

The State of Texas



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Jane Nelson
Secretary of State

ELECTION ADVISORY **NO. 2023-15**

TO: All Election Officials
FROM: Christina Worrell Adkins, Director of Elections *CHA*
DATE: October 2, 2023
RE: Election Law Calendar for December 9, 2023 Runoff Election Date Pursuant to the Secretary of State's Proclamation

House Bill 357 (88th Leg., R.S., 2023) amended Section 2.025 of the Texas Election Code to require the Secretary of State to set the runoff date for all runoff elections resulting from an election held on a uniform election date. Pursuant to Section 2.025, the Secretary of State designated Saturday, December 9, 2023 as the election date for all runoff elections resulting from elections held by local political subdivisions on the November 7, 2023 Uniform Election Date.

A copy of the Secretary of State's proclamation establishing the December 9, 2023 runoff election date is located at the link below:

[Proclamation for December 9, 2023 Runoff Election Date](#)

The Secretary of State's office has prepared an election law calendar for all relevant dates and deadlines that relate to the December 9, 2023 Runoff Election Date.

December 9, 2023 Runoff Election Law Calendar for Local Political Subdivisions

This calendar and the subsequent dates apply to a runoff election and not a second election ordered under Chapter 2 of the Election Code.

This calendar is designed to meet the needs of many diverse governmental bodies. If there are questions about the applicability of something in this calendar to your particular election, do not hesitate to call the Elections Division of the Office of the Texas Secretary of State at 1-800-252-VOTE (8683).

All statutory references in this calendar are to the Texas Election Code (“the Code”), unless otherwise indicated. Any references to the Texas Administrative Code are cited to the relevant section of the “T.A.C.”

NOTES FOR RUNOFF ELECTION

While this Runoff Election Calendar addresses certain deadlines, it is highly recommended that your entity completes its election requirements as soon as possible due to the short timeframe between the November 7, 2023 Uniform Election Date and the December 9, 2023 Runoff Election Date.

1. NOTE ON ORDERING THE RUNOFF ELECTION AND NOTICE OF ELECTION

Our office recommends ordering your runoff election and any extended weekday or weekend voting as soon as the final canvass has been completed due to the short timeframe between the November 7, 2023 election and the December 9, 2023 runoff election. Additionally, if possible, we recommend that a local political subdivision issue the notice of election immediately after the runoff election is ordered.

Notice of a runoff election must be posted on the website of the political subdivision that ordered the election no later than the 15th day before election day, Friday, November 24, 2023. If the political subdivision does not maintain a website, the notice must be posted on the bulletin board used for posting notices of public meetings. (Sec. 2.026).

The general rule is that, additionally, notice must be given using one of the following methods:

1. By posting a notice in each election precinct in which the election is to be held on or before the 15th day before the election, Friday, November 24, 2023. (Secs. 2.026, 4.003(a)(2)).
2. By publishing the notice at least once between the 30th day and the 10th day before the election, Thursday, November 9, 2023 – Wednesday, November 29, 2023. (Sec. 4.003(a)(1)).
3. By mailing a copy of the notice to each registered voter of the territory covered by the election, not later than the 10th day before election day, Wednesday, November 29, 2023. (Sec. 4.003(a)(3)).

Cities and School Districts: Cities and school districts are required to publish their notice in a newspaper in accordance with Section 4.003(a)(1) (See number 2 above) and may also give any additional notice. (Sec. 4.003(c)). If a county maintains a website, the county must post any notice of a runoff election provided to the county by a political subdivision conducting a runoff election in the county to the county’s website no later than the 15th day before election day, Friday, November 24, 2023. (Secs. 2.026, 4.003(b)). If the county does not maintain a website, school

districts and cities must also post a copy of the notice on the governmental bulletin board used for posting notice of public meetings no later than the 15th day before election day, Friday, November 24, 2023.

NOTE - Section 4.003 requires that counties post on the county website the notice and list of polling locations of any political subdivision that delivers their notice to the county under Section 4.008. This is regardless of whether the county is contracting with the entity.

NOTE - Section 4.004 requires the notice of election to include the Internet website of the authority conducting the election.

NOTE - Section 83.010 requires an election order and the election notice to 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 the Internet website, if the early voting clerk has an Internet website. (Sec. 83.010).

2. NOTE ON CANDIDATE WITHDRAWALS

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. (Sec. 145.092). The last day for the official canvass to be completed for the November 7, 2023 election is Monday, November 20, 2023. (Secs. 1.006, 67.003). If your political subdivision canvasses the main election on the last possible day to canvass, then this means that the last day a candidate can withdraw their name from the runoff election ballot is Thursday, November 23, 2023 (Thanksgiving Day). Accordingly, our office **strongly recommends** that the political subdivision canvass the main election as soon as possible to avoid having to accept a candidate withdrawal on Thanksgiving Day. For more information on the applicable dates and deadlines for canvassing the main election, please see our [November 7, 2023 Election Law Calendar](#).

3. NOTE ON TESTING AND BALLOT PROGRAMMING

Due to the short timeframe between the canvass of the main election and the date of the runoff election, our office strongly recommends that your local political subdivision finalize the ballot programming and conduct your Public Logic & Accuracy testing as soon as possible after the main election has been canvassed and the runoff election has been ordered.

The Public Logic and Accuracy test must be completed no later than 48 hours before voting begins on a voting system used in the election. The last **business** day to conduct your public Logic and Accuracy testing is Wednesday, November 22, 2023. However, it is **strongly recommended** that such testing be completed as soon as possible after the ballot programming is finalized to allow time for corrections to programming, if necessary.

4. NOTE ON RECOUNTS

The deadline for submitting an expedited recount petition for the main election is 2 p.m. of the first day after the date of the local canvass. It is possible that the timing of the recount may impact ballot preparation for the scheduled runoff election. As such, it is strongly recommended that the entity complete the requested recount in a timely manner following the submission of a recount petition. (Secs. 212.083, 212.089).

If an expedited recount is requested for a main election that may result in a runoff election, the recount committee members must 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. (Sec. 212.089).

Because the December 9, 2023 runoff election occurs soon after the November 7, 2023 election, we recommend canvassing the November election as soon as possible to allow adequate time for your entity to prepare for the December runoff election.

Calendar of Events

November

Thursday, November 9, 2023 (30th day before runoff election day)

Last day to register to vote or make a change of address effective for the Saturday, December 9, 2023 election.

NOTE - A voter who submits a change of address after this date may still be eligible to return to his or her previous precinct to vote under "fail-safe" voting, if he or she still resides in the **same** county and the same local political subdivision, if applicable, conducting the election. If a voter has moved to a new county, then a voter can vote a limited ballot. Voting by a limited ballot is only available during the early voting period and **only** at the main early voting polling place (or by mail). (Secs. 15.025, 63.0011, 112.002).

NOTE - A Federal Postcard Application (FPCA) also serves as an application for **permanent** registration under Texas law unless the voter marked "my intent to return is uncertain" (2019 form), or "**my return is uncertain**" (2017 form). The early voting clerk should make a copy (for mailing ballots, keeping records, etc.), then should forward the original to the county voter registrar, as soon as practicable. (Sec. 101.055; 1 T.A.C. § 81.40(a), (c)(2)).

Recommended last day for early voting clerk to order supplemental and registration correction lists, if applicable, or order revised original list of registered voters from the voter registrar for early voting by personal appearance. (Secs. 18.001, 18.002, 18.003, 18.004).

NOTE - Per Sections 18.002 and 18.003 of the Code, supplemental and corrected voter registration lists must be provided as needed to ensure all eligible voters appear on the official list of registered voters. (Secs. 18.002, 18.003).

NOTE - While this is the first date that notice of an election can be published in a newspaper of general circulation in the territory under Section 4.003(a)(1), an entity cannot publish notice until the election is ordered.

