Subject: RE: Public Information Request (TX-SOS-24-0322) - SOS PIR 24-0351
Date: Thursday, June 27, 2024 at 2:50:14 PM Eastern Daylight Time
From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
To: AO Records <records@americanoversight.org>
CC: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Attachments: How to appeal the withholding of information under 552.136.pdf, How to appeal the withholding of information under 552.024.pdf

EXTERNAL SENDER

Good afternoon,
As a follow up to our June 20 email, please follow this link to access additional documents ("6.27.24 Documents") in response to your request for information under Chapter 552 of the Texas Government Code. Our Office has set up a file hosting service called "box" to enable us to send large file sizes more efficiently. Please let me know if you are unable to access the files and we can discuss an alternate method of delivery.
The responsive documents contain email addresses of the general public. An email address of a member of the public is confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold an email address of a member of the public without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.
The information you requested contains the home address, home telephone number, emergency contact information, social security number, and/or family member information of a public employee or official. As allowed by section 552.024 of the Texas Government Code, this public employee or official has chosen to make this personal information confidential. Section 552.024 allows us to withhold this specific information without requesting a ruling from the attorney general. You have the right to appeal our decision to withhold this information from you. Instructions for appeal are also attached. If you do not want to appeal, you do not need to do anything else.
The information you requested contains access device numbers that are collected, assembled, or maintained by or for a governmental body. This information is confidential under section 552.136 of the Texas Government Code. Section 552.136 allows us to withhold this specific information without requesting a ruling from the attorney general. You have the right to appeal our decision to withhold this information from you. Instructions for appeal are attached. If you do not want to appeal, you do not need to do anything else.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on July 19, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

To: 'AO Records' <records@americanoversight.org>
Subject: RE: Public Information Request (TX-SOS-24-0322)

Good morning,

Thank you for contacting the Office of the Texas Secretary of State ("Office"). This email acknowledges receipt of your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office via email on March 27, 2024 (the "Request").

We will process your Request in accordance with the PIA and will let you know if we have any questions or need clarification. Our Office will be closed on Friday, March 29th in observance of Good Friday. You will receive a response from our Office on or before the 10th business day, April 11, 2024.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: AO Records <records@americanoversight.org>
Sent: Wednesday, March 27, 2024 8:47 AM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Public Information Request (TX-SOS-24-0322)

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Dear Public Information Officer:

Please find attached a request for records under the Texas Public Information Act.

Sincerely,

Marwah Adhoob | She/Her
Paralegal | American Oversight
records@americanoversight.org
www.americanoversight.org | @weareoversight

PIR: TX-SOS-24-0322

From:	Christina Adkins
To:	"Bastrop - Kristin Miles (kristin.miles@co.bastrop.tx.us)"; "Cameron - Remi Garza (remi.garza@co.cameron.tx.us)"; "Bexar - Jacque Callanen (jcallanen@bexar.org)"; "Brazos - Trudy Hancock (thancock@brazoscountytx.gov)"; "Brazoria - Joyce Hudman (joyceh@brazoria-county.com)"; "Brazoria - Lisa Mujica (Lisam@brazoria-county.com)"; "Collin - Bruce Sherbet (bsherbet@co.collin.tx.us)"; "Denton - Frank Phillips (Frank.Phillips@dentoncounty.gov)"; "Hays - Jennifer Anderson (elections@co.hays.tx.us)"; "Houston - Cynthia Lum (clum@co.houston.tx.us)"; "Lubbock - Roxzine Stinson (rstinson@lubbockcounty.gov)"; "Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov)"; "Midland - Carolyn Graves (cgraves@mcounty.com)"; "Chambers - Heather Hawthorne (hhawthorne@chamberstx.gov)"; "Harris - Neeharika Tumati (neeharika.tumati@cao.hctx.net)"; "Dallas - Michael J. Scarpello (michael.scarpello@dallascounty.org)"; "Guadalupe - Lisa Hayes (lisa.hayes@co.guadalupe.tx.us)"; "Sherman - Laura Rogers (laurarogers@co.sherman.tx.us)"; "Fannin - Tammy Biggar (tbiggar@fanninco.net)"; "Obakozuwa, Rachelle (Elections)"; "Tarrant - Troy Havard (tchavard@tarrantcountytx.gov)"; "Midland - Rosa Olgin (rolgin@mcounty.com)"; "Hudspeth, Teneshia (CCO)"; "Winn, Michael (CCO)"
Cc:	Kristi Hart; "Nanette Forbes"; "Cary Roberts"
Subject:	CEO Advisory Group -- Hand Count Memo
Date:	Friday, October 6, 2023 10:13:25 AM

