ad valorem basis.

Acts 1971, 62nd Leg., p. 521, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 15, eff. Sept. 1, 2001.

## SUBCHAPTER H. DISSOLUTION

**Sec. 56.292. PETITION.** At a regular meeting of the board, any resident freehold taxpayer of the district may present a petition signed by at least five percent of the qualified voters of the district, or if there are fewer than 100 resident freehold taxpayers in the district, then by one-third of the resident freehold taxpayers requesting the dissolution of the district, and on verification of the petition signatures, the board shall order an election to be held in the district at the earliest legal time to determine whether or not the district should be dissolved.

Acts 1971, 62nd Leg., p. 523, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 15, eff. Sept. 1, 2001.

**Sec. 56.293. DEPOSIT.** (a) Any person filing a petition shall deposit with the board an amount sufficient to pay the cost of conducting an election within the district which shall be held by the board until the result of the election to dissolve the district is officially announced and entered in the record of the district.

(b) If the result of the election favors dissolving the district, the board shall return the deposit to the petitioners or their agent or attorney, and the cost and expenses of holding the election shall be paid by the district, but if the result of the

election is against dissolving the district, the board shall pay the cost and expenses of the election from the deposit and return the balance of the deposit to the petitioners or their agent or attorney.

Acts 1971, 62nd Leg., p. 523, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 15, eff. Sept. 1, 2001.

**Sec. 56.294. ELECTION.** (a) Notice of the election to dissolve the district shall be posted and the election shall be held as provided by this chapter for elections to create a district.

(b) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Dissolution of the drainage district."

(c) For the proposition to carry, two-thirds of those persons voting at the election must vote to dissolve the district.  
Acts 1971, 62nd Leg., p. 523, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 56.295. RESULT OF THE ELECTION.** (a) The returns of the election shall be made and the votes canvassed as provided in this chapter.

(b) If the proposition carries, the board shall declare the result and enter it in its minutes substantially as follows: "\_\_\_\_\_ and \_\_\_\_\_ others having petitioned for the dissolution of \_\_\_\_\_ County Drainage District No. \_\_\_\_; an election having been held in the district on \_\_\_\_\_; and a two-thirds majority of the votes cast in the election having favored dissolution of the district; now, therefore, the board of directors declares that \_\_\_\_\_ Drainage District No. \_\_\_\_ is dissolved."

(c) If the proposition fails to carry, another election for the same purpose may not be held for at least two years after the results of the election are declared.

Acts 1971, 62nd Leg., p. 523, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 2001, 77th Leg., ch. 298, Sec. 16, eff. Sept. 1, 2001.

## **SUBCHAPTER J. ALTERNATE PROCEDURE FOR ANNEXATION BY EXISTING DISTRICT**

**Sec. 56.751. PETITION FOR ANNEXATION.** The landowners of a defined area of territory not included in a district may file with the secretary of the board a petition requesting an election on the inclusion of the territory in a district. The petition must:

(1) be signed by registered voters residing in the territory equal in number to at least five percent of the number of votes received in the territory to be included by all candidates in the most recent gubernatorial general election; and

(2) describe by metes and bounds the territory to be included in the district.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 2, eff. June 16, 1995.

**Sec. 56.754. ELECTIONS TO APPROVE ANNEXATION OF TERRITORY.** (a) If the board determines the petition meets the requirements of Section 56.751, the board shall order elections to approve the annexation.

(b) Annexation of the territory must be approved by a majority vote of the voters at a separate election held in the district and by a majority vote of the voters at a separate election held in the territory proposed to be added.

(c) If the district has outstanding debts or taxes, the election to approve annexation also determines whether the territory to be added assumes its proportion of the debts or taxes if the territory is added to the district.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 2, eff. June 16, 1995.

**Sec. 56.755. NOTICE AND PROCEDURE OF ELECTION.** The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters are governed by Subchapter E, Chapter 58.

Added by Acts 1995, 74th Leg., ch. 958, Sec. 2, eff. June 16, 1995.

## **SUBCHAPTER K. CONSOLIDATION OF DISTRICTS**

**Sec. 56.803. CONSOLIDATION BY PETITION.** (a) Consolidation may be initiated by a petition requesting that the districts be consolidated.

(b) The petition must be signed by a number of qualified voters in each district proposed to be consolidated that is equal to at least five percent of the number of votes cast in the district in the most recent gubernatorial general election. There must be one petition for each district proposed to be consolidated. A qualified voter may sign only the petition for the district in which the voter resides.

(c) The petitions shall be filed simultaneously with the secretary of each district proposed to be consolidated.

(d) A district's board shall determine whether the petition presented to that district meets the requirements of

Subsection (b) and shall notify the board of each other district proposed to be consolidated whether the petition meets the requirements of Subsection (b).

(e) If the petitions meet the requirements of Subsection (b) in all districts proposed to be consolidated, the boards of the districts proposed to be consolidated shall:

(1) issue a joint order for an election to be held on the same day in each district to determine whether the districts should be consolidated; and

(2) give notice of the election in the manner provided by law for other elections.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

**Sec. 56.804. TIME OF HOLDING ELECTION; COST OF ELECTION.** (a) The election shall be held on a uniform election day in May.

(b) The election date selected must provide sufficient time for the preparation of the necessary voter registration lists for each district.

(c) Each district proposed to be consolidated is responsible for holding the election in that district and for the cost of the election in that district.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 340, Sec. 6, eff. Sept. 1, 2001. Amended by: Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 6, eff. October 1, 2005.

**Sec. 56.805. BALLOT.** The ballot in the election shall be printed to permit voting for or against the proposition: "Consolidation of \_\_\_\_\_ (names of districts to be consolidated) into a single drainage district."

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

**Sec. 56.806. CANVASS; RESULT.** (a) The board of each district proposed to be consolidated shall canvass the returns of the election held in that district. The board of each district shall publish the results for that district.

(b) If the majority of votes cast in each district favor the consolidation, the districts become one district and are governed as one district.

(c) If the proposition does not carry, another election for consolidation may not be held in any district that was proposed to be consolidated for at least two years after the results of the election are declared.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

**Sec. 56.807. GOVERNING CONSOLIDATED DISTRICTS; ELECTION OF DIRECTORS.** (a) When two or more districts are consolidated, they become one district and are governed as one district.

(b) Until the directors of the consolidated district are elected and qualify, the directors of each district shall continue to act jointly as directors of the consolidated district. A vacancy on the joint boards occurring before the permanent directors of the consolidated district are elected may not be filled unless the number of members on the joint board is three or fewer. If the number of members on the joint board is reduced to three or fewer, the consolidated district shall be governed by three directors. If there are fewer than three directors, vacancies shall be filled in the same manner as vacancies on elected boards until there are three directors.

(c) The joint board shall immediately order an election of directors of the consolidated district to be held on the next available uniform election date as provided for election of directors under Chapter 49.

(d) The consolidation agreement may provide that the directors of the original districts continue to act jointly as directors of the consolidated district until the next election. The agreement may name persons to serve as directors of the consolidated district until the next election if all directors of the original districts agree to resign.

(e) The joint board of the consolidated district shall approve the bond of each new director.

(f) If any of the consolidated districts were operating under Section 59, Article XVI, Texas Constitution, at the time the districts were consolidated, the consolidated district shall operate under Section 59, Article XVI, Texas Constitution, and limitations imposed by Section 52, Article III, Texas Constitution, and this chapter on debts to be incurred and taxes to be levied do not apply to that district unless, not later than the 60th day after the districts are consolidated, the board of directors of the consolidated district adopts a resolution that the consolidated district shall operate under Section 52, Article III, Texas Constitution.

Added by Acts 1999, 76th Leg., ch. 222, Sec. 12, eff. Sept. 1, 1999.

## **CHAPTER 57. LEVEE IMPROVEMENT DISTRICTS**

### **SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

**Sec. 57.057. ELECTION OF BOARD OF DIRECTORS.** After creation of a district, an election may be held to determine whether or not directors for the district will be elected rather than appointed.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1248, ch. 483, Sec. 5a, eff. Aug. 29, 1977.

**Sec. 57.058. NUMBER OF ELECTED DIRECTORS; TERMS.** In districts which have elected boards, there shall be five directors on the board. The initial elected directors shall draw lots to determine which two initial directors serve two-year terms and which three initial directors serve four-year terms. In countywide districts, one director shall be elected by the electors of the entire district and one director elected from each county commissioners precinct by the electors of that precinct. In other districts, all five directors shall be elected from precincts within the district to be established by the commissioners court.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1248, ch. 483, Sec. 5b, eff. Aug. 29, 1977. Amended by: Acts 2019, 86th Leg., R.S., Ch. 804 (H.B. 2202), Sec. 2, eff. September 1, 2019.

**Sec. 57.059. QUALIFICATIONS FOR DIRECTORS.** To be qualified to serve as a director, a person must:

- (1) be at least 18 years old;
- (2) own land subject to taxation in the district or be a qualified voter in the district; and
- (3) if the director is elected, be a qualified voter of the precinct in the district established by the commissioners court under Section 57.058 from which the director is elected

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971; H.B. 2815, 88th Leg., R.S., Sec. 31, eff. June 18, 2023.

**Sec. 57.060. PETITION.** Before an election is held under Section 57.057, a petition, signed by the greater of at least 10 percent of the total number of electors or 100 electors in the district who are qualified to vote, shall be presented to the district requesting that an election be held in the district to determine whether or not directors for the district should be elected. If the results of an election held under Section 57.057 determine that directors will be elected, the current directors continue to serve until the elected directors qualify to take office.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, Sec. 5c, eff. Aug. 29, 1977; Acts 1995, 74th Leg., ch. 715, Sec. 29, eff. Sept. 1, 1995. Amended by: Acts 2019, 86th Leg., R.S., Ch. 804 (H.B. 2202), Sec. 3, eff. September 1, 2019.