Friday, November 10, 2023 - Monday, November 20, 2023 (29th day before runoff election day - 19th day before runoff election day)

The first possible day to conduct the official local canvass of returns of the November 7, 2023 election by the governing authority of the political subdivision is Friday, November 10, 2023. The last possible day to conduct the official canvass of returns is Monday, November 20, 2023. However, the canvass may not be conducted until the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election, **AND** counted all timely received mailed domestic ballots cast from addresses within the United States, and all timely received mailed ballots cast from addresses outside the United States. (Secs. 67.003, 86.007). Notice of canvass must be posted at least 72 hours continuously before the canvass is conducted.

NOTE - NEW LAW: HB 5180 (2023, R.S.) amended Section 1.012 of the Code, effective September 1, 2023, to provide that on the first day after the final canvass of an election is completed, the general custodian of election records shall make images of voted ballots and cast vote records available for public inspection.

NOTE - The runoff election can be ordered as soon as the canvass is completed. Therefore, November 10, 2023 is the first date a runoff election can be ordered. Our office **recommends** that a political subdivision order their runoff election as soon as the election has been canvassed.

NOTE - The deadline for submitting an expedited recount petition is 2 p.m. of the first day after the date of the local canvass. (Secs. 212.083, 212.089).

NOTE - First day of period during which notice of elections must be published if a runoff election has been ordered, in a newspaper of general circulation **if method of giving notice is not specified by a law outside the Texas Election Code**, and this method of giving notice is selected. The notice for elections ordered by a county authority or by an authority of a city or school district must be given by publication in a newspaper in addition to any other method specified by a law

outside the Election Code. (Sec. 4.003(a)(1), (c), (d)). This notice may be combined with the other notices that are required to be published. The election notice shall be posted on the political subdivision's website.

NOTE - Section 4.004 requires the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).

NOTE - Section 83.010 of the Code requires an election order and the election notice to 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 the Internet website, if the early voting clerk has an Internet website. (Sec. 83.010).

Cities, Schools, and Other Political Subdivisions: It is **strongly recommended** that the Notice of Voting Order Priority for voters with mobility issues also be posted on the subdivision's website, if one is maintained by the political subdivision. (Secs. 63.0013, 85.007(d)).

Counties: The **recommended** time to include this notice on a county website is when the notice of election is also posted on the website. (Secs. 63.0013, 85.007(d)).

NOTE - Notice of Previous Polling Place: If a different polling place is being used than at the previous election held by the same authority, Notice of Change to Polling Place must be posted at the entrance of the previous polling place informing voters of the current polling place location, if possible. (Sec. 43.062).

Monday, November 20, 2023 (19th day before runoff election day)

Last day for official canvass of returns by governing authority of political subdivision for November 7, 2023 election. Because the last day falls on Saturday, November 18, 2023, the deadline is extended to Monday, November 20, 2023. (Secs. 1.006, 67.003).

NOTE - Our office **recommends** that once you have the canvass finalized, your entity should immediately order your runoff election, finalize your ballots preparation and program your equipment as soon as possible.

Counties, Cities, and School Districts: Last day for a county that holds an election or provides election services for an election to post certain information regarding the upcoming election(s) on the county's website per Section 4.009. A city or independent school district that holds an election and maintains an Internet website must also post this same election information on their website even if the county is also posting this data. The information posted on the website must include:

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. (Sec. 4.009)

NOTE - If your local political subdivision has started receiving ballots by mail for the December 9, 2023 runoff election, the early voting ballot board may convene.

NOTE - First day that the signature verification committee, if one is appointed, may begin operating. (Sec. 87.027). If your local political subdivision has not created a signature verification committee, please see below about early voting ballot board.

NOTE - NEW LAW: SB 1599 (2023, R.S.), effective September 1, 2023, added new corrective action provisions related to the ballot by mail process as it pertains to the early voting clerk's review of an Application for Ballot by Mail and the signature verification committee/early voting ballot board's review of the carrier envelope containing a voter's ballot. Please see below for information regarding these respective changes:

Early Voting Clerk Actions for a Defective Application for Ballot by Mail: The change in law made by SB 1599 applies only to an application for ballot by mail submitted on or after September 1, 2023. An application for ballot by mail submitted before September 1, 2023 is governed by the law in effect when the application was submitted.

SB 1599 amended Section 86.008(a) of the Code to provide that the section applies to a ballot to be voted by mail for which the applicant failed to comply with a requirement provided by Section 84.002 (contents of application), 84.0021 (contents of application for participant in the Attorney General Address Confidentiality Program), or 84.003(a) (signing application by witness) in a manner that would lead, if not corrected, to the rejection of the applicant's application. Not later than the second day after the early voting clerk discovers a defect(s) described by Section 86.008(a) referenced above, 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 by the 11th day before election day, as applicable; and (2) if the clerk determines it would be possible to correct the defect and return an application form before the deadline, the early voting clerk must either return the defective application to the applicant or deliver an official application form to the applicant. The early voting clerk must include with the returned defective application or an application form delivered to the applicant 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 application or second application.

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 by the 11th day before election day, the clerk may notify the applicant by telephone or email and provide the applicant a brief explanation of each defect in the application, 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 instructions for submitting the corrected application or second application. The early voting clerk must also inform the applicant that the applicant may come to the early voting clerk's office by the 11th day before election day and correct the defect in person. In addition, a voter must be provided notice about the ability to correct certain defects on the application using the Secretary of State's online Ballot by Mail Tracker and, if possible, permit the applicant to correct such defects using the online tracker. Please note that the Secretary of State's Ballot by Mail Tracker is available at www.votetexas.gov. (Secs. 86.008(c-1), 86.015).

NOTE - Although Section 86.008 of the Code was amended to allow the early voting clerk to return a defective application to the voter, the Secretary of State recommends against doing so. Ultimately, if the early voting clerk returns a defective application to the voter, it is strongly recommended that the clerk return a **copy** of the original application to the voter and **NOT** the original application.

Early Voting Clerk Actions for a Defective Carrier Envelope: Section 86.011(d) of the Code provides a procedure by which a voter can correct certain defects in the carrier envelope containing their voted ballot. If an early voting clerk receives a timely carrier envelope that does not comply with the applicable requirements of the Code, the clerk may deliver the carrier envelope in person or by mail to the voter so that the voter may correct the defect. Additionally, the early voting clerk may notify the voter of the defect by phone and advise the voter that they may come to the early voting clerk's office to correct the defect or cancel their ABBM and vote in person. The clerk may utilize this provision for defects such as a missing signature by the voter, a partially completed witness or assistant box (if applicable), missing or incorrect personal identification information, or a ballot that is not returned in a carrier envelope. If an early voting clerk chooses to notify voters of defects in their carrier envelope under Section 86.011(d), the clerk must apply these procedures uniformly to all voters in similar circumstances. Additionally, the Secretary of State recommends keeping a log to track the ballots mailed to voters and the ballots in possession of the early voting clerk before ballots are delivered to the signature verification committee or early voting ballot board. If the early voting clerk notifies a voter of a defect in their carrier envelope by mail, the clerk should include a letter explaining the actions that the voter needs to take to correct and return the carrier envelope.

Signature Verification Committee (if appointed) Actions for a Defective Carrier Envelope: SB 1599 amended Section 87.0271 of the Code to provide that not later than the second day after the signature verification committee discovers a defect(s) in a carrier envelope as described by Section 87.0271(a) of the Code and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, the committee must send the voter a notice of the defect and a corrective action form developed under Section 87.0271(c-1) by mail or by common or contract carrier. The signature verification committee must include with the notice delivered to the voter: (1) a brief explanation of each defect in the noncomplying ballot; and (2) notice that the voter may either cancel the voter's application to vote by mail in the manner described by

Section 84.032, correct the defect in the voter's ballot by submitting a corrective action form by mail or by common or contract carrier, make the correction using the Secretary of State's online Ballot by Mail Tracker, if possible, or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect(s).