Hey everyone,

Attached is the memo our office has prepared on procedures related to hand counting. Please note that this is NOT an advisory and will not be posted on our website (at least for the time being). If you have any questions, comments, concerns, or suggestions on items we need to address, please email me directly with the suggestions.

If we think of additional items to include in the memo, we will update and re-release.

I've also included a copy of my presentation from last Friday's County Chair seminar.

Please feel free to provide this memo to anyone that asks about it.

Thanks,

Christina

AMERICAN OVERSIGHT

From: Christina Adkins
To: Dave Nelson; Adam Bitter; Kristi Hart
Subject: Fwd: hand count run-off
Date: Monday, March 11, 2024 3:56:01 PM

FYI -

From: [redacted]
Sent: Monday, March 11, 2024 3:47:45 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: 'Chairman McManus' [redacted]>; 'Jennifer Hall' [redacted]; Jeff Clay [redacted]>
Subject: hand count run-off

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Christina:

Bexar is heading towards a run-off for CD 23; highly contested (Tony Gonzales and Brandon Herrera). We're researching the possibility of hand counting the ballots, which would be for Bexar only. The Party is on board.

We've been training teams on the Chapter 65 hand count and we've also altered the process making it as close to error proof as possible, which we'd like to share with you.

At your earliest convenience, can you please schedule a zoom with us to discuss some details so we know our options going forward.

Thank you in advance for meeting with us.
Melinda Roberts
210-685-5465

AMERICAN OVERSIGHT

From: Christina Adkins
Sent: Sunday, December 10, 2023 9:07 AM
To: Alicia Pierce; Adam Bitter
Subject: Fwd: Proposed Primary Contract
Attachments: 2024 proposed primary election services contract.pdf

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Matt Mackowiak [redacted]
Sent: Thursday, December 7, 2023 6:44 PM
To: Dyana Limon-Mercado <Dyana.Limon-mercado@traviscountytx.gov>; Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Cc: joseph.tcrp [redacted]>; Charlie Johnson <Charlton.Johnson@traviscountytx.gov>; Adana Hess <Adana.Hess@traviscountytx.gov>; Donna Garcia Davidson [redacted]>; Christina Adkins <CAdkins@sos.texas.gov>; Chuck Pinney <CPinney@sos.texas.gov>
Subject: Proposed Primary Contract

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Hello Bridgette / Diana & all –

Attached is a draft primary election service contract, drafted by our counsel **Donna Davidson**, which reflects the conversations and negotiations we've had with both Travis County Elections and SOS over the past few weeks.

I appreciate the work of everyone involved in this. I am confident that this will increase transparency in the upcoming Primary Election.

Thank you all,
Matt Mackowiak
Travis County GOP chair

AMERICAN OVERSIGHT

Matt Mackowiak
President
Potomac Strategy Group, LLC

AUSTIN: 807 Brazos St, Suite 701, Austin, TX, 78701 | office: (512) 469-9090 | fax: (512) 532-0999
WASHINGTON: 1238 Wisconsin Ave, Suite 401, Washington, DC 20007 | office: (202) 350-2647 | fax: (202) 318-8590

Twitter: @MattMackowiak
Podcast: "Mack on Politics"
(iTunes, Google Play, Stitcher, MackOnPolitics.com)
Texas tipsheet: MustReadTexas.com
Firm website: PotomacStrategyGroup.com