**Sec. 57.061. PROCEDURE FOR ELECTION.** After the petition is presented under Section 57.060, the board shall order an election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, Sec. 5d, eff. Aug. 29, 1977; Acts 1995, 74th Leg., ch. 715, Sec. 30, eff. Sept. 1, 1995.

### **SUBCHAPTER G. ISSUANCE OF BONDS**

**Sec. 57.201. POWER TO ISSUE BONDS.** The district may issue bonds, but it may not issue bonds nor incur any debt unless an election is held in the district and the proposition is approved by a majority vote of the electors of the district who vote in the election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 57.207. DECLARING RESULT OF ELECTION.** The board shall enter an order declaring the election result in its minutes.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 31, eff. Sept. 1, 1995.

### **SUBCHAPTER I. DISSOLUTION**

**Sec. 57.324. DISSOLVING A DISTRICT BY ELECTION.** A district may dissolve its corporate existence by election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 57.325. PETITION.** To dissolve a district by election, a person shall present a petition, signed by the owners of a majority of the acreage in the district, to the commissioners court at a regular session, requesting the commissioners court to dissolve

the district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 57.326. ELECTION ORDER.** (a) After it receives a petition under Section 57.325 of this code, the commissioners court shall order an election to be held in the district at the earliest possible legal time to determine whether or not the district should be dissolved.

(b) If the proposition to dissolve the district fails to carry at the election, the commissioners court may not order another election for the same purpose within one year after the result of the election has been announced officially.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 57.327. ELECTION PROCEDURE, TIME, AND PLACE FOR HOLDING ELECTION.** The provisions of Sections 57.203-57.207 of this code apply, so far as possible, to a dissolution election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 57.328. BALLOT.** The commissioners court shall have the ballots printed to provide for voting for or against the following proposition and no other: "Dissolving the levee improvement district."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 57.329. VOTE NECESSARY TO CARRY PROPOSITION.** More than two-thirds of the persons voting in the election must vote to dissolve the district to carry the proposition.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## **CHAPTER 58. IRRIGATION DISTRICTS**

### **SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT**

**Sec. 58.035. INCLUSION OF CITY, TOWN, OR MUNICIPAL CORPORATION IN DISTRICT.** (a) No city, town, or municipal corporation may be included within any district created under this chapter unless the proposition for the creation of the district has been adopted by a majority of the electors in the city, town, or municipal corporation.

(b) Any municipal corporation included within a district shall be a separate voting district, and the ballots cast within the municipal corporation shall be counted and canvassed separately from the remainder of the district.

(c) No district that includes a city, town, or municipal corporation may include land outside of the municipal corporation unless the election to confirm and ratify the creation of the district favors the creation of the district independent of the vote within the municipal corporation.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.036. CONFIRMATION ELECTION IN DISTRICT INCLUDING LAND IN MORE THAN ONE COUNTY.** No district, the major portion of which is located in one county, may be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is adopted by those voting in the other county.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.037. EXCLUSION OF PARTS OF DISTRICT; DISSOLUTION.** (a) If any portion of a district governed by Sections 58.035 and 58.036 of this code votes against the creation of the district and the remainder of the district votes for the creation, the district is confirmed and ratified in those portions of the district voting for the creation, and the district is composed only of those portions.

(b) The excluded portions of the district shall be excluded from all debts and obligations incurred after the election; however, all land and property included in the original district shall be subject to the payment of taxes for the payment of all debts and obligations, including organizational expenses, incurred while it was a part of the district.

(c) If a district is created and portions of the proposed district are excluded by the vote in those portions, 10 percent of the voters in the district may file with the Board a petition asking for a new election on the issue. A new election shall be ordered and held for the remaining portion of the district or the district organization may be dissolved by order of the board and a new district formed.

(d) A petition requesting a new election shall be filed within 30 days after the day on which the result of the election is canvassed and declared by the board.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.071. BOARD OF DIRECTORS.** The governing body of a district is the board of directors, which shall consist of five directors.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.072. QUALIFICATIONS.** To be qualified for election as a director, a person must be a resident of the state, be the owner of record of fee simple title to land in the district, be at least 18 years of age, and owe no delinquent taxes or assessments to the district. Section 49.052 does not apply to a district governed by this chapter.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977. Amended by Acts 1995, 74th Leg., ch. 715, Sec. 32, eff. Sept. 1, 1995.

**Sec. 58.0731. ELECTION OF DIRECTORS FROM PRECINCTS.** A district that elected one director from each of five precincts before it converted to a district operating under this chapter shall continue to elect its directors in the same manner from precincts.

Added by Acts 1979, 66th Leg., p. 70, ch. 44, Sec. 1, eff. April 11, 1979.

**Sec. 58.084. DISTRICT TAX ASSESSOR AND COLLECTOR.** The board may appoint one person to the office of tax assessor and collector, or it may order an election to fill that office.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

## SUBCHAPTER D. POWERS AND DUTIES

**Sec. 58.155. ELECTION TO APPROVE A CONTRACT WITH THE UNITED STATES.** (a) The electors of the district shall vote to approve every contract involving the payment of construction charges to the United States. The provisions of this chapter relating to the election to approve the validation of district bonds shall be followed, including the prosecution of an action in court to determine the validity of the contract.

(b) The notice of election shall state the maximum amount, exclusive of operation and maintenance charges, water rental charges, interest, and penalties, payable by the district to the United States under the contract.

(c) The ballot shall be printed to provide for voting for or against the proposition: "The contract with the United States and levy of taxes to make payments under the contract". This is the only proposition that may appear on the ballot.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

## SUBCHAPTER E. ELECTION PROVISIONS

**Sec. 58.221. LANDOWNER.** In this subchapter, a reference to "landowner" refers to a single landowner who is the owner of record of fee simple title to a parcel of land located within the boundaries of a district, regardless of whether the title to the parcel of land is held by:

- (1) an individual landowner;
- (2) two or more individual landowners; or
- (3) a corporation, partnership, or other business entity.

Added by Acts 2001, 77th Leg., ch. 107, Sec. 1, eff. Sept. 1, 2001.

**Sec. 58.222. ELIGIBILITY TO VOTE.** Notwithstanding the Election Code and any other law, a landowner or the landowner's registered representative under this subchapter is entitled to one vote in an election conducted by a district only if the landowner:

(1) owns at least one acre of irrigable land located within the district's boundaries that is subject to an assessment for maintenance and operating expenses under Sections 58.305(a) and (b);

(2) is entitled to receive and use irrigation water delivered by the district through the district's irrigation facilities; and

(3) satisfies all other requirements for voting prescribed by this subchapter.

Added by Acts 2001, 77th Leg., ch. 107, Sec. 1, eff. Sept. 1, 2001.

**Sec. 58.223. ELIGIBILITY REQUIREMENTS.** An individual landowner, or the landowner's registered representative, is eligible to vote only if the individual:

- (1) is 18 years of age or older;
- (2) is a United States citizen;
- (3) has not been determined mentally incompetent by a final judgment of a court;
- (4) has not been finally convicted of a felony or, if so convicted, has:

(A) fully discharged the individual's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or

(B) been pardoned or otherwise released from the resulting disability to vote; and

(5) is included on the list of qualified voters prepared under Section 58.224(d).

Added by Acts 2001, 77th Leg., ch. 107, Sec. 1, eff. Sept. 1, 2001.

**Sec. 58.224. REGISTRATION REQUIRED.** (a) A landowner who elects to designate a representative to vote on behalf of the landowner must register the representative to vote on a form prescribed by the district.

(b) The form must be received by the district on or before the 20th day before the date of the election.

(c) The registration is valid for a period prescribed by the district.

(d) The district shall prepare a list of qualified voters as shown by the district's records as of the 60th day before the date of a district election. On or before the 40th day before the date of an election, the district shall:

(1) file the list with the county clerk of each county within which the district's boundaries are located;

(2) post the list in the district's office; and

(3) post the list at each county courthouse in each county within which the district's boundaries are located.

(e) Only an individual landowner or a registered representative of a landowner whose name appears on the list of

qualified voters is eligible to vote in a district election.

Added by Acts 2001, 77th Leg., ch. 107, Sec. 1, eff. Sept. 1, 2001.

**Sec. 58.225. VOTING BY REPRESENTATIVE.** (a) A landowner may authorize an individual to vote in a district election as the landowner's representative as provided by this subchapter.

(b) If ownership of the land is vested in more than one individual or in a corporation, partnership, or other business entity, the vote must be made by a registered representative.

Added by Acts 2001, 77th Leg., ch. 107, Sec. 1, eff. Sept. 1, 2001.

**Sec. 58.226. LIABILITY FOR DISTRICT TAXES AND DEBTS.** (a) A person who on January 1 of each year is not eligible under this subchapter to vote in an election held by a district is not liable for any tax imposed by the district under Subchapters L or M during the year in which the person is not eligible to vote.

(b) A person continues to be liable for the payment of:

(1) taxes imposed before the date on which a person becomes ineligible to vote under this subchapter;

(2) the pro rata share of any district indebtedness existing on the date on which a person becomes ineligible to vote under this subchapter; and

(3) taxes imposed during any year in which the person is eligible to vote under this subchapter.

Added by Acts 2001, 77th Leg., ch. 107, Sec. 1, eff. Sept. 1, 2001.

## SUBCHAPTER J. ISSUANCE OF BONDS

**Sec. 58.435. ELECTION ON PRELIMINARY BONDS.** (a) The proposition for the issuance of preliminary bonds shall be submitted to the electors of the district.

(b) The election may be held at the same time as the election to confirm the creation of the district or at a later time.

(c) The board shall make an estimate of the expenses to be paid with the proceeds of the preliminary bonds and shall include this estimate in the notice of election.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.441. ELECTION ORDER.** (a) After the engineer's report is filed and approved, the board may order an election in the district to authorize the issuance of bonds.