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 by mail or by common or contract carrier, make the correction using the Secretary of State's online Ballot by Mail Tracker, if possible, or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. In addition to sending the voter a notice of the defect or notifying the voter of the defect by telephone or e-mail, the signature verification committee must permit the voter to correct a defect using the Secretary of State's online Ballot by Mail Tracker, if possible. Please note that the Secretary of State's Ballot by Mail Tracker is available at www.votetexas.gov.

Early Voting Ballot Board Actions for a Defective Carrier Envelope: SB 1599 amended Section 87.0411 of the Code to provide that not later than the second day after the early voting ballot board discovers a defect(s) in a carrier envelope as described by Section 87.0411(a) of the Code and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board must send the voter a notice of the defect and a corrective action form developed under Section 87.0411(c-1) by mail or by common or contract carrier. The early voting ballot board must include with the notice delivered to the voter: (1) a brief explanation of each defect in the noncomplying ballot; and (2) notice that the voter may either cancel the voter's application to vote by mail in the manner described by Section 84.032, correct the defect in the voter's ballot by submitting a corrective action form by mail or by common or contract carrier, make the correction using the Secretary of State's online Ballot by Mail Tracker, if possible, or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect(s).

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 by mail or by common or contract carrier, make the correction using the Secretary of State's online Ballot by Mail Tracker, if possible, or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. In addition to sending the voter a notice of the defect or notifying the voter of the defect by telephone or e-mail, the early voting ballot board must permit the voter to correct a defect using the Secretary of State's online Ballot by Mail Tracker, if possible. Please note that the Secretary of State's Ballot by Mail Tracker is available at www.votetexas.gov.

Delivery of Ballots Voted by Mail to the Early Voting Ballot Board: SB 1599 amended Section 87.0222 of the Code to provide that not later than the ninth day before election day, the jacket envelopes containing early voting ballots voted by mail **MUST** be delivered to the early voting ballot board. **This requirement applies regardless of the county's population size.** Any jacket envelopes of early voting ballots voted by mail returned after delivery of the ballots to the early voting ballot board 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. The early voting clerk shall post notice of each delivery of balloting materials that is to be made before the time for opening the polls on election day. The notice must be posted at the main early voting polling place continuously for at least 24 hours immediately preceding the delivery.

Please note that the mail ballots may not be counted until (i) the polls open on election day; or (ii) in an election conducted by an authority of a county with a population of 100,000 or more or entities that are having joint elections with such a county or who are conducting their election with such a county through a contract for election services, the end of the period for early voting in person. (Secs. 87.0222, 87.0241). **NOTE: Results may not be released until the polls close on election day.**

NOTE - Section 127.1232 provides that for local political subdivisions that are contracting with counties that have a population of 100,000 or more and whose contract designates the county as the general custodian of election records, the general custodian of election records 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 the 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. Video from the surveillance system shall be made available to the public by live stream. The recorded video is considered an election record and shall be retained by the general custodian 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. (Sec. 127.1232). See Tex. Sec'y of State Election Advisory No. 2022-10.

Last day to post Notice of Early Voting at Branch Polling Places stating the places, days, and hours for voting at branch early voting polling place if voting is to begin at that location on the first day of early voting in person. The schedule may be amended after the beginning of early voting by personal appearance to include notice of additional branch locations, but any amendment must be made and posted not later than the fifth day before voting begins at the additional temporary branch. (Secs. 85.062, 85.067(c), (d)).

Deadline for a person who is not permanently registered to vote, to submit a postmarked FPCA, in order to receive a ballot for any non-federal election held on December 9, 2023. A person submitting who is **not** permanently registered to vote and submits a postmarked FPCA after this

date (20th day) and before the deadline to submit an application for ballot by mail, is not entitled to receive a ballot for any non-federal election. See Monday, November 27, 2023 entry for timeliness of an FPCA received without a postmark (extended deadline). (Sec. 101.052(e))

NOTE - An FPCA may be submitted by in-person delivery by the voter in accordance with Section 84.008 of the Code or by common or contract carrier. Further, an application is considered submitted in the following calendar year 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. (Sec. 101.052).

NOTE - 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, may submit an FPCA. (Sec. 101.001).

NOTE - Be sure to check the list of registered voters for permanent registration status. Also, state law authorizes an FPCA to also serve as an application for **permanent registration**; therefore, the person might be permanently registered based on a prior FPCA. Even if the FPCA arrives too late for a particular election, the early voting clerk will still need to forward the original FPCA to the county voter registrar, after making a copy for your early voting clerk's use (mailing ballots, etc.) and records unless the voter marked "**my intent to return is uncertain**" (2019 form), or "**my return is uncertain**" (2017 form) in which case, it will not serve as a permanent registration.. (Sec. 101.055; 1 T.A.C. § 81.40).

NOTE - **Overseas (non-military) voters** marking the FPCA "**my intent to return is uncertain**" (2019 form), or "**my return is uncertain**" (2017 Form) receive a federal ballot **only** regardless of the date filed. (Chapter 114). In a local (non-federal) election, this means there is **no ballot to send the voter**.

Wednesday, November 22, 2023 (17th day before runoff election day)

NOTE - Last business day to conduct the public Logic and Accuracy testing before early voting as the first test shall be conducted at least **48** hours before the automatic tabulating equipment is used to count ballots voted in the election.

NOTE - While this is the last business day to conduct the public Logic and Accuracy test, our office highly recommends that the test be conducted as early as possible. (Sec. 127.093).

Recommended last day for a local political subdivision to order the runoff election.

NOTE - The law provides that the deadline to order the runoff election is Monday, November 27, 2023. (Sec. 2.024). However, for practical reasons due to the Thanksgiving holiday, and given that

early voting in person begins on Monday, November 27, 2023, our office recommends ordering the runoff election immediately after canvassing the November 7, 2023 election. See [Note 1](#) above.

Thursday, November 23, 2023 (Thanksgiving Day)

Last day for a candidate in a runoff election to withdraw their name from the ballot by 5 p.m. (Sec. 145.092(d)), if the entity canvassed the November 7, 2023 election on the last day to canvass (November 20, 2023).

Friday, November 24, 2023 (15th day before runoff election day)

NOTE - Due to the short timeframe between the November 7, 2023 election and the December 9, 2023 runoff election, this is the last day that the notice of an election can be posted on the local political subdivision's website. (Sec. 4.003).

Early Voting Dates: Monday, November 27, 2023 – Tuesday, December 5, 2023)

Monday, November 27, 2023 (12th day before runoff election day)

First day to vote early in person. (Sec. 85.001(a), (c)).

NOTE - The early voting period for a runoff election begins 17 days prior to election day, but because this day falls on a day in which it is not possible to begin early voting by personal appearance (Wednesday, November 22, 2023), it is extended to the next regular business day (Monday, November 27) under Section 85.001(c). (Sec. 2.025).

NOTE - Voting by limited ballot must be done during the early voting period at the main early voting polling place (or by mail). (Sec. 112.002(a)).

NOTE - Political Subdivisions Other than Counties: Early voting in person must be conducted at least nine (9) hours each weekday that is not a legal state holiday unless the political subdivision has fewer than 1,000 registered voters, in which case early voting in person must be conducted at least four (4) hours per day. (Sec. 85.005(b)). This rule only applies to the main early voting location.

NOTE - Cities are **not** required to choose two weekdays for the main early voting polling place location to be open for at least 12 hours during the regular early voting period. (Sec. 85.005).