AMERICAN OVERSIGHT

2024 PRIMARY ELECTION SERVICES CONTRACT
WITH THE COUNTY ELECTIONS OFFICE
STATE OF TEXAS, COUNTY OF TRAVIS

THIS CONTRACT is made and entered into this _____ day of December, 2023, by and between the Travis County Republican Party, acting by and through the Chair of its County Executive Committee, Matt Mackowiak, hereinafter referred to as "Party," and Dyana Limon-Mercado, County Clerk of Travis County, Texas, hereinafter referred to as the "Contracting Officer," under the authority of Section 31.093(c), Texas Election Code and relating to the conduct and supervision of the Travis County Republican Party's Primary Election on March 5, 2024 (election), and the Travis County Republican Party's Runoff Primary Election, if necessary, on _____ (runoff election). All statutory citations are to the Texas Election Code unless noted otherwise.

THIS CONTRACT is entered into for and in consideration of the mutual covenants and promises hereinafter set out, and for the purpose of ensuring that the Contracting Officer and the Party understand the tasks each is to perform in connection with the election and the runoff election:

1. Duties and Services of the Contracting Officer. The Contracting Officer shall be responsible for performing the following duties and furnishing the following services and equipment in connection with the election and the runoff election:

1.1 Supply election data by vote center, establish infrastructure to allow the Party to conduct hand counting of early voting and ballots by mail, act as a liaison with the Voter Registrar to provide a list of ballot styles by registered voter at the close of the registration period and again at end of election day, and facilitate the check-in process with additional paper voting roster.

1.2 In conjunction with the Party and Primary Administrative Team, conduct one or more training schools for Early Voting Clerks, Early Voting Ballot Board, the Signature Verification Committee as per § 87.0272, and Election Day Judges and Clerks. In addition to the established poll worker training, Early Voting poll workers will need to be trained to ensure they assist voters as to where to deposit their ballot - in the tabulator for Democrats and into the Republican ballot box for Republicans. Early voting and election day poll workers will be trained to use the paper voting roster in addition to the epollbook check-in process.

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1.3 Program, or arrange to have programmed, the ballot using the largest possible font size.

1.4 Arrange to have published the legal notice of the first test of the electronic tabulating equipment as provided in § 127.096, and/or the legal notice of the logic and accuracy test as provided in §129.023(b), as applicable, and conduct all required tests of the electronic tabulating equipment under §§ 127.096-127.098.

1.5 Procure and distribute all necessary early vote, EVBB, SVC, election day, and runoff supplies, including without limitation, ballots, election kits, office supplies such as paper clips, pens, etc., election day ballot boxes, and voting booths.

1.6 Procure all necessary voting machines and equipment, prepare them for use at the early voting locations and at the election day polling places, and transport them, or arrange to have them transported, to and from the early voting locations and at the election day polling places.

Early Vote: This does not include the separate Republican ballot boxes referenced in section 2 that follows. In accordance with § 87.021, the Contracting Officer shall deliver the ballot to the early voting ballot board at the end of the early voting period. As this is a statutory obligation, the Contracting Officer will arrange for and cover the costs of the delivery to the Republican EVBB. As done previously, a Party Primary Administrative Team member will follow the ballots in person to ensure the proper chain of custody. Contracting Officer will arrange for secure storage upon the receipt of delivery from the presiding judge after tabulation of the results. Party and Contracting Officer will mutually agree upon chain of custody documents and procedures.

1.7 On Election Day, arrange for the use of a shared central counting/central accumulation station and for the central counting station manager and tabulating personnel and equipment needed at the counting/accumulation station and assist in the preparation of programs and the test materials for the tabulation of ballots to be used with electronic voting equipment.

The Party is contemplating that Republican voters will be offered separate precinct-by-precinct voting on Election Day. However, no impact is anticipated affecting the shared use referenced in the paragraph above.

1.8 Arrange for access to signature verification documents pursuant to § 87.027 and 87.028.

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1.9 Provide voter registration lists from the voter registrar to be used during early voting and on election day in an agreed format.