(b) In the order, the board shall estimate the total amount of money needed to cover the items listed in Section 58.439 of this code.

(c) The election order shall state:

(1) the proposed maximum interest rate on the bonds;

(2) the maximum maturity date of the bonds;

(3) the time and places for holding the election; and

(4) the names of the election officers.

(d) The election order shall be entered in the minutes of the board.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.443. BALLOTS.** (a) The proposition to be voted on shall be the issuance of the total amount of bonds covered by the engineer's estimate plus additional estimates made by the board.

(b) The ballots shall be printed to provide for voting for or against: "The issuance of bonds and the levy of taxes to pay for the bonds."

(c) If a contract is proposed with the United States under the federal reclamation laws, the ballots shall be printed to provide for voting for or against: "The contract with the United States and the levy of a tax to pay the contract."

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.444. VOTE AT ELECTION.** (a) Bonds of a district operating under the provisions of Article III, Section 52, of the Texas Constitution, may be issued only with the approval of two-thirds of the electors of the district participating in the election.

(b) In a district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, bonds may be issued or indebtedness created only with the approval of a majority of the electors of the district participating in the election.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.482. ELECTION.** (a) If the district proposes to issue bonds which will be secured under either Section 58.480(b)(2)



or 58.480(b)(3) of this code, the proposition shall be presented at an election held under Section 58.443 of this code.

(b) The ballots for the election shall be printed to provide for voting for or against one of the following propositions:

(1) "The issuance of bonds and the pledge of net revenue for the payment of the bonds.";

(2) "The issuance of bonds, the pledge of net revenue, and the creation of a lien on physical property to secure payment of the bonds."; or

(3) "The issuance of bonds, the pledge of net revenue, and the levy of adequate taxes to pay the bonds."

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.483. HEARING AND ELECTION ON CERTAIN BONDS.** (a) A district which plans to issue bonds payable from and secured by a pledge of net revenue and a lien on the physical property, either or both, without the levy of taxes, is not required to hold a hearing to exclude land or adopt a plan of taxation.

(b) The proposition for issuance of bonds may be submitted at the election held to confirm the creation of the district or at an election called by the board.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

## SUBCHAPTER K. TAX PLAN

**Sec. 58.520. PROCEDURE FOR ELECTION.** (a) The election shall conform to the provisions of this code relating to an election to authorize the issuance of construction bonds.

(b) The board shall submit the appropriate issues to the electors, and the issues may be submitted on the same ballot to be used in another election.

(c) The notice of election shall define the area to be designated and the plan of taxation to be applied.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.521. ELECTION NOT REQUIRED IN SEPARATE ELECTION PRECINCT.** If proposed improvements are considered to be required to promote the public welfare or if the owners of the land in a defined area file a petition acknowledged as required for deeds requesting the district to provide improvements and assess a tax only in the defined area, it is not necessary to constitute the area a separate election precinct and have a separate election in that area.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.522. BALLOTS.** The ballots for an election under this subchapter shall be printed to provide for voting for or against substantially the proposition: "Designation of the area, issuance of bonds, and levy of a tax to retire the bonds."

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.525. ELECTION IN SEPARATE ELECTION PRECINCT.** (a) If the improvements to be provided in a defined area are considered peculiarly for the benefit of that area and not required to conserve the public or general welfare in the district as a whole, and if the proposed improvements in that area will require the imposition of a tax only on the property in the area, the defined area is constituted a separate election precinct in which a separate election shall be held to determine if the improvements will be provided and a separate tax levied.

(b) The election shall be held in the manner provided for issuance of bonds under this subchapter.

(c) If a majority of the electors in the defined area approve the propositions, the district shall provide money when necessary and shall provide the improvements and levy the tax.

(d) At an election in the defined area, each qualified elector of the district who owns property in the defined area may elect to vote in the area and not in the precinct of his residence.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

## SUBCHAPTER M. TAXATION ON THE BENEFIT BASIS

**Sec. 58.650. ELECTION.** (a) If the board desires to submit the question of whether or not to adopt the method of assessing benefits provided in Section 58.649 of this code, it shall order an election to be held in the district and shall submit the proposition in the manner provided for other district elections.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Uniform assessment of benefits of \$\_\_\_\_\_ per acre on all irrigable land in the district."

(c) The board shall determine the amounts to fill the space in the proposition. The amount of charge per acre may be

found by dividing the number of acres of land into the amount of debt to be incurred by the district in providing for irrigation.

(d) If a majority of the persons voting in the election vote in favor of the proposition, it shall be adopted.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

## **SUBCHAPTER N. ADDING AND EXCLUDING TERRITORY AND CONSOLIDATING DISTRICTS**

**Sec. 58.727. ELECTIONS TO APPROVE CONSOLIDATION.** (a) After the directors of each district have agreed on the terms and conditions of consolidation, they shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district and shall give notice of the election for at least 20 days in the manner provided by law for other elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

## **SUBCHAPTER O. DISSOLUTION OF DISTRICT**

**Sec. 58.796. ELECTION TO APPROVE DISSOLUTION OF DISTRICT AND ISSUANCE OF DISSOLUTION BONDS.** The board shall enter an order calling an election to determine whether or not the district shall be dissolved and bonds issued to pay the district's indebtedness and estimated expenses.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.798. NOTICE OF ELECTION.** (a) The president and secretary of the board shall issue notice of the election, stating:

- (1) the findings of the board with reference to the dissolution of the district;
- (2) the amount of bonds to be issued;
- (3) the interest rate on the bonds; and
- (4) the time and place of the election.

(b) The notice also shall contain a statement of the estimates and the expenses incurred and to be incurred in the dissolution of the district and the collection of taxes for the payment of the bonds and shall state that the bonds will be payable by the levy of taxes on the taxable property in the district in proportion to the values of the property as provided in Section 58.804 of this code.

(c) The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the day of the election.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.799. PROCEDURE FOR HOLDING ELECTION.** (a) The ballots for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the district and issuance of dissolution bonds and the levy of taxes for the payment of the bonds."

(b) The election shall be conducted and returns made and canvassed according to the provisions in this chapter for construction bond elections.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.830. PETITION FOR DISSOLUTION OF DISTRICT.** A petition for the dissolution of the district shall be filed with the board and shall state the name of the district and the purpose for which the election is requested. The petition may refer to the order establishing the district for boundaries, limits, and area of the district.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.831. SIGNATURES ON PETITION.** A petition for dissolution of the district may be signed and filed in two or more copies. The petition shall be signed by a majority in number of the property owners with land in the district and the property owners of a majority in value of the land in the district, as shown by the tax rolls of the district, or 50 landowners if the number of landowners in the district is more than 50.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.832. PROCEDURE FOR HOLDING ELECTION.** (a) An election to determine whether or not the district shall be dissolved shall be held in accordance with the provisions of Subchapter E of this chapter.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The dissolution of district."

(c) The returns of the election shall be canvassed and the result declared by the board. The board shall enter an order in its minutes declaring the result of the election, which order shall be made and entered in accordance with Section 58.034 of this code. The order shall be filed in the office of the county clerk and recorded in the deed records of the county as provided in Section 58.034 of this code.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.833. ELECTION IN DISTRICT INCLUDING CITY, TOWN, OR MUNICIPAL CORPORATION.** In an election to dissolve a district in which a city, town, or municipal corporation is located, the city, town, or municipal corporation shall be a separate voting precinct, and the ballots cast in the city, town, or municipal corporation shall be counted and canvassed to show the result of the election there. If the city, town, or municipal corporation votes against the dissolution of the district and the balance of the district votes for the dissolution of the district, the district shall be dissolved.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

**Sec. 58.834. SUBSEQUENT ELECTION.** If the proposition to dissolve the district fails to carry at the election held for that purpose, no other election for the same purpose shall be held within one year after the date of the election.

Added by Acts 1977, 65th Leg., p. 1537, ch. 627, Sec. 1, eff. Aug. 29, 1977.

## CHAPTER 59. REGIONAL DISTRICTS

### SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

**Sec. 59.021. DIRECTORS.** (a) The commission shall appoint temporary directors who shall serve until permanent directors are elected.

(b) A petition requesting creation filed in accordance with Section 59.006 may provide that directors be elected by precinct as provided by Subsection (h).

(c) The board of directors is composed of five members unless the petition requesting creation of the district requests and the commission approves a board that consists of seven members.

(d) Permanent directors shall be elected in accordance with Chapter 49.

(e) If the petition for creation has requested the election of seven directors as provided by Subsection (c), unless otherwise agreed, the three directors elected who received the fewest number of votes, whether their election is by precinct or at large, shall serve until the next directors election following the confirmation election and the four who received the highest number of votes shall serve until the second directors election after the confirmation election.

(f) After the creation of the district, the persons or entities that petitioned for creation or 50 qualified voters of the district may file a petition with the commission requesting to expand the district's board to seven members. If the commission grants the petition, the commission shall appoint two temporary directors. One temporary director shall serve until the next directors election and one shall serve until the next succeeding directors election. At each election one director shall be elected to serve for a four-year term.

(g) If the board of directors of the district is expanded to seven members, four directors shall constitute a quorum and a concurrence of four directors is necessary in all matters pertaining to the business of the district.

(h) A petition for the creation of a district may request that the board be elected to represent a geographic area. If the petition requesting creation of the district is granted, the commission shall establish precincts from which the directors are to be elected. In establishing the precincts the commission shall attempt to have directors represent geographic areas with equal numbers of people and shall comply with the federal Voting Rights Act of 1965 (42 U.S.C. Sections 1971, 1973 et seq.). Thereafter, the board of directors of the district shall revise the precincts from time to time to cause them to comply with the provisions of this subsection.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 3, eff. Sept. 1, 1995.

