

The State of Texas



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ELECTION ADVISORY **NO. 2023-14**

TO: Election Officials

FROM: Christina Worrell Adkins, Director of Elections *CHA*

DATE: September 28, 2023

RE: NEW LAW: Changes to Accessibility Requirements – Senate Bill 477

In its 88th Regular Session (2023), the Texas Legislature enacted Senate Bill 477 (SB 477), which amended several sections of the Texas Election Code to add certain accessibility requirements for polling places and county websites. SB 477 took immediate effect on June 18, 2023, upon signing by Governor Greg Abbott.

This advisory details the new requirements under SB 477, as well as general requirements and procedures relating to accessibility in the election process.

All statutory references in this advisory are to the Texas Election Code (“the Code”), unless otherwise indicated.

Voting Order Priority Requirements

SB 477 amended Section 63.0015 of the Code to provide that voting order priority for a person with a mobility problem is no longer a discretionary decision by the election officer. This requirement applies to all elections, regardless of whether the election is conducted by the county or by a local political subdivision.

As amended, Section 63.0015 provides that if a voter has a mobility problem that substantially impairs the voter’s ability to ambulate, and the voter agrees to be given voting order priority, then the election officer must move the voter to the front of the line to be accepted for voting before others at the polling place who arrived before the person. A person assisting an individual with a mobility problem may also, at the individual’s request, be given voting order priority.

Election officers should routinely monitor the line at the polling place to determine whether there are any voters who wish to request this form of voting order priority.

The prescribed Notice of Voting Order Priority must be posted at the following locations:

1. At each entrance to a polling place (including an early voting polling place) where it can be read by voters waiting to vote;
2. On the Secretary of State's website; and
3. On each website relating to elections maintained by a county.

As a result of SB 477, the Secretary of State modified the Notice of Voting Order Priority to include new language stating that voting order priority must be provided to voters with certain disabilities. Please use the latest version of this form when preparing your notices for posting at the polling place.

The prescribed notice is available in the [Election Forms Manual](#) on the Secretary of State's website.

Curbside Voting Requirements

General Requirements for Curbside Voting

Under Section 64.009 of the Code, if a voter is physically unable to enter the polling place without personal assistance or likelihood of injuring the voter's health, then an election officer shall deliver a ballot or voting machine to the voter at the polling place entrance or curb on the voter's request. This process is commonly referred to as "curbside voting."

Curbside voting MUST be available at all polling locations during early voting and on election day. In addition, curbside voting must be provided in a way that does not impede the entrance to the polling place. Election officials should consider these obligations when selecting their polling places.

An election official may not question the voter's request to vote curbside. 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. (Sec. 64.009(d)).

When individuals vote curbside, their car becomes their voting station. Curbside voters must be afforded the opportunity to vote their ballot privately (in the same way as a voter in the voting booth) and thus are entitled to vote without the interference of campaigns or bystanders. Per Section 32.075 of the Code, the presiding judge has the authority to preserve order and prevent breaches of peace if there are individuals harassing voters while they vote curbside.

Under Section 64.009(f) of the Code, a person who simultaneously assists seven or more curbside voters by providing the voters 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 Section 64.009 or if the person is also providing assistance under Chapter 64, Subchapter B. A form completed under this process shall be delivered to the Secretary of State as soon as practicable. (Sec. 64.009(g)). Section 64.009(f) does not apply if the person assisting is related to each voter within the second degree by affinity (marriage) or the third degree by consanguinity (blood). (Sec. 64.009(f-1)).

The prescribed form for the transportation of seven or more curbside voters is available in the [Election Forms Manual](#) on the Secretary of State's website.

Pollbook Requirements for Curbside Voting

Voters who vote through the curbside voting process must be provided the same procedures and accommodations for voting as other voters, including the use of electronic pollbook devices for the check-in process.

If all voters are checked in at the polling place using electronic pollbook equipment, then the same process should be used for curbside voters. In that situation, curbside voters cannot be asked to complete a separate combination form, as that is an impermissible method of tracking which voters used curbside voting procedures. Curbside voters should be provided with the same check-in process afforded to other voters on the electronic pollbook devices.

Voting System Requirements for Curbside Voting

Voters who vote through the curbside voting process also must be provided the same procedures and accommodations as other voters with respect to the use of accessible voting system equipment. Under Section 61.012 of the Code, each polling place and early voting location must provide at least one unit of accessible voting system equipment to allow voters with disabilities to independently vote a secret ballot. That equipment must be available for curbside voters in the same manner that it is available for voters inside the polling place.