1.10 Assist in the general overall supervision of the election and the runoff election and provide advisory services in connection with the decisions to be made and the actions to be taken by the officers and Primary Administrative Team of the Party who are responsible for holding the election and the runoff election.

1.11 Prepare the unofficial tabulation of precinct results on election night in accordance with § 172.113.

1.12 Submit Election Night Returns ("ENR") electronically to the Texas Secretary of State (SOS) in the form requested by the SOS in accordance with Chapter 68.

1.13 Prepare and submit to the SOS an electronic report of the number of votes, including early voting votes, received in each county election precinct by each candidate for a statewide office or the offices of President and Vice-President of the United States, U.S. Representative, state senator, or state representative, in accordance with §§ 67.017 and 172.124.

1.14 For election day, arrange and secure precinct-level shared equipment and polling locations, including consolidated precincts, that are ADA compliant for both parties.

1.15 The Contracting Officer will provide a paper set of 50 one-page sample ballots, for hand counting training purposes, printed in the anticipated font size, within one week of this contract's execution.

2. Duties and Services of the Party. The Party shall be responsible for performing the following duties in connection with the election and the runoff election:

2.1 As soon as possible, in accordance with §§ 42.002(a)(3), 42.009 and 43.003, the Party will determine whether there will be a consolidation of county voting precincts for the election and the runoff election and advise the Contracting Officer of any such consolidations.

2.2 Appoint a presiding and an alternate judge each election day polling place, a presiding and an alternate judge for the central counting station, a signature verification committee chair, and a presiding judge for the early voting ballot board and promptly

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provide the names and contact information to the Contracting Officer in addition to any other election workers required by law.

2.3 Notify the election judges of the election and the runoff election in accordance with § 4.007.

2.4 Appoint in accordance with §§ 127.002, 127.003, and 127.004, the counting station manager, tabulation supervisor, and assistants to the tabulation supervisor that usually perform these functions in the county.

2.5 As soon as possible after the final candidate filing deadline, or in the case of a runoff election, after the canvass of the election, to allow sufficient time to prepare the ballot and to conduct any necessary logic and accuracy testing so that ballots going overseas may be mailed no later than 45 days before the election dates for the election and the runoff election, certify in writing to the Contracting Officer (i) the candidates' names, as they are to appear on the ballot, and offices, and (ii) any referenda under § 172.087, in English, Spanish, and any other required languages that are to appear on the ballot.

2.6 Supervise the overall conduct of the election in the county, including the tabulation of results as set forth in §31.093(d).

2.7 The Party early voting presiding judge will be responsible for delivery of the early votes back to the Contracting Officer. The Party will cover the delivery costs.

3. Compensation, Billing, and Payment.

3.1 For the performance of duties and services and the providing of equipment and supplies under Paragraph 1 above, the Contracting Officer shall report to the SOS via the SOS prescribed primary finance system the actual expenses he/she incurs in accordance with § 31.100, and the leasing fees allowed under § 123.033(3) and (f), including without limitation, the costs and expenses of election supplies; newspaper publication of the testing notice only; use of voting machines and equipment; wages and salaries of central counting station personnel; ballot programming ; logic and accuracy testing and voting machines and equipment transportation. Nothing herein shall be construed as permitting the Contracting Officer to be paid for costs or expenses for which reimbursement is not allowed under § 31.100 or other sections of the Texas Election Code or under the SOS's administrative rules or advisories relating to primary funds.

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3.2 For the performance of duties and services and for providing equipment and supplies under Paragraph 3.1 above, the SOS shall pay the Contracting Officer a fee of 10% of the total amount of the Contract, but not less than $75, in accordance with § 31.100(d).

3.3 Notwithstanding anything to the contrary in this Contract, the Contracting Officer may require that money be paid in advance to conduct the election and the runoff election from the SOS, which must be paid into a separate county fund in accordance with §31.100(a), from which the Contracting Officer may make expenditures for the election and runoff election.