**Sec. 59.023. ISSUANCE OF BONDS.** The district may issue bonds for the purpose of purchasing, constructing, acquiring, owning, operating, repairing, improving, or extending any district works, improvements, facilities, plants, equipment, and appliances needed to accomplish the purposes of the district, including works, improvements, facilities, plants, equipment, and appliances needed to provide a waterworks system, sanitary sewer system, storm sewer system, solid waste disposal system, and parks and recreational facilities. Prior to issuing bonds or other obligations, a confirmation election must be held in accordance with Chapter 49, and a majority of voters must approve the establishment of the district.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 3, eff. Sept. 1, 1995.

**Sec. 59.024. EXCLUSION OF CERTAIN MUNICIPAL DISTRICTS.** (a) A municipal district may be excluded from the district as provided by this section.

(b) To be excluded, the board of directors of the municipal district may adopt a resolution requesting exclusion by a majority vote of its board of directors and shall file the petition with the directors of the proposed district before the first confirmation election.

(c) At the time of the district's confirmation election, a separate voting precinct shall be used for the qualified voters in each municipal district that has filed a petition requesting exclusion. The votes in each precinct shall be tallied separately to determine whether that municipal district will be excluded from the district boundaries.

(d) If a majority of the votes cast in a municipal district requesting exclusion vote against confirmation of the district, the votes cast in the confirmation election shall not be counted for the confirmation election, bond election, or maintenance tax election, and that municipal district must be excluded from the boundaries of the district by the board of directors of the district at the time the results of the election are canvassed.

(e) After a confirmation election at which the district is authorized to be created, the board of directors of the district shall adopt an order redefining the boundaries of the district to exclude those municipal districts petitioning for exclusion that have voted not to confirm creation of the district.

(f) Before the creation hearing, any municipal district located within the proposed district may petition the commission

for a separate voting precinct to be used within the boundaries of the petitioning district at the time of the district's confirmation election. If the commission grants the petition requesting a separate voting precinct, Subsections (c) through (e) apply.  
Added by Acts 1995, 74th Leg., ch. 715, Sec. 3, eff. Sept. 1, 1995.

**Sec. 59.025. CONFIRMATION ELECTION.** (a) Before a district may be created pursuant to a petition granted by the commission, a confirmation election must be held within the boundaries of the proposed district.

(b) The directors appointed by the commission shall call and hold the confirmation election in the manner provided for conducting elections under Chapter 49. The provisions of those sections relating to a directors election do not apply to an election held under this section.

(c) If the creation of the district is defeated, subsequent confirmation elections may not be held to confirm the creation of the district.

(d) A bond election, maintenance tax election, and any other election may be held at the same time and in conjunction with a confirmation election.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 3, eff. Sept. 1, 1995.

## **CHAPTER 60. NAVIGATION DISTRICTS--GENERAL PROVISIONS**

### **SUBCHAPTER F. CONTRACTS WITH THE UNITED STATES**

**Sec. 60.152. AUTHORITY TO ENTER INTO CONTRACT.** (a) One or more districts, which are interested in or may, in the judgment of the commission, be benefited by a navigation or other project, may enter into contracts with the United States or with another district, or both, to consummate navigation or other projects of common interest.

(b) The contract may provide for:

- (1) the assumption of several, joint, or joint and several liability for construction, completion, and consummation of the project;
- (2) the acquisition of property in connection with the project;
- (3) the lending and contribution of funds of the district to the United States or to any other district in support or in aid of the project;
- (4) the issuance of bonds or notes by one or more of the districts to fund all or part of the project;
- (5) the obligation of one or more of the districts to fully or partially reimburse another district that has spent its own funds on the project or has issued bonds or notes to fund the project;
- (6) the securing of bonds or notes issued by one district to fund the project with a pledge of payments to be made by one or more of the other districts; and
- (7) the assumption of responsibility for valid obligations, incurred in furtherance of the common project, of the United States or of any district.

(c) A contract may provide that a district will make payment under the contract from proceeds from the sale of bonds or notes, from taxes, or from any other income of the district or any combination of these. A district may make payments under a contract from taxes other than maintenance taxes, after the provisions of the contract have been approved by a majority of the electors voting at an election held for that purpose. A contract election may be held alone or at the same time and in conjunction with an election to authorize bonds. The procedure for calling the election, giving notice, conducting the election, and canvassing the returns is the same as the procedure for a bond election. If the contract is approved, it constitutes an obligation against the taxing power of the district to the extent provided in the contract.

(d) A district all or part of which is in another district may exercise the authority granted a district under this section. Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1991, 72nd Leg., ch. 794, Sec. 2, eff. June 16, 1991; Acts 2003, 78th Leg., ch. 588, Sec. 6, eff. June 20, 2003.

### **SUBCHAPTER J. CONVERSION OF DISTRICTS**

**Sec. 60.247. OPTIONAL ELECTION.** (a) If the navigation board finds in favor of the conversion of the district but pursuant to Subsection (b) of Section 60.244 of this code provides that the conversion is not final, the commissioners court of jurisdiction shall order an election to be held in the district and shall submit to the electors residing in the district the proposition of whether or not the district should be converted and should be authorized to continue to levy an annual tax for the maintenance, operation, and upkeep of the district of not to exceed 10 cents on the \$100 valuation of all property within the district.

(b) The clerk of the commissioners court of jurisdiction shall give notice of the election by posting notices at the courthouse door of the county in which the district is located and at four other public places in the district.

(c) If the district is composed of more than one county, the notices required by Subsection (b) of this section shall be posted in each county.

(d) The notices must be posted for 30 days immediately preceding the time set for election.

(e) The notices must include:

- (1) the time and place of the election;
- (2) the proposition to be voted on; and
- (3) a copy of the election order.

(f) The commissioners court by order shall define the voting precincts in the district and shall name convenient polling places in the precincts.

(g) Immediately after the election, the officers holding the election shall make returns of the results to the commissioners court of jurisdiction, and the commissioners court shall promptly canvass the returns at a regular or special session of the commissioners court following the election.

Added by Acts 1983, 68th Leg., p. 4246, ch. 677, Sec. 2, eff. June 19, 1983.

**Sec. 60.248. EFFECT OF ELECTION.** If the commissioners court finds that a majority of those voting at the election voted in favor of the proposition, the court shall declare the results of the election to be in favor of conversion of the district and the levy of the annual maintenance tax and shall enter the results in its minutes. If the commissioners court finds that a majority of those voting at the election voted against the proposition, it shall declare the results of the election to be unfavorable to the conversion of the district and shall enter the results in its minutes.

Added by Acts 1983, 68th Leg., p. 4246, ch. 677, Sec. 2, eff. June 19, 1983.

## **SUBCHAPTER M. TAX BONDS, REVENUE BONDS, AND COMBINATION TAX AND REVENUE BONDS**

**Sec. 60.332. ISSUANCE OF BONDS.** (a) Any district may issue bonds provided in Subdivision (2), Section 60.331 of this code, by action of its governing body and without the necessity of an election.

(b) Bonds to be issued under Subdivisions (1) and (3), Section 60.331 of this code, can be issued only after authorization at an election held for that purpose throughout the territory comprising the district. The elections shall be conducted substantially in accordance with the procedure prescribed in the Election Code.

Added by Acts 1973, 63rd Leg., p. 770, ch. 343, Sec. 1, eff. Aug. 27, 1973.

## CHAPTER 61. ARTICLE III, SECTION 52, NAVIGATION DISTRICTS

### SUBCHAPTER B. CREATION OF DISTRICT

**Sec. 61.033. ELECTION ORDER.** (a) If the commissioners court or the board finds in favor of the establishment of the district and the issuance of bonds and levy of a tax, the commissioners court shall order an election to vote on the proposition.

(b) The election order shall specify the amount of the bonds to be issued, their maturity dates, and the rate of interest.  
Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.034. ELECTIONS.** (a) When an election is held under this chapter, notice shall be posted for 30 days before the election in the manner provided for posting notice. The notice shall include:

- (1) the time and place of the election;
- (2) the proposition;
- (3) the purpose of the election; and
- (4) a copy of the election order.

(b) Unless otherwise provided, a two-thirds vote is necessary to carry a proposition submitted at an election.

(c) The commissioners court shall create and define, by order, the voting precincts in the district and shall name convenient polling places in the precincts. It shall appoint necessary election officials and shall hold elections at the earliest legal time.

(d) After canvassing the returns of an election, if the commissioners court finds that the proposition has carried, it shall declare the result and enter it in the minutes as provided in this chapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.035. BALLOTS.** The ballots for the election shall be printed to provide for voting for or against the proposition: "The creation of a navigation district and the issuance of bonds and the levy of a tax to pay for the bonds."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.036. DECLARATION OF RESULT.** If the proposition carries at the election, the commissioners court shall enter the following declaration in its minutes:

"Commissioners Court of \_\_\_\_\_ County, Texas, \_\_\_\_\_ term A.D. \_\_\_\_: In the matter of the petition of \_\_\_\_\_ and \_\_\_\_\_ others requesting the establishment of a navigation district and the issuance of bonds and the levy of taxes in the petition described and designated by the name of \_\_\_\_\_ Navigation District. Be it known that at an election called for that purpose in the district, held on the \_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_, a two-thirds majority of the electors voting on the proposition voted in favor of the creation of the navigation district, and the issuance of bonds and the levy of a tax. Now, therefore, it is considered and ordered by the court that the navigation district be and the same is hereby established by the name of \_\_\_\_\_ Navigation District, and that the bonds of the district in the amount of \$\_\_\_\_\_ be issued, and a tax of \_\_\_\_\_ cents on the \$100 valuation or so much thereof as may be necessary to be levied on all property inside the navigation district sufficient in amount to pay the interest on the bonds and provide a sinking fund to redeem them at maturity, and that if the tax becomes insufficient for these purposes, it shall be increased until it is sufficient. The metes and bounds of the district shall be as follows: (Description of metes and bounds.)"