NOTE - Independent School Districts: Despite the change in state law that allows an ISD to be closed on school holidays during the mandatory office hours period, you are **required to be**

open during the entire early voting period, except on legal state and national holidays. (Sec. 85.005(b)).

NOTE - Joint Elections: If entities are conducting early voting by personal appearance jointly, we *recommend* a unified schedule covering all requirements; i.e., no entity's requirements should be neglected or subtracted as a result of a joint agreement.

First day a voter who becomes sick or disabled on or after Monday, November 27, 2023 may submit an application for a late ballot if the sickness or physical condition prevents the voter from appearing at the polling place without the likelihood of needing personal assistance or of injuring his or her health. (Sec. 102.001). See Application for Emergency Early Voting Ballot Due to Sickness or Physical Disability. Applications may continue to be submitted until 5:00 p.m. on election day. (Sec. 102.003).

Deadline to receive an FPCA **without** a postmark. If an FPCA is received by this date **without** a postmark to prove mailing date, the early voting clerk will accept the FPCA and mail the applicant a full ballot even if the applicant is **not** a permanently registered voter but meets the requirements under Title 2 of the Election Code (unless the voter marks the FPCA form "**my intent to return is uncertain**" (2019 form), or "**my return is uncertain**" (2017 Form), in which case the voter receives a federal-only ballot). (Sec. 101.052(i)(1)).

Last day to notify election judges of duty to hold election (Writ of Election). Notice must be given by the 15th day before the election or the 7th day after the day the election is ordered, whichever is later. The Writ of Election must be given to each presiding judge and include:

1. The judge's duty to hold the election;
2. The type and date of election;
3. The polling place location at which the judge will serve;
4. The polling place hours; and
5. The maximum number of clerks the judge may appoint. (Sec. 4.007).

Tuesday, November 28, 2023 (11th day before runoff election day)

Last day to receive an (FPCA) from a registered voter. If the voter is **not** registered in the county (and/or marked intent to return "not certain"), **the voter is still eligible for a ballot containing federal offices only**. In a local (non-federal) election, this means there is **no ballot** to send the voter. (Secs. 101.052(b), (f), 114.004(c)).

NOTE - 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, may submit an FPCA. (Sec. 101.001).

Last day for early voting clerk to receive applications for a ballot to be voted by mail. (Sec. 84.007(c)). All applications to vote by mail must be received by the early voting clerk before the close of regular business or 12 noon, **whichever is later**. Applications to vote by mail must be submitted by mail, common or contract carrier, fax (if a fax machine is available in the office of the early voting clerk), or by electronic submission of a scanned application with an original signature. The early voting clerk's designated email address must be posted on the Secretary of State's website.

If an ABBM is faxed or emailed or if an FPCA is faxed, then the applicant must submit the ORIGINAL application BY MAIL to the early voting clerk so that the early voting clerk **receives the original no later than the 4th business day after receiving the emailed or faxed ABBM or faxed FPCA**. If the early voting clerk does not receive the original ABBM or FPCA by that deadline, then the emailed or faxed ABBM or faxed FPCA will be considered incomplete, and the early voting clerk may NOT send the applicant a ballot. The early voting clerk should retain a copy of the FPCA for their own records, but should send the FPCA submitted by the voter to the Voter Registrar for registration purposes. (Sec. 84.007). The requirement to mail the original application does not apply to an **emailed** FPCA.

An applicant for a ballot to be voted by mail (ABBM or FPCA) may submit the application by delivering it in person to the early voting clerk if the application is submitted not later than the close of regular business in the clerk's office on Tuesday, November 28, 2023. (Sec. 84.008).

NOTE - Section 84.008 of the Code provides that 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) of the Code. This means that voters may personally deliver their ABBM or FPCA to the early voting clerk 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).

NOTE - NEW LAW: SB 1599 (2023, R.S.) amended Section 86.008 of the Code, effective September 1, 2023, to require that if the early voting clerk determines that it would not be possible for the applicant to correct certain defects in a mail ballot application and return an application form by mail before the deadline, the clerk may notify the applicant by telephone or e-mail of the defect, and inform the applicant that the applicant may come to the early voting clerk's office before the deadline and correct the defect in person. The clerk shall notify the applicant of a defect discovered and provide the information required to permit the applicant to correct the defect using the Secretary of State's online Ballot by Mail Tracker, if possible.

Note for Counties: Last day for county clerk/elections administrator to deliver final list of voters that have submitted an annual application for ballot by mail to political subdivisions located within the county holding an election on December 9, 2023 for which the county clerk/elections

administrator is not the early voting clerk via a joint election agreement or contract for election services. (Sec. 86.0015(c)).

Wednesday, November 29, 2023 (10th day before runoff election day)

Last day of period during which notice of election must be published if method of giving notice is **not** specified by a law outside the Election Code and **publication** is the selected method of giving notice. (Sec. 4.003(a)(1)). The notice for elections ordered by the governor, a county authority, or by an authority of a city or school district must be given by publication in a newspaper in addition to any other method specified by a law outside the Election Code. (Sec. 4.003(a)(1), (c), (d)).

NOTE - A local political subdivision can post their notice of election as soon as the election has been ordered.

NOTE - The election notice shall be posted on the political subdivision's website, if the political subdivision maintains a website.

Last day to mail a copy of the notice of election 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 **if method of giving notice is not specified by a law outside the Election Code** and this method of giving notice is selected. (Secs. 1.006, 4.003(a)(3)).

NOTE - The *recommended* time to include the notice of accepting voters with certain disabilities on a political subdivision's website is when the notice of election is also posted on the website. (Secs. 63.0015, 85.007(d)).

Thursday, November 30, 2023 (9th day before runoff election day)

NOTE - Section 127.1232 provides that for local political subdivisions that are contracting with counties that have a population of 100,000 or more and whose contract designates the county as the general custodian of election records, the general custodian of election records 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 the 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. Video from the surveillance system shall be made available to the public by live stream. The recorded video is considered an election record and shall be retained by the general custodian 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. (Sec. 127.1232). Tex. Sec'y of State Election Advisory No. 2022-10.

NOTE - NEW LAW: SB 1599 (2023, R.S) amended Section 87.0222 of the Code, effective September 1, 2023, to provide that not later than the ninth day before election day, the jacket envelopes containing early voting ballots voted by mail **MUST** be delivered to the early voting ballot board. **This requirement applies regardless of the county's population size.** Any jacket envelopes of early voting ballots voted by mail returned after delivery of the ballots to the early voting ballot board 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. The early voting clerk shall post notice of each delivery of balloting materials that is to be made before the time for opening the polls on election day. The notice must be posted at the main early voting polling place continuously for at least 24 hours immediately preceding the delivery.

Please note that the mail ballots may not be counted until (i) the polls open on election day; or (ii) in an election conducted by an authority of a county with a population of 100,000 or more or entities that are having joint elections with such a county or who are conducting their election with such a county through a contract for election services, the end of the period for early voting in person. (Secs. 87.0222, 87.0241). **NOTE: Results may not be released until the polls close on election day.**

NOTE - The early voting ballot board can meet as soon as the county has received voted ballots by mail from voters and those materials are delivered to the ballot board. The ballot board does not have to wait until this ninth-day deadline to meet.

NOTE - The county clerk/elections administrator must ensure that photocopies or electronic recordings of annual applications for ballot by mail have been delivered to the early voting clerk of every political subdivision holding an election before the ballots by mail are delivered to the early voting ballot board.

December

Monday, December 4, 2023 (5th day before runoff election day)

A voter is eligible to vote a late ballot if they will be out of the county of residence on election day due to a death in the immediate family (related within 2nd degree of consanguinity or affinity) that occurs on or after this day. The voter may submit the Application for Emergency Early Ballot Due to Death in Family starting Wednesday, December 6, 2023 (the day after early voting in person ends). (Secs. 103.001, 103.003(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. (Sec. 103.003).