3.4 Notwithstanding anything to the contrary in this Contract, the Contracting Officer will receive direct payment of actual expenses incurred by the Contracting Officer in connection with the election or runoff election, and in accordance with this Contract, directly from the SOS in accordance with rules and procedures established by the SOS and § 173.0832.

3.5 Notwithstanding anything to the contrary in this Contract, the Contracting Officer may request the Party to pay directly to the precinct election and alternate judges and election clerks, members of the early voting ballot board, members of the signature verification committee, and the presiding and alternate judges and clerks of the central counting station the wages and salaries earned by them in connection with the election and runoff election. In this instance, the costs will not be considered election services contracted with the Contracting Authority for purposes of calculating the 10% fee described in Paragraph 3.2 above.

3.6 A cost estimate for the services, equipment, and supplies provided by the Contracting Officer for the election and the runoff election is attached to and made a part of this Contract as Exhibit A. The cost estimate should express costs in the categories set forth in the Party's Primary Cost Estimate and the Party's Primary Runoff Cost Estimate and shall be reported to the SOS via the SOS-prescribed primary finance system. The Party and the Contracting Officer acknowledge that the cost of the election and the runoff election is paid for from state-appropriated primary funds, including candidate filing fees, with the county paying for the cost of early voting in accordance with § 173.003,. The Contracting Officer and the Party also acknowledge their responsibility to comply with the administrative rules issued by the SOS relative to primary financing, 1 T.A.C. § § 81.101-81.157.

3.7 As soon as reasonably possible after the election or the runoff election, the Contracting Officer will submit an itemized invoice to the Party (i) for the actual expenses

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he/she incurred as described in Paragraph 3.1 above, and (ii) for the Contracting Officer's fee as described in Paragraph 3.2 above, and shall be reported to the SOS via the SOS-prescribed primary finance system. The invoice shall reflect any advance monies paid under Paragraphs 3.3 and 3.4.

4. Early Voting. In accordance with § 83.002(2), the Contracting Officer is the early voting clerk for the election and the runoff election, both with respect to early voting in person and voting by mail. The county shall not be entitled to reimbursement from the Party for the cost of early voting, except for the cost of the ballots and ballot programming for use of the voting system, as set forth in the administrative rules promulgated by the SOS.

As indicated by the SOS, a bifurcated system for the EVBB may be provided for by contract. Therefore, the Party intends to have the Party's EVBB hand count mail in ballots and the Early Voting ballots. The Party is working in conjunction with the SOS to ensure that the form used for tabulation via hand count is legally sufficient.

In the event that there are insufficient numbers of Party EVBB members recruited for said task, the Party requests that the Contracting Officer be prepared to perform its normal duties in regard to processing mail in and Early Voting ballots.

5. Voting System. The voting system to be used on the election day and runoff election is ES&S EVS 6.3.0.0, ExpressVote BMDs, DS850/DS450 central scanners & DS200 precinct scanner.

6. Acknowledgement of Shared Polling Places. The Party acknowledges that the Contracting Officer, in accordance with § 31.093(e), must offer to contract on the same terms a Primary Election Services Contract with any other political party in the same county that nominates its candidates for office by primary election. In such event, the Party agrees to share common polling places with the other political party. The Party acknowledges that if there is not enough county-owned equipment to satisfy the requests of both political parties, the commissioners court shall allocate the equipment among the political parties requesting it, in accordance with § 51.035.

If there is not enough equipment to allocate equitably to ensure voters are processed efficiently, the Party is amenable to sharing equipment at polling places.

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7. General Provisions.

7.1 Nothing contained in this Contract shall authorize or permit a change in the officer with whom or the place at which any document or record relating to the election or the runoff election is to be filed, the place at which any function is to be carried out, the officers who conduct the official canvass of the election returns, the officer to serve as custodian of the voted ballots or other election records, or any other nontransferable function specified by § 31.096.