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

### SUBCHAPTER E. PORT FACILITIES

**Sec. 61.154. ELECTION ORDER.** After the hearing, if the board determines that the election should be held, the commissioners court shall order an election to determine whether or not the district should adopt the rights, powers, and authority provided in this subchapter. The order shall include the date on which the election will be held.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.155. BALLOTS.** The ballots for the election shall be printed to provide for voting for or against the following proposition: "The development of the port by the navigation district."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.156. ELECTION EXPENSE.** The district shall pay the expense of the election.



**Sec. 61.157. DECLARATION OF RESULTS.** If the result of the election favors the development of a port by the district, the commissioners court shall declare the result and shall enter in the minutes of the commissioners court the following declaration:

"Commissioners Court \_\_\_\_\_ County, Texas, \_\_\_\_\_ term A.D. \_\_\_\_\_, in the matter of the petition of the navigation board, requesting that the right, power, and authority be granted to the navigation district to develop the port of \_\_\_\_\_ (enter the name of the municipality). Be It Known, that at an election called for that purpose in the district, held on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_, a two-thirds majority of the electors voting on the proposition voted to develop port facilities.

"Now, Therefore, It is considered and ordered by the commissioners court that the district is authorized to proceed with the development of the port as authorized by law."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.165. FRANCHISE ELECTION.** If the commission determines that a proposed franchise should be submitted to a vote of the people, it shall so certify to the commissioners court, and the commissioners court shall order an election on the matter at the earliest legal time.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.166. BALLOTS.** (a) The ballot shall explain the nature of the franchise sufficiently to identify it.

(b) The ballots shall be printed to provide for voting for or against the following proposition: "The franchise."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.167. ELECTION RESULT.** If at the election a majority of those voting approve the franchise, it shall be granted. If those voting do not approve the franchise, it shall have no force and effect.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.168. PETITION PROTESTING FRANCHISE.** The franchise may be suspended from taking effect if, before the date when the franchise is granted, a petition signed by qualified voters of the district equal to 10 percent of the total vote cast in the last general election for state officers is presented to the commissioners court protesting the enactment or granting of the franchise. Immediately after the petition is filed, the commissioners court shall order an election on the proposed franchise. The election shall be governed by the provisions of Sections 61.164 and 61.165.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.171. BONDS.** (a) On compliance with the provisions of this subchapter the district may issue bonds to pay for the improvements and facilities and to acquire the property authorized in this subchapter.

(b) The district also may issue bonds to purchase wharves, docks, warehouses, bunkering facilities, belt railroads, land to be used for port purposes and development, or other facilities constructed or owned by the municipality.

(c) An election shall be held to approve the issuance of the bonds, and the bonds shall be issued in the manner provided by this chapter for issuing other bonds.

(d) The outstanding bonds and the additional bonds may not amount to more than 10 percent of the assessed value of real property in the district as shown by the last annual assessment made for the county and state.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 61.173. ELECTION ON THE PURCHASE OF FACILITIES.** (a) No bonds shall be issued or tax levied until the question of purchase of the facilities is submitted to a vote of the people in the district.

(b) In addition to the requirement for submitting bonds to a vote, the notice of election shall include:

- (1) a copy of the agreement;
- (2) the amount of outstanding bonds;
- (3) the amount of bonds sought to be issued by the district; and
- (4) the amount of taxes required to be levied.

(c) The election shall be called and held in the same manner as other elections for bonds, and the ballots shall provide for voting for or against the proposition: "The purchase of municipal facilities and the issuance of bonds and levy of a tax to pay for the bonds."

(d) If the election should carry by a two-thirds vote of the electors voting at the election, then the proposition shall be declared carried and the bonds shall be issued and sold, and the necessary taxes levied in accordance with the provisions of this

subchapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## **SUBCHAPTER G. BOND AND TAX PROVISIONS**

**Sec. 61.238. ADDITIONAL BOND ISSUE.** (a) If the proceeds of the original bonds are insufficient to complete the proposed improvements or construction, or if the commission decides to undertake further construction or improvements or requires additional funds with which to maintain the existing improvements, it shall certify to the commissioners court the necessity for an additional bond issue, stating:

- (1) the amount required;
- (2) the purpose of the additional bonds;
- (3) the rate of interest on the bonds; and
- (4) the term of the bonds.

(b) The commissioners court, on receipt of this information, shall issue the bonds, unless the amount previously authorized has been exhausted, in which case the commissioners court shall first order an election on the issuance of the bonds to be held inside the district at the earliest possible legal time.

(c) The ballots for the issuance of additional bonds shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

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## CHAPTER 62. ARTICLE XVI, SECTION 59, NAVIGATION DISTRICTS

### SUBCHAPTER B. CREATION OF DISTRICT

**Sec. 62.030. ELECTION ORDER.** (a) If the commissioners court or the board finds in favor of the petitioners for the creation of the district, the commissioners court of the county of jurisdiction shall order an election to be held inside the proposed district at the earliest legal time.

(b) The order of the court shall provide for submitting to the electors residing in the proposed district the question of whether or not the district will be created and whether or not proposed bonds will be issued and a tax levied sufficient to pay the interest and provide a sinking fund sufficient to redeem the bonds at maturity.

(c) The order shall specify:

- (1) the amount of bonds to be issued;
- (2) the length of time the bonds will run; and
- (3) the rate of interest.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.031. NOTICE OF ELECTION.** (a) The clerk of the commissioners court shall prepare notice of the election and shall post the notice for 30 days before the day set for the election.

(b) The notice shall be posted in the same places specified in Section 62.027 of this code.

(c) The notice shall state:

- (1) the time and place of holding the election;
- (2) the proposition to be voted on; and
- (3) the purpose for which the bonds are to be issued and the amount of the bonds.

(d) The notice shall contain a copy of the order of the court ordering the election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.032. BALLOT.** The ballot shall be printed to provide for voting for or against the proposition: "The creation of the navigation district and the issuance of bonds and levy of a tax for the payment of the bonds."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.033. CONDUCT OF ELECTION.** (a) The commissioners court shall issue an order creating and defining the voting precincts in the proposed district and shall name polling places within the precincts. In designating the polling places, the commissioners court shall take into consideration the convenience of the voters in the proposed district.

(b) The commissioners court shall select and appoint the judges and other necessary officers of election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.034. CANVASS OF RETURNS.** (a) Immediately after the election, the election officers shall make returns of the result and return the ballot boxes to the clerk of the commissioners court of jurisdiction.

(b) The clerk shall deliver the boxes and the returns of the election to the commissioners court of jurisdiction at its next regular or special session.

(c) At that session, the commissioners court shall canvass the returns of the election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.035. DECLARATION OF RESULT.** If a majority of the votes favor creating the district, issuing bonds, and levying a tax, the commissioners court shall declare the result and enter it in the minutes of the commissioners court as follows:

"Commissioners court of \_\_\_\_\_ County, Texas. \_\_\_\_\_ term A.D. \_\_\_\_\_, in the matter of the petition of \_\_\_\_\_ and \_\_\_\_\_ others requesting the creation of a navigation district, issuance of bonds, and levy of a tax in the petition described and designated by the name of \_\_\_\_\_ Navigation District. Be it known that at an election called for that purpose in the district, held on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_, a majority of the electors voting voted in favor of the creation of the navigation district, the issuance of bonds, and the levy of a tax. Now, therefore, it is considered and ordered by the commissioners court that the navigation district, be and the same is hereby established by the name of \_\_\_\_\_ Navigation District, and that bonds of the district in the amount of \$ \_\_\_\_\_ be issued, and a tax of \_\_\_\_\_ cents on the \$100 valuation, or so much thereof as may be necessary to be levied upon all property within the navigation district, whether real, personal, mixed, or otherwise, sufficient in amount to pay the interest on the bonds and provide a sinking fund to

redeem that at maturity, and that if the tax shall at any time become insufficient for these purposes it shall be increased until it is sufficient. The metes and bounds of the district are as follows: (Give metes and bounds)."  
Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.036. EXPENSES.** (a) If the result of the election favors the creation of the district, the clerk shall return the \$500 deposit required by Section 62.024 of this code to the signers of the original petition, their agents or their attorney.

(b) If the result of the election is against the creation of the district, the clerk shall pay out of the \$500 deposit on vouchers signed by the county judge, all costs and expenses relating to the proposed district up to and including the election. The balance, if any, of the \$500 shall be returned to the signers of the original petition, their agents, or their attorney.  
Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## **SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

**Sec. 62.063. ELECTION OF COMMISSIONERS.** (a) Commissioners shall be elected on the second Saturday in July of each odd-numbered year at an election ordered by the commission.

(b) The secretary of the commission shall give notice of the election by posting at least three copies of the notice at three public places inside the district or by publishing the notice for 20 days before the election in a newspaper with general circulation in the district.  
Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.0631. APPOINTMENT OF COMMISSIONERS.** (a) Instead of electing commissioners as provided in Section 62.063 of this code, the commissioners court or board may appoint three navigation and canal commissioners to serve on the commission.

(b) The commissioners shall hold office for a term of two years and until their successors are appointed and have qualified.

(c) Commissioners may be removed from office by a majority of the commissioners court or the board for malfeasance or nonfeasance in office.

(d) Successors to members of the commission shall be appointed by a majority vote of the commissioners court or the board.

Added by Acts 1971, 62nd Leg., p. 1771, ch. 518, Sec. 18, eff. May 31, 1971.

**Sec. 62.064. QUALIFICATIONS OF COMMISSIONERS.** Each person who is appointed or elected commissioner shall be a resident of the proposed navigation district and shall be an elector of the county.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.065. TERM OF OFFICE.** Commissioners shall hold office for staggered terms of six years and until their successors are elected and have qualified.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.066. VACANCIES.** (a) A vacancy on the commission shall be filled by the remaining members of the commission.