Tuesday, December 5, 2023 (4th day before runoff election day)

Last day to vote early by personal appearance. (Sec. 85.001(a)).

Early voting clerk must post Notice of Delivery of Early Voting Balloting Materials to the early voting ballot board if materials are to be delivered to the board on Wednesday, December 6, 2023. Notice must be posted continuously for 24 hours preceding each delivery to the board. (Secs. 87.0221, 87.0222, 87.023, 87.024, 87.0241).

Entities Contracting or Holding Elections with Counties that have a Population of 100,000 or More:

After the polls close at the end of early voting by personal appearance, counties with a population of 100,000 or more (or local subdivisions conducting a joint election with such a county or conducting an election through a contract for election services with such a county) may convene their early voting ballot board and begin **counting** ballots; **however, the results may not be announced until after the polls close.** (Secs. 87.0222, 87.0241).

NOTE - If a county with a population of 100,000 or more (or a local subdivision conducting a joint election with such a county or conducting an election through a contract for election services with such a county) is convening their early voting ballot board early to begin **counting** ballots, the test of the tabulation equipment will need to be completed at least 48 hours before the equipment is used to count ballots. (Secs. 87.0222, 87.0241, 127.096).

Entities Contracting or Holding Elections with Counties that have a Population of Less than 100,000:

Counties may begin convening their early voting ballot board as the county has received voted ballots by mail from voters and those materials are delivered to the ballot board, **but cannot begin counting the ballots until the polls open on election day.** The early voting clerk shall continuously post notice for 24 hours preceding each delivery of voting materials that is to be made before the time for opening the polls on election day. (Secs. 87.0221, 87.023, 87.024, 87.0241). See Notice of Delivery of Early Voting Balloting Materials.

NOTE - The county elections officer must ensure that photocopies or electronic recordings of annual applications for ballot by mail have been delivered to the early voting clerk of every political subdivision holding an election before the ballots by mail are delivered to the early voting ballot board.

NOTE - NEW LAW - **Early Voting Ballot Board Actions for a Defective Carrier Envelope:** SB 1599 (2023, R.S.) amended Section 87.0411 of the Code, effective September 1, 2023, to provide that not later than the second day after the early voting ballot board discovers a defect(s) in a carrier

envelope as described by Section 87.0411(a) of the Code and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board must send the voter a notice of the defect and a corrective action form developed under Section 87.0411(c-1) by mail or by common or contract carrier. The early voting ballot board must include with the notice delivered to the voter: (1) a brief explanation of each defect in the noncomplying ballot; and (2) notice that the voter may either cancel the voter's application to vote by mail in the manner described by Section 84.032, correct the defect in the voter's ballot by submitting a corrective action form by mail or by common or contract carrier, make the correction using the Secretary of State's online Ballot by Mail Tracker, if possible, or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect(s).

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 by mail or by common or contract carrier, make the correction using the Secretary of State's online Ballot by Mail Tracker, if possible, or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. In addition to sending the voter a notice of the defect or notifying the voter of the defect by telephone or e-mail, the early voting ballot board must permit the voter to correct a defect using the Secretary of State's online Ballot by Mail Tracker, if possible. Please note that the Secretary of State's Ballot by Mail Tracker is available at www.votetexas.gov.

NOTE - Section 127.1232 provides that for local political subdivisions that are contracting with counties that have a population of 100,000 or more and whose contract designates the county as the general custodian of election records, the general custodian of election records 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 the 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. Video from the surveillance system shall be made available to the public by live stream. The recorded video is considered an election record and shall be retained by the general custodian 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. (Sec. 127.1232). Tex. Sec'y of State Election Advisory No. 2022-10.

Friday, December 8, 2023 (day before runoff election day)

Last day to submit an Application for Emergency Early Ballot Due to Death in Family. The application must be submitted by the close of business on this day. (Sec. 103.003(b)).

Last day for early voting clerk to mark the precinct list of registered voters with a notation beside each name of voter who voted early, and deliver list to election judges. The early voting clerk must also deliver the precinct early voting list. (Sec. 87.122). This may be delivered electronically if your county is using an electronic pollbook.

Delivery of Provisional Ballots and Forms: If the voter registrar wants to take possession of the provisional ballots and forms on election night, the voter registrar must inform the custodian of the election records and post a Notice of Election Night Transfer no later than Friday, December 8, 2023, 24 hours before election day. (1 T.A.C. § 81.174(d)(3)). However, under this type of delivery, the county voter registrar **must** go to the custodian of election records office and pick up the provisional ballots and forms.

NOTE - The general custodian of election records (or the early voting clerk, if applicable) must post a Notice of Delivery of Provisional Ballots at least 24 hours before delivery will occur. (1 T.A.C. § 81.174(b)(1)).

Saturday, December 9, 2023 (Runoff Election Day)

7:00 a.m. – 7:00 p.m.

Polls open. (Sec. 41.031).

Voter registrar's office is open. (Sec. 12.004(c)).

Early voting clerk's office is open for early voting activities. (Sec. 83.011). A voter may deliver a marked ballot by mail to the early voting clerk's office while the polls are open on election day. The voter must provide an acceptable form of identification under Section 63.0101 upon delivery. The identification procedure is the same as that used for personal appearance voting. (Secs. 63.0101, 86.006).

5:00 p.m.

Deadline for receiving Application for Emergency Early Voting Ballot Due to Sickness or Physical Disability for late ballots to be voted by persons who became sick or disabled **on or after** Monday, November 27, 2023. (Sec. 102.003(b)).

7:00 p.m.

Regular deadline for receiving **early voting ballots** by mail. **BUT see entry for Monday, December 11, 2023, on "late domestic ballots," and entry for Thursday, December 14, 2023, on other "late" ballots.**

This is also the deadline to receive late ballots cast by voters who became sick or disabled **on or after** Monday, November 27, 2023. (Secs. 86.007(a), 102.006(c)).

NOTE - Section 61.002 provides that immediately before the opening of the polls on election day, the presiding judge or alternate judge shall confirm that the public counters on each voting machine are set to zero and shall print the tape that shows that there are zero votes for each candidate or measure on the ballot. Immediately after the closing of the polls on election day, the presiding judge or alternate judge shall print the tape to show the number of votes cast for each candidate or measure. Each election judge and alternate judge shall sign the printed tapes. (Sec. 61.002).

NOTE - The presiding judge of the central counting station must 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. (Sec. 127.131). **Preliminary Election Reconciliation - Unofficial Totals form (Election Day)**. Election Reconciliation Form – Official Results (Canvass Form).

NOTE - Receipt of Mail Ballots: All early voting ballots sent by mail from inside the United States that are received by 7:00 p.m. on election day, December 9, 2023, **must be counted on election night**. If the carrier envelope does not bear a cancellation mark or a receipt mark, the ballot must arrive before the time the polls are required to close **on election day**. (Sec. 86.007(a)(1)). 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. (Sec. 86.007(b)). The early voting clerk **must** check the mailbox for early voting mail ballots at least once after the time for regular mail delivery. (Sec. 86.007(b)).

NOTE - An early voting mail ballot that is not received by 7:00 p.m. on election day may not be counted unless the ballot may be counted late, which applies to ballots mailed from outside the United States (Sec. 86.007(d)), late domestic ballots (Sec. 86.007(a)(2)), and ballots from members of the armed forces and merchant marine of the United States, Texas National Guard or the National Guard of another state or members of the Reserves, as well as their spouses and dependents (Sec. 101.057). See entry for Monday, December 11, 2023 and entry for Thursday, December 14, 2023. See Tex. Sec’y of State Election Advisory No. 2018-02.