7.2 The Contracting Officer is the agent of the Party for purposes of contracting with third parties with respect to the election expenses within the scope of the Contracting Officer's duties, and the Contracting Officer is not liable for the Party's failure to pay a claim.

7.3 The Contracting Officer shall file copies of this Contract with the County Treasurer and the County Auditor of Travis County, Texas.

7.4 Only the actual expenses directly attributable to the Contract may be reported to the SOS via the SOS-prescribed primary finance system by the Contracting Officer, including administrative fees pursuant to § 31.100.

7.5 Both parties acknowledge that the Party should not request the Contracting Officer to incur expenses in connection with the election and runoff election that are not reimbursable with primary funds under the SOS administrative rules or Texas law and that the Contracting Officer should not incur expenses in connection with the election and runoff election that are not reimbursable with primary funds under the SOS's administrative rules or Texas law.

7.6 The Contracting Officer shall conduct criminal background checks on relevant employees upon hiring as required by § 129.051(g).

7.7 If the need should arise for any reason, the Party agrees to notify the Contracting Officer at the Party's earliest opportunity of a request to revert to previous processes and procedures used in the Party's primary, not later than February 12, 2024.

The only exception to those previous processes and procedures relates to the handling of thumb drives. As per ES&S, and agreed with by the SOS, thumb drive reports should be processed the same way for early voting and election day. In other words, ES&S recommends that the thumb drives be used to generate a precinct report or polling place

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report prior to submitting it into the Central Count computers. We want best practices for Travis County.

7.8 For purposes of implementing this Contract, the Contracting Officer and the Party designate the following individuals, and whenever the Contract requires submission of information or notice to the Contract Officer or the Party, submission or notice shall be made to these individuals:

For the Contracting Officer:
Dyana Limon-Mercado

_____

Travis County Clerk
P.O. Box 149325
Austin, TX 78714
Phone (512) 854-9188
countyclerk@traviscountytx.gov

For the Party:
Matt Mackowiak

_____

Travis County Republican Party Chairman
Travis County Republican Party Headquarters
807 Brazos St. (The Vaughn Building)
Ste. 720
Austin, Texas 78701
Phone (512) 302-1776
chair@travisgop.com

AMERICAN OVERSIGHT

From: Christina Adkins
To: Elections-Attorneys
Subject: FW: Roster Submission Clarification
Date: Tuesday, January 16, 2024 12:27:09 PM

FYI ---

From: Jeannette Hormuth [redacted]>
Sent: Tuesday, January 16, 2024 12:34 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Jett Burns [redacted]; Wesley Hesker [redacted]
Subject: Fw: Roster Submission Clarification

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Dear Christina,

I am touching base on our inquiry regarding an acceptable means to submit the Voter rosters to SOS without the use of electronic poll pads.

In addition to my question (attached below on Jan 7), whether we could provide our EA with all of the necessary voter roster information by means of a CSV file (I had referred to a flat file) that the county could simply upload into their computer and therefore submit to the SOS, I now have an even more efficient option for your consideration:

We will have paper roster books for the election day (and no electronic poll books). We need to get a list of those who voted to the county as quickly as possible. We would collect the voter IDs from the combination sheets as voters check-in. A technology professional, Jett Burns, has suggested we also use smartphones or laptops which are not connected to the internet at each polling place to enter the voter IDs in excel. By entering the info throughout the day, we won't have to enter it all at once later. After the polls close, the excel sheets of the voter IDs would be given to Jett and he would use a program that is able to match those excel voter IDs to the county's official voter list. The program will output a CSV file with the voter IDs as well as the required voter info needed by the SOS. The program is fast and can run 200 matches in 4 seconds. We will give the county that CSV file which the county could use to send the complete required roster info to the SOS through the state system. Would this an acceptable solution?

AMERICAN OVERSIGHT

Thank you again for your guidance. We wish for a viable solution which allows us to provide the voted roster information without the use of the electronic poll pads.