(b) If two or more vacancies on the commission occur at the same time, a special election may be called on petition signed by 50 electors.

(c) Notice of the election shall be given by publishing or posting notice for at least 20 days before the election.

(d) The petition for the election shall include the names of the judges and clerks of the election, and the judges and clerks shall jointly canvass the returns, declare the result, and issue certificates of election to the successful candidates.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.1071. ACQUISITION OF LAND, EQUIPMENT, OR IMPROVEMENTS IN CERTAIN COUNTIES.** (a) This section applies only to a district that has a county of jurisdiction with a population of more than 2.8 million.

(b) A district may acquire, by any means except by condemnation, and own land, equipment, or improvements located in a county that is adjacent to the district's county of jurisdiction if the commission considers the land, equipment, or improvements:

(1) necessary, required, or convenient for any purpose necessary or incident to the development and operation of navigable water or a port located in the district's county of jurisdiction or a county adjacent to that county;  
or

(2) may be in aid of, or necessary, required, or convenient for, the development of industries and businesses on the land in the county of jurisdiction or a county adjacent to that county.

(c) Notwithstanding any other law or municipal charter, a district may acquire, and any public or private owner may dispose of, land, equipment, or improvements on any terms to which the commission and the property owner agree.

(d) If in connection with an acquisition or disposition of land, equipment, or improvements under this section the governing body of a municipality decides to discontinue operations of a port, as a utility of the municipality or otherwise, the acquisition or disposition of the land, equipment, or improvements may not be completed until a majority of the qualified voters of the municipality voting at an election called and held for that purpose approve of the discontinuance of the operations.

(e) The commissioners may change the name of the district in connection with the acquisition of land, equipment, or improvements under this section.

(f) Notwithstanding the source of the revenue, a district that acquires land, equipment, or improvements under this section may use or pledge to the payment of obligations of the district for the development of any district facility, regardless of the location of the facility, any revenue of the district, except as provided by Section 62.209.

(g) Section 41.001(a), Election Code, does not apply to an election held under this section.

(h) Except as provided by this section, an election held under this section must be conducted as provided by the Election Code.

Added by Acts 1999, 76th Leg., ch. 504, Sec. 1, eff. June 18, 1999.

**Sec. 62.1072. ADDITIONAL COMMISSIONERS FOR ACQUISITIONS FROM CERTAIN MUNICIPALITIES.** (a)

A district that acquires land, equipment, or improvements under Section 62.1071 from a municipality with a population of more than 35,000 that operates navigation and port facilities and that is located in a county adjacent to the county of jurisdiction may add positions for members of the commission, as determined by the commission. Not more than two positions may be added to the commission under this section.

(b) The governing body of the municipality in which the acquired land, equipment, or improvements are located shall appoint the additional commissioners.

(c) Commissioners serving in the positions added under Subsection (a) shall serve terms that are consistent with the law governing the terms of the other commissioners.

Added by Acts 1999, 76th Leg., ch. 504, Sec. 1, eff. June 18, 1999.

## SUBCHAPTER F. BOND PROVISIONS

**Sec. 62.193. BOND ELECTION.** (a) If the authorized amount of bonds is exhausted, the commissioners court shall order an election on the issuance of additional bonds to be held in the district at the earliest legal time.

(b) The ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds."

(c) Notice shall be given, the election conducted, and the returns canvassed in the manner provided for the original bond election in Subchapter B of this chapter.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## SUBCHAPTER H. ANNEXATION

**Sec. 62.295. ELECTION ORDER.** If after the hearing the commission finds that inclusion of the territory proposed to be annexed would be a direct benefit to all the land in that territory, the commission shall order an election to be held in the territory proposed to be annexed.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.296. NOTICE OF ELECTION.** (a) The election shall be held not less than 20 nor more than 30 days from the day of the election order and after notice is given.

(b) Notice of the election shall be published once a week for 20 days immediately preceding the election in some newspaper published in the territory proposed to be annexed. If no newspaper is published in the territory, notice shall be posted in three public places inside the territory for at least 20 days immediately preceding the election.

(c) The notice:

(1) shall give the time and place or places for holding the election;

(2) shall give the boundaries of the territory proposed to be annexed; and

(3) may contain the substance of the order of the commission ordering the election.

(d) The secretary of the commission shall have the notice published or posted.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.297. BALLOTS.** The ballots for the election shall be printed to allow for voting for or against: "Annexation to the navigation district."; and "Assumption of a pro rata part of the bonded debt of the navigation district."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.298. ELECTION OFFICIALS.** The commission shall appoint one judge and two clerks for each election box or place to hold the election. The judge and clerks shall be electors in the territory proposed to be annexed and shall reside near the place for holding the election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.299. CANVASS OF VOTE; ENTRY OF ORDER.** (a) The election judges shall certify the election returns to the commission, and the commission shall canvass the returns.

(b) If a majority of the electors voting at the election favor annexation and assumption of the pro rata part of the bonded debt of the district, the commission shall enter an order in its minutes annexing the territory, and from and after the entry of the order, the annexed territory shall be a part of the district with all the rights, benefits, and burdens of property originally situated in the district.

(c) If a majority of the electors voting at the election favor annexation and the proposition to assume the bonded debt fails to carry, the commission shall enter an order in its minutes annexing the territory to the district, and from and after the entry of the order, the annexed territory shall be a part of the district with the exception of the assumption of the outstanding bonded indebtedness. The annexed territory shall be subject to a tax for maintenance and operation and shall be liable for all other bonded indebtedness and other indebtedness thereafter legally imposed by the district.

(d) After an order of annexation has been entered in the minutes of the commission, a certified copy of the order shall be prepared by the secretary of the commission and shall include the boundaries of the territory annexed. The secretary shall record the order or have it be recorded in the real estate records of the county or counties in which the territory is located.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.300. AUTHORITY TO ANNEX OTHER DISTRICTS.** Except as otherwise provided by this subchapter, a district created under Article XVI, Section 59, of the Texas Constitution may be annexed and become a part of another adjacent district created under the general law in the same manner as provided in Sections 62.292-62.299 of this code.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.301. DUTIES OF COMMISSION OF ANNEXED DISTRICT.** If a district proposes to annex an adjacent district, the commission of the district proposed to be annexed shall:

- (1) conduct the hearing;
- (2) order the election;
- (3) canvass the returns of the election; and
- (4) perform the other duties and procedures provided in Sections 62.292-62.299 of this code.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.302. CERTIFICATION OF ELECTION RESULTS.** If the election in a district proposed to be annexed results in a majority of the votes of the electors voting at the election favoring annexation, the commission of the district proposed to be annexed shall certify the election result together with the metes and bounds of the district to the commission of the annexing district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.303. HEARING BY ANNEXING DISTRICT; NOTICE.** (a) When the election result is certified to the commission of the annexing district, the commission of the annexing district shall conduct a hearing to determine whether or not it will be a benefit to the annexing district to annex the territory.

(b) The hearing shall be conducted after the commission has given five days' notice in some newspaper published in the annexing district.

(c) If it is found at the hearing that the annexation of the adjacent district would be a benefit to the territory of the annexing district, the commission shall enter an order in its minutes annexing the district and from and after the entry of the order, the adjacent district shall be a part of the annexing district with all rights and privileges of territory originally situated in the district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.304. ASSUMPTION OF BONDED DEBT.** (a) Unless a majority of the electors of each of the districts approves it, the annexing district and the district to be annexed may not assume the outstanding bonded debt of the other.

(b) Annexation shall in no way affect the outstanding debt or any other valid obligation of either the annexing district or the district to be annexed.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.305. LEVY OF TAXES ON ANNEXED DISTRICT.** The commission of the annexing district shall annually levy and collect sufficient taxes in the district to be annexed to discharge all valid outstanding obligations of the district to be annexed.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.306. DISSOLUTION OF ANNEXED DISTRICT.** From and after the entry of the order annexing the district, the annexed district shall be dissolved. All powers previously vested in the annexed district and the commission of the annexed district shall be vested, respectively, in the annexing district and the commission of the annexing district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.307. ANNEXATION OF WHOLE OF ADJACENT COUNTY.** If the territory included inside the boundaries of the annexing district consists of all of a single county and the territory to be annexed consists of all of an adjacent county, the adjacent territory may be annexed in the manner provided in Sections 62.291-62.306 of this code, except the commissioners court of the county to be annexed shall:

- (1) conduct the hearing;
- (2) order the election;
- (3) canvass the returns of the election; and
- (4) perform all other duties provided by this subchapter for the commission of the annexing district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.308. HEARING.** The commissioners court of the county to be annexed shall conduct the hearing at some place inside the county to be annexed.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.309. ORDER OF ELECTION; BALLOTS.** The commissioners court of the county to be annexed may order an election, as requested in the petition for hearing, on either or both propositions included in the ballot form in [Section 62.297](#) of this code.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 62.310. CERTIFICATION OF ELECTION RESULT.** If the proposition or propositions carries by a majority of the vote of the electors voting at the election, the commissioners court of the county to be annexed shall certify the election result to the commission of the annexing district.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.



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## CHAPTER 63. SELF-LIQUIDATING NAVIGATION DISTRICTS

### SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT

**Sec. 63.033. ELECTION ORDER.** (a) If the commissioners court or the board finds in favor of the creation of the district, the commissioners court of the county of jurisdiction shall order an election and submit to the electors residing in the district the proposition of whether or not the district shall be created and whether or not the bonds shall be issued and a tax levied sufficient to pay the interest and provide a sinking fund to redeem the bonds at maturity.

(b) The election order shall specify the amount of the bonds to be issued, the term for which the bonds will run, and the rate of interest.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 63.034. NOTICE OF ELECTION.** (a) The clerk of the court of jurisdiction shall give notice of the election by posting notices at the courthouse door of the county in which the district is located and at four other public places in the proposed district.