NOTE - This deadline does **not** apply to ballots mailed (domestically or from overseas) by certain members of the military who applied for a ballot using an FPCA, as well as members of the Texas National Guard or the National Guard of another state, or members of the Reserves, as well as their **spouses and dependents**; those voters have until the 6th day after election day (Friday, December 15, 2023) to return their ballots.

NOTE - Delivery of Early Voting by Personal Appearance and Mail Ballots: The early voting clerk delivers the voted ballots, the key to the double-locked ballot box, etc., to the early voting ballot board at the time or times specified by the presiding judge of the early voting ballot board, during the hours the polls are open or as soon after the polls close as practicable. (Secs. 87.021, 87.022). The custodian of the key to the second lock of the double-locked early voting ballot box delivers his or her key to the presiding judge of the early voting ballot board on request of the presiding judge. (Secs. 85.032(d), 87.025). The custodian is the sheriff for county elections; the chief of police or city marshal for city elections; and the constable of the justice precinct in which the political subdivision's main office is located (or the sheriff, if there is no constable), for other political subdivision elections. (Sec. 66.060). If ballots are to be delivered before election day, the early voting clerk must post Notice of Delivery of Ballots Voted by Mail at least 24 hours before each delivery at the main early voting polling place. Tex. Sec'y of State Election Advisory No. 2022-10.

Note on Delivery of Early Voting Ballots to Early Voting Ballot Board Before Election Day: Any jacket envelopes of early voting ballots voted by mail returned after delivery of the ballots to the early voting ballot board 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. Mail ballots may be qualified and processed (signatures verified, carrier envelopes opened, and the secrecy envelope containing the ballot placed in a secure location), but they may not be counted until election day. (Secs. 87.0221, 87.0222, 87.023, 87.024, 87.0241). If ballots are to be delivered before election day, the early voting clerk must post Notice of Delivery of Ballots Voted by Mail at least 24 hours before each delivery at the main early voting polling place.

Exception: Entities contracting or holding elections with counties that have a population of 100,000 or more may begin counting ballots no earlier than the end of the period for early voting by personal appearance; the results may not be released until the polls close on election day. (Secs. 87.0221, 87.0222, 87.023, 87.024, 87.0241(b), 87.042). If ballots are to be delivered before Election Day, the early voting clerk must post Notice of Delivery of Ballots Voted by Mail at least 24 hours before each delivery at the main early voting polling place. (Secs. 87.0221(b), 87.023(b), 87.024(b)).

NOTE - Section 127.1232 provides that for local political subdivisions that are contracting with counties that have a population of 100,000 or more and whose contract designates the county as the general custodian of election records, the general custodian of election records 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 the 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. Video from the surveillance system shall be made available to the public by live stream.

The recorded video is considered an election record and shall be retained by the general custodian 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. (Sec. 127.1232). See Tex. Sec'y of State Election Advisory No. 2022-10.

NOTE - Manual Examination of Ballots Before Processing on Automatic Counting Equipment: The central counting station manager shall direct the manual examination of all electronic voting system ballots to ascertain whether the ballots can be processed in the usual manner or if the ballots need to be duplicated to clearly reflect the voter's intent. (Sec. 127.125).

NOTE - Testing of Tabulating Equipment: The second test of automatic tabulating equipment used for counting ballots at a central counting station must be conducted immediately before the counting of ballots with equipment begins. The third test must be conducted immediately after the counting is completed. (Secs. 127.093, 127.097, 127.098).

Transfer of Provisional Ballots to Voter Registrar Election Night: The county voter registrar may take possession of the locked ballot box(es) or transfer case(s) containing the provisional ballots (or provisional ballot affidavits when DRE systems are used) on election night (instead of on the next business day) by informing the custodian of election records and posting a notice of such election night transfer no later than 24 hours before election day. Under this type of delivery, the voter registrar must go to the office of the custodian and pick up the ballot box(es) or transfer case(s) and associated forms. (Sec. 65.052; 1 T.A.C. §§ 81.172 – 81.174 & 81.176). See Verification of Provisional Ballots and Serial Numbers.

After the polling place is officially closed and the last person has voted, the presiding judge may from time to time make an unofficial announcement of the total number of votes counted for each candidate and/or for or against each proposition in the order that they appear on the ballot. (Sec. 65.015(a)). The announcement shall be made at the entrance to the polling place. (Sec. 65.015(c)).

NOTE - The authority conducting the election may require or prohibit such announcements. (Sec. 65.015(b)). Unofficial election results must be released by the central counting station as soon as they are available after the polls close, but the presiding judge of the central counting station, in cooperation with the county election officer, may choose to withhold the release of vote totals until the last voter has voted. (Sec. 127.1311).

NOTE - Precinct Election Returns: Precinct election returns are delivered to the appropriate authorities after completion. (Secs. 66.053(a), 127.065, 127.066, 127.067).

Last day to post notice of governing authority's meeting to canvass returns of election if canvass is to take place on Tuesday, December 12, 2023 (3rd day after election). (Sec. 67.003(b)). This

notice must be posted at least 72 hours before the scheduled time of the meeting. (Secs. 551.002, 551.041, 551.043, Texas Government Code).

NOTE - Section 67.003 provides that, except as provided by Section 67.003(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.

Counties, Cities, and School Districts: Section 65.016 of the Code provides for election results information which must be posted on county, city, and school district websites. A county that holds an election or provides election services for an election for a public entity must post certain information regarding election results on their website after the election. A city or independent school district that holds an election and maintains an Internet website must also post certain information on their website related to election results, even if the county is also posting. All entities must post the required information **as soon as practicable after the election**. The required information includes:

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. (Sec. 65.016).

We recommend that election results information remain posted on the entity's main page (or within two clicks of the main page) at least until the next election, and that the information continues to be available for the full 22-month retention period for election records. Entities may choose to make older election results information available on their website.

Entities contracting or holding elections with counties that have a population of 250,000 or more: Per Section 127.009 of the Election Code, entities that are contracting or holding elections with counties that have a population of 250,000 or more must forward a copy of the audit logs from the central counting station to the Secretary of State no later than the fifth day after voting

is completed. The information may be forwarded to the Secretary of State by email, use of a thumb drive, or by mail.

Monday, December 11, 2023 (1st business day after runoff election day)

5:00 p.m. - Deadline to receive “late domestic ballots” mailed **within** the United States from **non-military voters and from any military voters** who submitted an **Application for Ballot by Mail** (“ABBM”) (**not** a Federal Post Card Application – “FPCA”), if the carrier envelope was placed for delivery by mail or common or contract carrier **AND** bears a cancellation mark of a postal service or a receipt mark of a common or contract carrier or a courier indicating a time not later than **7:00 p.m.** at the location of the election on election day, December 9, 2023. (Secs. 86.007, 101.057, 101.001). A late domestic ballot **cannot be counted** if it does **not** bear a cancellation mark or a receipt mark.

NOTE - Because of the deadline to receive “late domestic ballots” it is imperative that you check your mail at 5:00 p.m.