Sincerely,

Jeannette Hormuth
Gillespie County

From: Jeannette Hormuth [redacted]
Sent: Sunday, January 7, 2024 7:59 PM
To: Christina Adkins <cadkins@sos.texas.gov>
Cc: Wesley Hesker [redacted]>
Subject: Roster Submission Clarification

Dear Christina,

Thank you for your response and the clarifications you offered regarding the rosters.

I understand that only the county staff can make the submission directly to the SOS. Because we are running our hand count election without electronic poll pads, and our EA has informed us that they do not have the staff to input the roster information manually from the combination sheets, we are looking for an acceptable solution that would accomplish getting the required info to the SOS.

Question: Could the voter roster info be inputted at the precincts on election day from the combination forms by election clerks into a flat file that would then be given to the county to upload into their computer? They (the county) could then upload this info into the format needed for the State System submission to the SOS.

Thank you, again, for your assistance in this matter.

AMERICAN OVERSIGHT

Sincerely,

Jeannette Hormuth
830-998-1879

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Friday, January 5, 2024 9:12 AM
To: [redacted]
Subject: FW: Roster Submission Clarification

Jeannette,

Thank you for the questions. It is the responsibility of the early voting clerk to submit the roster information to the Secretary of State's office. This requirement is spelled out in Section 87.121(k) of the Texas Election Code. Additionally, there is a practical component as to why only the early voting clerk or their staff can make the submission. The rosters are required to be submitted through our state election management system. Under state law, only county election office are authorized to have log-in credentials for the state system.

When you deliver your precinct returns to the General Custodian of Election records as required under Section 66.053 of the Texas Election Code, those precinct returns contain your election day poll lists. This is the information they will use to submit the election day roster information as required under Section 87.121 into the state system. If you think the delivery of precinct election records will be delayed, you need to notify the general custodian of election records of the delay. This is all spelled out in Section 66.053 which I've provided below.

Sec. 66.053. TIME FOR DELIVERING ELECTION RECORDS. (a) The

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precinct election records shall be delivered to the appropriate authorities immediately after the precinct returns are completed.

(b) If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2 a.m. of the day after election day, the presiding judge, between midnight of election day and 1 a.m. of the following day, shall notify the general custodian of election records by telephone of:

(1) the total number of voters who voted at the polling place as indicated by the poll list;

(2) the vote totals tallied for each candidate and for and against each measure at the time of notification; and

(3) the expected time of finishing the count.

(c) The precinct election records shall be delivered not later than 24 hours after the polls close in each election.

Let me know if you have any other questions.

Thanks,

Christina

From: Jeannette Hormuth [redacted]
Sent: Thursday, December 28, 2023 12:06 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Roster Submission Clarification

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Dear Christina,

I wish some guidance and answers in regard to the submission requirements of the election day voter roster to the SOS by 11 a.m. following an election. (87.121)

For our upcoming Primary election, we (Republican Party) have voted to use paper ballots, hand counted at the precinct and paper poll books in place of electronic poll pads.

As we will not be using electronic poll pads (in order to prevent such issues of breaching as have occurred in Dallas), the voter roster data will need to be inputted manually.

Here's my questions:

1. **Would it be acceptable for the information (voter roster info) to be inputted at the precincts throughout election day from the combination forms into a flat file that the county can then upload into the Team System for submission to the SOS?**

2. **Alternatively, could temporary county employees be contracted to key in the information directly unto the state secure server. If so, is it possible to have multiple log ins from each precinct by which the information can be keyed in?**

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We also welcome any other viable solutions that would acceptable to accomplished our goals and meet State requirements that you may be able to offer.

Thank you for your kind attention and consideration.

I look forward to your assistance,

Sincerely,

Jeannette Hormuth

830-998-1879

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted]
Cc: erin pardeiro
Subject: FW: For Review: Proposed Aternative Tally Sheet
Date: Friday, December 15, 2023 10:58:31 AM
Attachments: Proposed tally sheet format 11-17-23.xlsx
Proposed Tally Sheet Hand Count Method - How to Count Draft 11-17.docx
Instructions for Proposed Tally Sheet.docx

Elizabeth,

Generally, we are fine with the proposed modified tally sheet. We think the instructions need a little bit of work to clarify a few points. I've included the instruction sheet that contains some notes from my team. We can discuss if you would like. Once we work through some of the issues with the instructions, we can formally approve for you.