If an entity uses an electronic voting system as their primary method of voting, then the entity must provide that electronic voting system to all voters, whether they are voting curbside or in the polling place. Section 123.005 of the Code provides that regular paper ballots may not be used at a polling location that uses an electronic voting system.

If an entity uses an electronic voting system for accessibility purposes and uses hand-marked paper ballots as the primary method of voting, then the entity may offer paper ballots to curbside voters, but should be prepared to provide that equipment for any curbside voters who require the use of accessible voting system equipment.

New Curbside Voting Requirements Under SB 477

SB 477 also amended Section 64.009 of the Code to include additional requirements for curbside voting at each polling location.

Each polling place must provide a reserved area for curbside voting that is not smaller than the size of one parking space. The area may not be designated specifically for voters with disabilities, and the designated curbside voting area should be separate from any accessible parking spaces provided at the location.

The designated area must be clearly marked with a sign indicating that the space is reserved for use by a voter who is unable to enter the polling place. The designated area must also include a method for the voter to notify the election officers at the polling place that the voter wishes to vote curbside. This requirement may be satisfied in one of two ways:

1. Displaying a phone number that the voter may call or text to request assistance from an election officer at the polling place. The number must be displayed in large font that is clearly readable from a vehicle.

OR

2. Providing a button or intercom in the designated curbside voting area that the voter may use to request assistance from an election officer.

The county election officer's website must also include a description of all procedures and accommodations available for voters with disabilities, including curbside voting procedures. The website posting should include information about how a voter can request curbside assistance at the polling place, including information about whether the designated area will display a phone number or will provide a button or intercom to allow the voter to request assistance. Any other county-specific procedures for curbside voting should be included in the posting.

New Requirements under SB 477: Signage Requirements for Curbside Area – Call or Text

One of the two methods that a political subdivision may use to satisfy the signage requirements for a designated curbside voting area is to display a sign with a phone number that the voter may call or text to request assistance from an election officer at the polling place. The number must be displayed in large font that is clearly readable from a vehicle.

There are several different ways that the political subdivision can accomplish this notification method, including:

- Distributing cell phones to each polling location and displaying that cell phone number on the sign as a method for voters to call or text for curbside assistance;
- Providing two different phone numbers on the sign, with one to call for curbside assistance and the other to text for curbside assistance;
 - The phone number to call may direct to a central call center line managed by the county election office that allows the election office to immediately contact the

- proper polling place, or it may be used to directly reach the officials at the proper polling place.
- The phone number to text may direct to a central number managed by the county election office that allows the election office to immediately contact the proper polling place (such as by having the voter text specific information regarding the voter's polling location and parking space), or it may be used to directly reach the officials at the proper polling place.

Other methods for managing this process may be used by the political subdivision, provided that a voter is given the opportunity to choose whether to call or text in order to request curbside assistance at each polling place, and the political subdivision is able to provide a notification to the voter that the voter's request has been received.

Our office has created sample signs that may be used for this purpose. Alternatively, the political subdivision may create its own signage for use with this process, provided that the text of the sign is in a large enough font that it can be clearly read from a vehicle. That sample signage is available in the [Election Forms Manual](#) on the Secretary of State's website.

New Requirements under SB 477: Signage Requirements for Curbside Area – Button or Intercom

A political subdivision may also satisfy the signage requirements for a designated curbside voting area by providing a button or intercom where the voter can request curbside assistance. If this process is used, the signage used to designate the curbside area should indicate that the voter can request curbside assistance by using the button or intercom. The sign should provide the voter with specific instructions on how to use the button or intercom and should indicate where that button or intercom is located.

Our office has created sample signs that may be used for this purpose. Alternatively, the political subdivision may create its own signage for use with this process, provided that the text of the sign is in a large enough font that it can be clearly read from a vehicle. That sample signage is available in the [Election Forms Manual](#) on the Secretary of State's website.

Reasonable Accommodations

Section 1.022 of the Code provides that a provision of the Texas Election Code may not be interpreted to prohibit or limit the right of a qualified individual with a disability to request 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.

In recent years, advances in technology have enabled cell phones, tablets, and other wireless communications devices to assist voters with disabilities. As an example, a voter may use a program/application on a cell phone to translate verbal communication into sign language, allowing the voter to understand communication by an election official. While this situation is not expressly addressed in the Election Code, an election judge or early voting clerk may use

their authority to allow a voter to utilize these programs/applications at their discretion. If you have any questions regarding this type of request, please contact our office.

For more guidance on the reasonable accommodations that are available under federal or state law, election officials should consult with their legal counsel.

Assistance Procedures

An eligible voter is entitled to receive assistance from a person of his or her choosing, so long as that person is eligible to provide assistance under Section 208 of the Voting Rights Act, and that assistance is not limited to marking or reading the ballot or otherwise limited to conduct that occurs in the voting booth.