NOTE - Section 86.007 provides that a marked ballot voted by mail that a voter received due to submitting an ABBM may arrive at the address on the carrier envelope not later than 5:00 p.m. on the day **after election day, if the carrier envelope was placed for delivery by mail or common or contract carrier from **within** the United States **and** bears a cancellation mark of a postal service or a receipt mark of a common or contract carrier or a courier from **not later than 7:00 p.m.** at the location of the election on election day.**

NOTE - This deadline does **not apply to ballots sent by non-military voters who are overseas but applied for a ballot using an ABBM; these voters have until the 5th day after election day to return their ballots (or the next business day if the 5th day falls on a weekend or legal state or federal holiday). This deadline also does **not** apply to ballots mailed (domestically or from overseas) by certain members of the military who applied for a ballot using an FPCA, as well as members of the Texas National Guard or the National Guard of another state, or members of the Reserves, as well as their **spouses and dependents**; those voters have until the 6th day after election day to return their ballots. See entry for Friday, December 15, 2023.**

Unless the county voter registrar has already taken possession of the provisional ballots prior to this date, the general custodian of election records must deliver the locked ballot box(es) or transfer case(s) containing the provisional ballots (or provisional ballot affidavits when DRE systems are used), along with the Summary of Provisional Ballots and the List of Provisional Voters for each precinct to the voter registrar by this day. The general custodian of election records makes this delivery to the voter registrar during the voter registrar office’s regular business hours. (Secs. 65.052, 65.053; 1 T.A.C. §§ 81.172 – 81.174 & 81.176).

NOTE for Political Subdivisions Located in More than One County: A political subdivision will have to make delivery of the provisional ballots and forms to the county voter registrar in **each** county in which the political subdivision is located. (1 T.A.C. §§ 81.172 – 81.174).

NOTE - If the county voter registrar wants to take possession of the provisional ballots and forms on election night (Saturday, December 9, 2023), the county voter registrar must inform the custodian of the election records and post a notice of the transfer no later than 24 hours before election day. However, under this type of delivery, the county voter registrar **must** go to the custodian of election records office and pick up the provisional ballots and forms. Also, note that the county voter registrar may take possession of provisional ballots prior to election night if ballots are kept separate and may be provided without unlawful entry into ballot box. (1 T.A.C. §§ 81.172 – 81.174).

Tuesday, December 12, 2023 (3rd day after runoff election day)

Last day to begin the **partial manual count** for districts using electronic voting systems. This is the last day to **begin** manual recount of ballots in three precincts or one percent of precincts, whichever is greater (Sec. 127.201(a), (g)). The count must be completed not later than the 21st day after election day. Results of the manual count must be delivered to the Secretary of State not later than the 3rd day after the manual count is completed. (Sec. 127.201(e)). No partial manual count needs to be done of ballots cast on DRE voting machines. (Sec. 127.201(g)). For additional information on the partial manual count, please see Tex. Sec'y of State Election Advisory No. 2018-30.

The first possible day to conduct the official local canvass of returns by the governing authority of the political subdivision. However, the canvass may not be conducted until the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election, **AND** counted all timely received mailed domestic ballots cast from addresses within the United States, and all timely received mailed ballots cast from addresses outside the United States. (Secs. 67.003, 86.007). Notice of canvass must be posted at least 72 hours continuously before the canvass is conducted.

NOTE - NEW LAW: HB 5180 (2023, R.S.) amended Section 1.012 of the Code, effective September 1, 2023, to provide that on the first day after the final canvass of an election is completed, the general custodian of election records shall make images of voted ballots and cast vote records available for public inspection.

NOTE - If a recount petition has been filed and a winning candidate's race is involved in the recount, the certificate of election cannot be issued for that race until the recount has been completed. (Secs. 67.016, 212.0331).

Cities, Schools, and Other Political Subdivisions: First day that newly-elected local officers may qualify and assume the duties of their offices. Please note that the canvass must have been completed before an officer can assume office. (Sec. 67.016). If a political subdivision was able to **cancel** its election, this is the first day its elected officials can take the oath of office and be issued a certificate of election. (Secs. 2.053(e), 67.003, 67.016). For information on who can administer an oath, please see Chapter 602 of the Government Code.

NOTE - This does not apply to officers of a Type A general law city. See entry at Friday, December 15, 2023.

Thursday, December 14, 2023 (5th day after runoff election day)

NOTE - If a recount petition has been filed and a winning candidate's race is involved in the recount, the certificate of election cannot be issued for that race until the recount has been completed. (Secs. 67.016, 212.0331).

Last day to receive ballots from **non-military and any military voters** casting ballots from outside of the United States, who submitted an **ABBM** (not an FPCA) **AND** who placed their ballots in delivery by 7:00 p.m. on election day, Saturday, December 9, 2023, as evidenced by a postal service cancellation mark or a receipt mark of a common or contract carrier or a courier (Secs. 86.007, 101.057, 101.001). A late overseas ballot sent by a voter who applied for a ballot using an ABBM (not an FPCA) **cannot be counted** if it does **not** bear a cancellation mark or a receipt mark.

NOTE - Section 86.007 provides that a marked ballot voted by mail from **outside** of the United States by a voter who received the ballot due to submitting an ABBM is considered timely if it is received at the address on the carrier envelope not later than **the fifth day** after the date of the election. Further, the delivery is considered timely if the carrier envelope or, if applicable, the envelope containing the carrier envelope is properly addressed with postage or handling charges prepaid **and** 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 **by 7:00 p.m.** on election day.

Last day to receive ballots from **non-military voters** casting ballots from **overseas**, who submitted a **FPCA**, **AND** who placed their ballots in delivery by 7:00 p.m. on election day, Saturday, December 9, 2023. (Sec. 86.007(d), (e)).

Friday, December 15, 2023 (6th day after runoff election day)

NOTE - Last day a voter may come to the early voting clerk's office in person to correct certain defects on their carrier envelope. (Secs. 87.0271, 87.0411).

First day that newly-elected officers of Type A general law city may qualify and assume duties of office. (Sec. 22.006, Local Government Code). But see **NOTE**, below.

NOTE - Council members may take office anytime following the canvass. Section 22.006 of the Texas Local Government Code states that a newly-elected municipal officer of a Type A city may exercise the duties of office beginning the fifth day after the date of the election, excluding Sundays. However, **no newly elected official may qualify for office before the official canvass of the election has been conducted** (or would have been conducted, in the event of a cancelled election). Section 22.036 of the Texas Local Government Code further requires that the newly-elected governing body of the municipality “meet at the usual meeting place and shall be installed.”

NOTE - If a Type A municipal officer-elect fails to qualify for office within 30 days after the date of the officer’s election, the office is considered vacant. (Sec. 22.007, Local Government Code). See entry for Monday, January 8, 2024.

Last day to receive carrier envelopes mailed domestically (within the United States) OR overseas from voters who submitted a **FPCA AND** who are **members of the armed forces of the United States, or the spouse or a dependent of a member of the armed forces, members of the merchant marines of the United States, or the spouse or a dependent of a member of the merchant marine**, members of the Texas National Guard, or the spouse or a dependent of a member of the Texas National Guard, a member of the National Guard of another state, or the spouse or a dependent of a member of the National Guard of another state, or members of the Reserves, or the spouse or a dependent of a member of the Reserves. (Secs. 101.057, 101.001).

NOTE - Section 101.057 provides that carrier envelopes mailed domestically or overseas from certain **military voters** (members of the armed forces of the United States, or the spouse or a dependent of a member of the armed forces, members of the merchant marines of the United States, or the spouse or a dependent of a member of the merchant marine, members of the Texas National Guard, or the spouse or a dependent of a member of the Texas National Guard, a member of the National Guard of another state, or the spouse or a dependent of a member of the National Guard of another state, or members of the Reserves, or the spouse or a dependent of a member of the Reserves) who submitted a **Federal Post Card Application (FPCA)** may arrive on or before the 6th day after election day. (Secs. 86.007, 101.057, 101.001).

NOTE - The carrier envelope or, if applicable, the envelope containing the carrier envelope sent by the members listed above who applied to vote by mail using the FPCA does NOT need to bear a cancellation or receipt mark in order to be counted.

Deadline for ID related provisional voter to (1) present acceptable photo identification to county voter registrar; or (2) if the voter does not possess and cannot reasonably obtain acceptable photo identification, follow the Reasonable Impediment Declaration procedure at the county voter registrar; or (3) execute an affidavit relative to “natural disaster” or “religious objection” in

presence of county voter registrar, if applicable; or (4) qualify for the disability exemption, if applicable, with the county voter registrar. (Secs. 65.054, 65.0541).