(b) If the district is composed of more than one county, the notices shall be posted in each county.

(c) The notices shall be posted for 30 days immediately preceding the time set for the election.

(d) The notices shall include:

- (1) the time and place of the election;
- (2) the proposition to be voted on;
- (3) the purpose for which the bonds are to be issued;
- (4) the amount of the bonds; and
- (5) a copy of the election order.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 63.035. BALLOTS.** The ballots for the election shall be printed to provide for voting for or against: "The navigation district and the issuance of bonds and the levy of a tax to pay for the bonds."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 63.036. CONDUCT OF ELECTION.** The commissioners court shall create and define, by order, the voting precincts in the district and shall name convenient polling places in the precincts. It shall appoint the judges and other necessary election officials and shall hold the election at the earliest legal time.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 63.037. RETURNS OF ELECTION.** (a) Immediately after the election, the officers holding the election shall make returns of the result to the commissioners court of jurisdiction and return the ballot boxes to the clerk of the court.

(b) The clerk shall keep the ballot boxes safely and deliver them, together with the returns of the election, to the commissioners court at its next regular or special session.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 63.038. DECLARATION OF RESULT.** The court shall canvass the vote and return at the session when it receives the ballot boxes and returns of the election. If it finds that a majority of those voting at the election voted in favor of the proposition, the court shall declare the result of the election to be in favor of the district, issuance of the bonds, and the levy of the tax, and shall enter the following declaration in its minutes:

"Commissioners Court of \_\_\_\_\_ County, Texas, \_\_\_\_\_ term A.D. \_\_\_\_\_, in the matter of the petition of \_\_\_\_\_ and \_\_\_\_\_ and others praying for the establishment of a navigation district, and issuance of bonds and levy of taxes in said petition described and designated by the name of \_\_\_\_\_ Navigation District. Be it known that at an election called for the purpose in said district, held on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_ a majority of the electors voting thereon voted in favor of the creation of said navigation district, and the issuance of bonds and levy of a tax. Now, therefore, it is considered and ordered by the court that said navigation district be, and the same is hereby established by the name of \_\_\_\_\_ Navigation District, and that bonds of said district in the amount of \_\_\_\_\_ dollars be issued,

and a tax of \_\_\_\_\_ cents on the \$100, valuation, or so much thereof as may be necessary to be levied upon all property within said navigation district, whether real, personal, mixed or otherwise, sufficient in amount to pay the interest on such bonds and provide a sinking fund to redeem that at maturity, and that if said tax shall at any time become insufficient for such purpose same shall be increased until same is sufficient. The metes and bounds of said district being as follows: (Giving metes and bounds)."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

**Sec. 63.089. ELECTION OF COMMISSIONERS.** (a) An election shall be held in the district on the first Tuesday after the first Monday in November of each even numbered year to elect the three commissioners. However, the commissioners may, by adopting an order duly entered on the minutes, determine to hold the election on the first Tuesday after the first Monday in October of each even numbered year to elect the commissioners authorized by law.

(b) Section 41.001(a), Election Code, requiring that certain elections be held on specified uniform dates, and Section 41.003, Election Code, allowing only certain elections to be held on the date of the general election for state and county officers, do not apply to the election provided for in this section.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1984, ch. 612, art. 1, Sec. 9, eff. Sept. 1, 1971; Acts 1973, 63rd Leg., p. 1129, ch. 427, Sec. 1, eff. June 14, 1973; Acts 1977, 65th Leg., p. 1978, ch. 791, Sec. 1, eff. Aug. 29, 1977; Acts 1991, 72nd Leg., ch. 522, Sec. 1, eff. Sept. 1, 1991.

**Sec. 63.0895. JOINT ELECTION WITH COUNTY.** (a) The commission of a district that is situated wholly in one county and that holds its commissioners' election on the first Tuesday after the first Monday in November of each even-numbered year may, by adopting an order duly entered on the minutes, elect to hold the commissioners' election jointly with the general election for state and county officers as provided by this section. Not later than the 90th day before election day, a copy of the order shall be mailed to the county election officer.

(b) The commission shall order the commissioners' election not later than the 70th day before election day.

(c) The commission shall give notice of the commissioners' election in the manner provided by Section 63.093(a) of this code. The notice must state the official mailing address to which voters of the district may mail applications for absentee ballots to be voted by mail. The notice shall be published once a week for two consecutive weeks in a newspaper published in the district or, if a newspaper is not published in the district, in a newspaper of general circulation in the district. The first publication shall be made not later than the 65th day nor earlier than the 70th day before election day.

(d) A candidate for the office of commissioner must file documents as required by Title 15, Election Code, with the secretary.

(e) A candidate for commissioner must file an application for a place on the ballot with the secretary not later than 5 p.m. of the 56th day before election day. In addition, a candidate's name may be placed on the ballot by petition of 20 or more qualified electors of the district filed with the secretary by the filing deadline.

(f) The county election officer shall establish the election precincts for the commissioners' election. The election precincts shall be coterminous with county election precincts to the extent permitted by district boundaries.

(g) The county commissioners court shall designate common polling places in the appropriate county election precincts for use in the joint election. The voters of the district may be served by a polling place located outside the boundary of the district if the location can adequately and conveniently serve the affected voters and will facilitate the orderly conduct of the election.

(h) The county election officer is the absentee voting clerk for the commissioners' election.

(i) An election officer, including a member of the absentee ballot board, appointed to serve in the general election for state and county officers shall serve in the same office in the commissioners' election. A person who is eligible to serve as an election officer in the general election for state and county officers is eligible to serve in the same office in the commissioners' election.

(j) The county election officer, subject to the approval of the county election board, shall procure, allocate, and distribute the equipment, ballots, forms, list of registered voters, and other materials necessary to conduct the commissioners' election.

(k) The county election officer shall prepare a single ballot containing all the offices to be voted on at a common polling place. The office of commissioner shall appear on the ballot after the precinct offices of the county government. The secretary shall certify in writing for placement on the ballot the name and address of each candidate for the office of commissioner. The certification shall be delivered to the county election officer not later than the 55th day before election day.

(l) If an election precinct established under Subsection (f) of this section consists of only part of a county election

precinct, the county election officer shall deliver to the presiding election judge a current description of the district boundary and a map, if a map is available. The county election officer shall deliver the district boundary information not later than the 30th day before election day.

(m) The secretary of state shall prescribe any procedures necessary to ensure that a voter is permitted to vote on the office of commissioner only if the voter is a resident of the district.

(n) One set of ballot boxes shall be used at a common polling place for the deposit of ballots. The forms and records maintained at a common polling place shall be combined in a manner convenient and adequate to record and report the results of each election.

(o) The county election officer is the general custodian of election records for the commissioners' election.

(p) The precinct election returns for the joint election shall be canvassed by the county commissioners court. The county judge shall promptly deliver the results of the commissioners' election to the commission.

(q) The commission shall issue a certificate of election to a candidate elected to the office of commissioner.

(r) The county election officer and election officers, including members of the absentee ballot board, appointed to serve in the general election for state and county officers, are entitled to additional compensation for serving in the commissioners' election only if additional compensation is provided by the commission.

(s) The commission shall reimburse the county election officer for the expenses incurred in the conduct of the joint election that would not have been incurred if the general election for state and county officers had been held separately from the commissioners' election.

(t) Sections 63.090, 63.091, 63.092, 63.093(b), and 63.094 of this chapter do not apply to a commissioners' election held under this section.

(u) In this section, "county election officer" means the county elections administrator in counties having that position, the county tax assessor-collector in counties in which the county clerk's election duties and functions have been transferred to the tax assessor-collector, and the county clerk in other counties.

Added by Acts 1991, 72nd Leg., ch. 522, Sec. 2, eff. Sept. 1, 1991.

**Sec. 63.090. PLACING NAMES OF CANDIDATES ON BALLOT.** A candidate for commissioner must file an application with the secretary not later than 5 p.m. of the 45th day before the date of the election to have the candidate's name printed on the ballot. Also, a candidate's name may be placed on the ballot by petition of 20 or more qualified electors of the district filed with the secretary by the deadline stated in the preceding sentence.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1978, ch. 791, Sec. 2, eff. Aug. 29, 1977; Acts 1989, 71st Leg., ch. 1009, Sec. 5, eff. Sept. 1, 1989.

**Sec. 63.091. POLLING PLACE.** The commission shall designate the polling place or places in the election order. If more than one polling place is required, the board shall divide the district into election precincts, which may be changed from time to time.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 63.092. ELECTION OFFICERS.** The commission shall appoint the election officers, consisting of one presiding judge, an assistant judge, and two clerks, when the election is ordered. Additional clerks may be appointed by the presiding judge when necessary.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 63.093. NOTICE OF ELECTION.** (a) The notice of the election shall be signed by the president and secretary of the commission and shall contain a copy of the election order.

(b) The notice shall be published once a week for four consecutive weeks in a newspaper published in the district or, if a newspaper is not published in the district, in a newspaper located nearest to the boundaries of the district. The first publication shall be made not less than 32 days nor more than 46 days before the day of the election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1978, ch. 791, Sec. 3, eff. Aug. 29, 1977.

**Sec. 63.094. CONDUCT OF ELECTION.** (a) The election officers shall make and deliver the returns in triplicate. One copy shall be retained by the presiding judge, one shall be delivered to the chairman of the commission, and one shall be delivered to the secretary.

(b) The ballot boxes and other election records and supplies shall be delivered to the secretary at the office of the district. All boxes containing voted or mutilated ballots shall be preserved for six months, subject to the order of any court in which an election contest is filed. The ballot boxes shall be destroyed after six months unless a contrary order is entered by a court of competent jurisdiction.