Under Section 64.032 of the Code, a voter who is eligible to receive assistance is entitled to be assisted by a person of the voter's choice. 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.

If the voter is assisted by a person of the voter's choice, then the assistant must take the oath of assistance. The assistant's name and address shall be entered on the poll list (or electronic pollbook) beside the voter's name. Under Section 64.0322 of the Code, the assistant must also complete a form stating the name and address of the person assisting the voter, the relationship of the voter to the assistant, and whether the assistant received or accepted any form of compensation or other benefit from a candidate, campaign, or political committee.

Alternatively, if the voter does not select his or her own assistant, then the voter may be assisted by two election officers, if the voter is voting on election day, or one election officer, if the voter is voting during the early voting period. If the voter is assisted by election officers in the general election for state and county officers, then each officer must be aligned with a different party unless there are not two or more officers serving at the polling place who are aligned with different parties.

The person assisting the voter must read him or her the entire ballot, unless the voter asks to have only parts of the ballot read. The person assisting the voter must take an oath that, among other things, he or she will not suggest (by word, sign, or gesture) how the voter should vote and will mark the ballot as the voter directs. If the voter chooses to be assisted by polling place officials, poll watchers and election inspectors may observe the voting process. However, if the voter asks to be assisted by a person the voter chooses, no one else may watch him or her vote.

Interpreter Procedures

Section 61.032 of the Code provides that voters who cannot speak English, or who communicate only with sign language, may use an interpreter to help them communicate with

election officials, regardless of whether the election official(s) attending to the voter can speak the same language as the voter.

Section 61.033 of the Code provides that the voter may select as an interpreter 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.

Before serving as an interpreter, the person selected as an interpreter must take an oath administered by an election officer under Section 61.035 of the Code. An interpreter may interpret for any number of voters, but must take a separate oath for each voter for whom the interpreter is providing interpretation. Our office has prescribed a form for the Oath of Interpreter, which is available in the [Election Forms Manual](#) on the Secretary of State's website.

If the voter cannot read the languages on the ballot, the interpreter may also act as an assistant for the voter, but the person must follow the procedures for an assistant outlined above.

If the voter is deaf and does not have a sign language interpreter who can accompany the voter to help communicate with the poll worker or read the ballot, the voter should contact his or her local election officials before the election and request assistance.

The interpreter may be a person provided by the authority conducting the election. However, even if an interpreter is provided, a voter may use an interpreter of his or her own choosing. Under Section 272.009 of the Code, if no interpreter is available at the polling place, the authority responsible for appointing the election judges may have appointed an interpreter to serve at a central location to provide assistance for Spanish-speaking voters and voters speaking any other languages required by the federal government based on the most recent federal census.

Under Section 61.033(2) of the Code, if a person is appointed to serve as an interpreter by an election officer, the interpreter must be a registered voter of the county in which the voter needing the interpreter resides or a registered voter of an adjacent county.

Witness Procedures

Section 1.011 of the Code provides that when the Code requires a person to sign a document, the document may be signed for the person by a witness, if the person required to sign cannot do so because of a physical disability or illiteracy.

When a witness signs on behalf of a voter, the person who cannot sign must affix the person's mark to the document, which the witness must attest. If the person cannot make a mark, then the witness must state that fact on the document.

The witness must state the printed name of the person who cannot sign on the document. The witness must also provide the witness's own signature to the document and must state the witness's printed name and residence address on the document. If the witness is an election

officer, then the witness must state the witness's official title in lieu of the witness's residence address.

The witnessing procedure must be conducted in the presence of the person who cannot sign. This procedure cannot be used to sign a document outside of the presence of the person who is required to sign the document.

Voter Unable to Sign Pollbook or Combination Form

Under Section 63.002(c) of the Code, if the voter cannot sign the voter's name on the pollbook, combination form, or signature roster to confirm the voter's participation at the polling place, then the election officer shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster.

This process is separate from the witnessing procedure described above and is specific to a situation where the voter is unable to sign the voter's name on the pollbook, combination form, or signature roster to confirm the voter's participation at the polling place.

Accessible Voting Systems

As a general rule, a county or political subdivision must provide at least one accessible voting machine in each early voting and election day polling place, pursuant to Section 61.012(a)(1)(C) of the Code. At least one unit of accessible voting system equipment must be provided so that voters with disabilities may independently vote a secret ballot.

A voting system must satisfy specific accessibility standards outlined in [Rule 81.57](#) of Title 1 of the Texas Administrative Code before the system may be certified for use in Texas elections.