Deadline for voter registrar to complete the review of provisional ballots. (1 T.A.C. § 81.175(a)(1)).

Monday, December 18, 2023 (9th day after runoff election day)

Deadline for custodian of election records or presiding judge of the early voting ballot board to retrieve provisional ballots from county voter registrar. (Sec. 65.051(a)).

Last day for **early voting ballot board** to convene to qualify and count the following ballots addressed below.

1. any late **domestic** ballots (from non-military and from any military voters who submitted an ABBM) that bear a cancellation mark or receipt mark indicating they were placed for delivery by mail or common or contract carrier not later than 7:00 p.m. on election day, December 9, 2023, and were received not later than 5:00 p.m. on the first business day after election day, on Monday, December 11, 2023. (Secs. 86.007(a), 87.125(a)).
2. any late ballots that were submitted from outside the United States by voters who applied for the ballot using an ABBM or by non-military voters who applied for the ballot using an FPCA, and which were received by the 5th day after election day, Thursday, December 14, 2023. (Secs. 86.007(d), 87.125(a)).
3. any ballots received by the 6th day after election day, Friday, December 15, 2023, from voters who are members of the armed forces of the United States, or the spouse or a dependent of a member of the armed forces, members of the merchant marines of the United States, or the spouse or a dependent of a member of the merchant marine, members of the Texas National Guard, or the spouse or a dependent of a member of the Texas National Guard, a member of the National Guard of another state, or the spouse or a dependent of a member of the National Guard of another state, or members of the Reserves, or the spouse or a dependent of a member of the Reserves, and who applied for a ballot using an FPCA. (Secs. 101.057, 87.125(a)).
4. any provisional ballots that have been reviewed by the voter registrar. (Sec. 65.051(a)).
5. ballots contained in defective carrier envelopes corrected by voters. (Sec. 86.011(d)).

NOTE - Ballots that do not qualify under 1-3 above should be treated as ballots not timely returned and should not be delivered to the ballot board.

NOTE - If the early voting ballot board needs to meet after this date, it will require a court order to do so.

The time the board reconvenes is set by the presiding judge of the early voting ballot board. (Secs. 86.007(d), 87.125).

NOTE - Section 65.0581 provides that provisional voting records do not become public information until after the provisional ballots and other voting records have been delivered back to the custodian of election records. (Sec. 65.0581).

NOTE - The presiding judge of the central counting station to 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. (Sec. 127.131).

Tuesday, December 19, 2023 (10th day after runoff election day)

Last day for the presiding judge of the early voting ballot board to mail Notice of Rejected Ballot to voters whose mail ballots were rejected. (Sec. 87.0431).

Wednesday, December 20, 2023 (11th day after runoff election day)

Last day for official canvass of returns by governing authority of political subdivision. (Sec. 67.003).

NOTE - NEW LAW: HB 5180 (2023, R.S.) amended Section 1.012 of the Code, effective September 1, 2023, to provide that on the first day after the final canvass of an election is completed, the general custodian of election records shall make images of voted ballots and cast vote records available for public inspection.

NOTE - If a recount petition has been filed and a winning candidate's race is involved in the recount, the certificate of election cannot be issued for that race until the recount has been completed. (Secs. 67.016, 212.0331).

Last day for the presiding judge of the early voting ballot board to mail Notice of Outcome to Provisional Voter to provisional voters if the local canvass was held Tuesday, December 12, 2023, the first day of the canvass period. Such notices must be delivered to provisional voters by the presiding judge no later than the 10th day after the local canvass (Sec. 65.059; 1 T.A.C. § 81.176(e)).

Thursday, December 21, 2023 (12th day after runoff election day)

NOTE - NEW LAW: HB 5180 (2023, R.S.) amended Section 1.012 of the Code, effective September 1, 2023, to provide that on the first day after the final canvass of an election is completed, the general custodian of election records shall make images of voted ballots and cast vote records available for public inspection.

January

Monday, January 1, 2024 (1st day after the end of the calendar year in which the runoff election was held)

First day that surveillance video of areas containing voted ballots from the December 9, 2023 election may be destroyed IF there is no unresolved election contest.

NOTE - Section 127.1232 provides that for local political subdivisions that are contracting with counties that have a population of 100,000 or more and whose contract designates the county as the general custodian of election records, the general custodian of election records 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 the 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. Video from the surveillance system shall be made available to the public by live stream. The recorded video is considered an election record and shall be retained by the general custodian 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. (Sec. 127.1232). Tex. Sec'y of State Election Advisory No. 2022-10.

Tuesday, January 2, 2024 (24th day after runoff election day)

Last day to complete the partial manual count. **This deadline is extended to the next regular business day, which is Tuesday, January 2, 2024, due to the 21st day falling on a Saturday, and Monday, January 1, 2024 is a holiday.** (Secs. 1.006, 127.201(a)).

Last day for the presiding judge of the early voting ballot board to mail Notice of Outcome to Provisional Voter to provisional voters if the local canvass was held on Wednesday, December 20, 2023, the last day of the canvass period. (Sec. 65.059; 1 T.A.C. § 81.176(e)). Such notices must be delivered to provisional voters by the presiding judge no later than the 10th day after the local canvass.

Monday, January 8, 2024 (30th day after runoff election day)

If a Type A municipal officer-elect fails to qualify for office within 30 days after the date of the officer's election, the office is considered vacant. (Sec. 22.007, Local Government Code).

Last day to file **electronic** precinct-by-precinct returns with the Secretary of State. (Sec. 67.017).

NOTE - Local political subdivisions no longer have to submit this information to the Secretary of State.

Last day for the general custodian of election records to electronically submit to the Secretary of State the record of each voter participating in the election. (Sec. 18.069).

February

Thursday, February 8, 2024 (61st day after election day)

NOTE - NEW LAW: HB 5180 (2023, R.S.) amended Section 1.012 of the Code, effective September 1, 2023, to provide that on the 61st day after election day, the general custodian of election records shall make the original voted ballots available for public inspection. First day that ballot box(es) may be unlocked and its voted ballots may be transferred to another secure container for the remainder of the preservation period. (Sec. 66.058(b)).

NOTE - Our office recommends that the county elections office work closely with its county attorney and its public information division in ensuring that records have been properly redacted before being made publicly available. Please direct any questions about the procedures for responding to a public information request, including the timeframes for such responses, to the Office of the Attorney General via its Open Government Hotline, (877) OPEN TEX (673-6839).

NOTE - For guidance on retention of electronic voting system media, please see Tex. Sec'y of State Election Advisory No. 2019-23.

2025

Friday, October 10, 2025 (day after 22 months after December 9, 2023 election day)

Contents of ballot box(es) may be destroyed **IF** no contest or criminal investigation has arisen (Secs. 1.013, 66.058), and **IF** no open records request has been filed (Tex. Att'y Gen. ORD-505 (1988)).

ALL election records must be preserved for 22 months from election day, even when there is no federal office on the ballot. (Sec. 66.058).

Notable Exceptions:

Permanent Records: Election results must be **permanently** maintained in the election register. (Sec. 67.006).

Electronic Voting Systems: See advisories on our website for preservation procedures for electronic voting systems. See Tex. Sec'y of State Election Advisory No. 2019-23.

Wednesday, December 10, 2025 (day after two years after December 9, 2023 election day)

NOTE - Retention of Voter Registration List: County voter registrar must maintain **copy** of each voter list prepared for each countywide election for 2 years (24 months) after election day. (Sec. 18.011).

NOTE - Retention of Candidate Applications: Candidate applications must be retained by the governing body for **two** years after date of election. (Sec. 141.036).