(c) The commission shall meet and canvass the returns of the election not less than five full days nor more than seven days after the election. If the returns cannot be canvassed within seven days, they shall be canvassed as soon as possible after seven days.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

**Sec. 63.0945. WRITE-IN CANDIDATES.** (a) In an election to elect a commissioner, a write-in vote may not be counted unless the name written in appears on the list of write-in candidates.

(b) To be entitled to a place on the list of write-in candidates, a candidate must make a declaration of write-in candidacy.

(c) A declaration of write-in candidacy must be filed with the authority with whom an application for a place on the ballot is required to be filed in the election.

(d) A declaration of write-in candidacy must be filed not later than the deadline prescribed by Section 146.054, Election Code, for a write-in candidate in a city election.

(e) Subchapter B, Chapter 146, Election Code, applies to write-in voting in an election to elect a commissioner except to the extent of a conflict with this subchapter.

Added by Acts 1997, 75th Leg., ch. 1343, Sec. 3, eff. June 20, 1997. Amended by Acts 2003, 78th Leg., ch. 925, Sec. 8, eff. Nov. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. 1109 (H.B. 2339), Sec. 35, eff. September 1, 2005. Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 48, eff. September 1, 2011. Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. 100), Sec. 51(4), eff. September 1, 2011.

**Sec. 63.095. VACANCIES ON COMMISSION.** (a) A vacancy in the office of elected commissioner shall be filled by appointment by the commission itself for the unexpired term.

(b) If two vacancies occur at the same time, the remaining commissioner shall call a special election to fill the vacancies.

(c) If the remaining commissioner fails to call a special election within 15 days after the vacancies occur, or if the third place is vacant also, the judge of the district court of the judicial district in which the district is located may order the election on the petition of any voter or creditor of the district. The district judge shall fix the date of the election, order the publication of notice of the election by the county clerk, and name the officers to hold the election. The returns of an election held by order of the district judge shall be made and filed in the office of the clerk of the district court, and the clerk shall declare the result of the election.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## SUBCHAPTER D. POWERS AND DUTIES

**Sec. 63.166. BOND ELECTION.** (a) An election shall be held to approve the issuance of the bonds.

(b) The ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds."

(c) The returns of the election shall be canvassed as provided in this chapter.

(d) If the canvass indicates that a majority of the electors voted in favor of the proposition, the commission shall issue an order directing the issuance of the bonds and the levy of a tax.

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971.

## SUBCHAPTER G. TAX PROVISIONS

**Sec. 63.282. MAINTENANCE AND OPERATION TAX.** (a) With the approval of the electors of the district, the commission may levy and have assessed and collected for the maintenance, operation, and upkeep of the district and its improvements an annual tax of not more than 20 cents on the \$100 valuation on all taxable property in the district.

(b) The proposition to approve the tax provided in Subsection (a) of this section may be voted on at the election to create the district or may be voted on at a separate election to be held in the manner provided for elections held under Subchapter B of this chapter.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "The levy of a tax of not more than 20 cents on the \$100 valuation for maintenance, operation, and upkeep of the district and its improvements."

Acts 1971, 62nd Leg., p. 110, ch. 58, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1770, ch. 518, Sec. 14, eff. May 31, 1971.

## SUBCHAPTER I. ANNEXATION

**Sec. 63.372. PETITION.** Before territory is annexed to the district, a petition signed by 50 or a majority of the electors residing in the adjacent territory proposed to be annexed shall be presented to the commission requesting an election in the adjacent territory to determine whether or not the territory will be annexed and whether or not it will assume its pro rata part of the outstanding bonded debt of the district.

Added by Acts 1977, 65th Leg., p. 1978, ch. 791, Sec. 4, eff. Aug. 29, 1977.

**Sec. 63.375. ELECTION ORDER.** If after the hearing the commission finds that inclusion of the territory proposed to be annexed would be a direct benefit to all the land in that territory, the commission shall order an election to be held in the territory proposed to be annexed.

Added by Acts 1977, 65th Leg., p. 1978, ch. 791, Sec. 4, eff. Aug. 29, 1977.

**Sec. 63.376. NOTICE OF ELECTION.** (a) The election shall be held not less than 20 nor more than 30 days from the day of the election order and after notice is given.

(b) Notice of the election shall be published once a week for 20 days immediately preceding the election in some newspaper published in the territory proposed to be annexed. If no newspaper is published in the territory, notice shall be posted in three public places inside the territory for at least 20 days immediately preceding the election.

(c) The notice:

- (1) shall give the time and place or places for holding the election;
- (2) shall give the boundaries of the territory proposed to be annexed; and
- (3) may contain the substance of the order of the commission ordering the election.

(d) The secretary of the commission shall have the notice published or posted.

Added by Acts 1977, 65th Leg., p. 1978, ch. 791, Sec. 4, eff. Aug. 29, 1977.

**Sec. 63.377. BALLOTS.** The ballots for the election shall be printed to allow for voting for or against: "Annexation to the navigation district" and "Assumption of a pro rata part of the bonded debt of the navigation district."

Added by Acts 1977, 65th Leg., p. 1978, ch. 791, Sec. 4, eff. Aug. 29, 1977.

**Sec. 63.378. ELECTION OFFICIALS.** The commission shall appoint one judge and two clerks for each election box or place to hold the election. The judge and clerks shall be electors in the territory proposed to be annexed and shall reside near the place for holding the election.

Added by Acts 1977, 65th Leg., p. 1978, ch. 791, Sec. 4, eff. Aug. 29, 1977.

**Sec. 63.379. CANVASS OF VOTE; ENTRY OF ORDER.** (a) The election judges shall certify the election returns to the commission, and the commission shall canvass the returns.

(b) If a majority of the electors voting at the election favor annexation and assumption of the pro rata part of the bonded debt of the district, the commission shall enter an order in its minutes annexing the territory, and from and after the entry of the order, the annexed territory shall be a part of the district with all the rights, benefits, and burdens of property originally situated in the district.

(c) If a majority of the electors voting at the election favor annexation and the proposition to assume the bonded debt fails to carry, the commission shall enter an order in its minutes annexing the territory to the district, and from and after the entry of the order, the annexed territory shall be a part of the district with the exception of the assumption of the outstanding bonded indebtedness. The annexed territory shall be subject to a tax for maintenance and operation and shall be liable for all other bonded indebtedness and other indebtedness thereafter legally imposed by the district.

(d) After an order of annexation has been entered in the minutes of the commission, a certified copy of the order shall be prepared by the secretary of the commission and shall include the boundaries of the territory annexed. The secretary shall record the order or have it recorded in the real estate records of the county or counties in which the territory is located.

Added by Acts 1977, 65th Leg., p. 1978, ch. 791, Sec. 4, eff. Aug. 29, 1977.

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## **CHAPTER 65. SPECIAL UTILITY DISTRICTS**

### **SUBCHAPTER C. ADMINISTRATIVE PROVISIONS**

**Sec. 65.102. QUALIFICATIONS FOR DIRECTORS.** To be qualified to serve as a director, a person must be:

- (1) at least 18 years old;
- (2) a resident citizen of this state; and
- (3) either own land subject to taxation in the district, be a user of the facilities of the district, or be a qualified voter of the district.

Added by Acts 1983, 68th Leg., p. 2448, ch. 435, Sec. 4, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 447, Sec. 1, eff. Nov. 15, 1985.

**Sec. 65.103. ELECTION OF DIRECTORS; TERMS OF OFFICE.** (a) The persons receiving the highest number of votes at each election shall serve as directors of the district.

(b) The terms of the directors may run concurrently, or may be staggered, but in any event, the term of office of a director may not exceed three years.

(c) The method for determining the initial terms for each of the directors constituting the initial board shall be determined by the temporary directors, and the terms must be clearly stated on the ballot for the confirmation and directors' election.

(d) Notwithstanding Sections 41.001 and 41.003, Election Code, the board may hold an election to elect directors on any date determined by the board. The terms of directors must be stated on the ballot.

Added by Acts 1983, 68th Leg., p. 2448, ch. 435, Sec. 4, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 447, Sec. 1, eff. Nov. 15, 1985; Acts 1995, 74th Leg., ch. 715, Sec. 35, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1070, Sec. 43, eff. Sept. 1, 1997.

### **SUBCHAPTER H. ADDING AND EXCLUDING TERRITORY; CONSOLIDATING AND DISSOLVING DISTRICTS**

**Sec. 65.724. ELECTIONS TO APPROVE CONSOLIDATION.** (a) After the board of each district has agreed on the terms and conditions of consolidation, which may include the assumption by each district of the other district's bonds, notes, or other obligations and adoption of a name for the consolidated district, the board of each district shall order an election in each of their respective districts to determine whether the districts should be consolidated.

(b) The board of each district shall order the election to be held on the same day in each district and shall give notice of the election for the time and in the manner provided by law for bond elections under this chapter.

(c) The districts may be consolidated only if the qualified voters in each district voting at the election vote in favor of the consolidation.

Added by Acts 1983, 68th Leg., p. 2448, ch. 435, Sec. 4, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 447, Sec. 1, eff. Nov. 15, 1985.

**Sec. 65.725. GOVERNING CONSOLIDATED DISTRICTS.** (a) After two or more districts are consolidated, they become one district and are governed as one district.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district or name persons to serve as officers of the consolidated district until their successors assume office under Subsection (e) of this section.

(d) On the next available uniform election date, an election shall be called and held, and directors will be elected for the consolidated district in the same manner and for the same term as directors elected under Section 65.103 of this code.

(e) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(f) The current board shall approve the bond of each new officer.

Added by Acts 1983, 68th Leg., p. 2448, ch. 435, Sec. 4, eff. Aug. 29, 1983. Amended by Acts 1985, 69th Leg., ch. 447, Sec. 1, eff. Nov. 15, 1985.