However, for elections in which a federal office is not on the ballot, a county or a political subdivision located within a county with a population less than 20,000 may be able to obtain a limited exemption from the general requirement of providing one accessible voting machine in each polling place. The rules and procedures for that exemption are outlined in Section 61.013 of the Code and in [Secretary of State Election Advisory No. 2023-05](#).

Accessible Polling Places

Under Section 43.034 of the Code, each polling place and early voting location must be accessible to and usable by the elderly and individuals with disabilities.

Accessible Building Requirements

To be considered accessible, a polling place must satisfy strict accessibility standards, including the following:

- 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;
- Doors, entrances, and exits used to enter or leave the polling place must have a minimum width of 32 inches;
- Any curb adjacent to the main entrance to a polling place must have curb cuts or temporary nonslip ramps;
- 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
- The polling place may not have a barrier that impedes the path of a person with physical disabilities to the voting station. (Sec. 43.034(a)).

If you have additional questions regarding polling place accessibility, please contact our office.

Accessible Voting Station Requirements

Rule 81.70 of Title 1 of the Texas Administrative Code outlines specific requirements for each voting booth used in an election:

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:

- The booth must be constructed of opaque material and have three sides.
- The top of the booth must reach at least 54 inches from the floor or 24 inches from the table top, whichever is less.
- The booth must be at least 22 inches wide and 19 inches deep at the writing surface.
- At the highest point, the booth may be no more than two inches shallower than the depth of the booth at the writing surface.
- The booth must be so constructed as to be reasonably sturdy and to withstand expected use.

A booth designed for table top use that does not meet or exceed each of these specifications must be submitted for individual approval by the Secretary of State.

A table on which such a booth is placed must meet the following specifications:

- The table must have a clear knee space underneath that is at least 27 inches high, 30 inches wide, and 19 inches deep; and
- The table top must be between 28 and 30 inches above the floor.

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:

- 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

- The writing surface of the voting booth must be between 28 and 30 inches above the floor.

Vendors wishing to sell voting booths which do not comply with the Section 51.032 of the Code, or with the requirements outlined above, must obtain approval in writing for such booths pursuant to Section 51.031 before offering the booths for sale.

Website Accessibility Requirements

SB 477 introduced several web posting requirements relating to accessibility.

Web Posting Requirements Relating to Accessibility Procedures

SB 477 amended Section 63.0015 to provide that all procedures and accommodations available to voters with disabilities (including curbside voting procedures) must be posted in an accessible manner on the county clerk's Internet website.

At minimum, the procedures and accommodations posted on the county clerk's website should include the following:

- Curbside voting procedures, including the process for a voter to request curbside voting assistance at the polling place;
- Voting order priority for voters with mobility problems;
- Ballot by mail procedures;
- Information about the county's accessible voting system equipment;
- If the county's pollbook system has any accessibility features, a description of those features;
- The voter's right to select an assistant of the voter's choice or to be assisted by two election officers;
- The voter's right to select an interpreter of the voter's choice or to be provided an interpreter by the authority conducting the election;
- The voter's right to have a witness sign a document on the voter's behalf if the voter is unable to sign the document due to a physical disability or illiteracy;
- The procedures available for a voter who is unable to sign the voter's name on the pollbook, combination form, or signature roster to confirm the voter's participation at the polling place;
- The requirements relating to accessibility for polling places; and
- Any other procedures or accommodations that are available for voters with disabilities.

The Secretary of State's office has provided voter-facing information about many of these requirements on www.votetexas.gov. You may also wish to link to this advisory on your website as an additional source of information for voters.

Web Posting Requirements Regarding the Application for Ballot by Mail (ABBM)

SB 477 amended Section 84.013 of the Code to require the Secretary of State to provide a printable application for a ballot by mail in a format that complies with Section 84.0121(a).

SB 477 also added Section 84.0121, which provides that an early voting clerk must post the official ABBM form 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. 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. If an early voting clerk would like to use their own application form, it must be reviewed and approved by the Secretary of State before use.

The web posting requirement addressed above is not limited to county election officers. As such, the early voting clerk for a local political subdivision that does not contract with a county or conduct its election jointly with a county is required to provide a link to the ABBM on the early voting clerk's website if the clerk maintains an Internet website. It is recommended that the early voting clerk provide a link to the ABBM for voters on a permanent basis.

The most recent version of the Application for Ballot by Mail is available in the [Election Forms Manual](#) on the Secretary of State's website.

Voters can also access the Secretary of State's Ballot by Mail Tracker on our [website](#).

If you have any questions regarding this advisory, please contact the Elections Division toll-free at 1-800-252-VOTE (8683).

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