Let me know if you want to visit further.

Christina

From: [redacted]>
Sent: Thursday, November 16, 2023 9:29 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; erin pardeiro [redacted]
Subject: For Review: Proposed Aternative Tally Sheet

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Christina,
I've attached an alternative tally sheet format (AKA numbered boxes or bingo) we would like to propose and a write up of the counting process that would be used with this format. The write up is a draft as a few details have not been fully fleshed out just yet but it provides an explanation of how the calling and tallying would occur.

We have tested counting with this format and it takes 4-6 sec per race using 2 people (a Caller and a Counter). The Caller calls and marks on tally sheet. The Counter marks 2 tally sheets. The 2 main benefits of the format are

1. Mistakes are generally caught as the Counter is making their tally marks because they call back to the Caller the Candidate and the box number they are marking.
2. Counts are more accurate because there is no adding up of tally marks just looking at the last number marked for each candidate/under/over vote and all the votes marked for each raced are added up to make sure they equal the number in the batch.

The main difference between how Chap 65 has been interpreted and this format is that we count one race on all ballots in the batch and then got back to the first ballot in the batch to count the second race and so forth until all races in the batch are counted. I believe the counting one race at a time was the only thing in question about being able to use this

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format so would specifically like your opinion on whether counting one race across ballots is allowed. It eliminates the problems with flipping between multiple tally sheets then trying to find the correct line for the race/candidate and could be applied when using the current tally sheet format.

65.005 does not appear to preclude counting one race across all ballots in a batch and then counting the next race as it doesn't cover only looking at a ballot one time or the order in which things are counted.

Sec.65.005.TALLYING THE VOTES.
(a) One member of the counting team shall examine each ballot and clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The other members of the counting team shall record the votes on the tally lists as they are announced.

Please let me know what steps I need to take to get this approved. I'm happy to answer questions or come walk you/your team through the process. Gillespie has also tested and is interested in possibly using this format and/or the counting 1 race at a time method.

We are incredibly grateful for the time and effort you and your team have invested to meet with us and provide clarity on the hand count process.

Thank you,
Elizabeth

Sent with Proton Mail secure email.

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TALLY SHEET | Type of Election: | Date of Election: | Name of Presiding Judge: | Pct. No. | Batch: | Page _____ of _____

Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called ✓ If you make a mistake, circle the erroneous slash ✓ Slash in opposite direction to show later use ✓

RACE: United States Represenatative, District 9 — Candidate Total

			Candidate Total
JIMMY LEON 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	JIMMY LEON 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	JIMMY LEON 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	LEON
AL GREEN 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	AL GREEN 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	AL GREEN 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	GREEN
UNDER VOTE (no selection) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	UNDER VOTE (no selection) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	UNDER VOTE (no selection) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	UNDER
OVER VOTE (too many selections) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	OVER VOTE (too many selections) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	OVER VOTE (too many selections) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	OVER
		Total votes in this race →	

RACE: Governor — Candidate Total

			Candidate Total
GREG ABBOTT 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	GREG ABBOTT 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	GREG ABBOTT 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	ABBOTT
BETO O'ROURKE 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	BETO O'ROURKE 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	BETO O'ROURKE 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	O'ROURKE
MARK TIPPETTS 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MARK TIPPETTS 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	MARK TIPPETTS 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	TIPPETTS
DELLIAH BARRIOS 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	DELLIAH BARRIOS 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	DELLIAH BARRIOS 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	BARRIOS
WRITE IN: 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	WRITE IN: 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	WRITE IN: 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	WI:
UNDER VOTE (no selection) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	UNDER VOTE (no selection) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	UNDER VOTE (no selection) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	UNDER
OVER VOTE (too many selections) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	OVER VOTE (too many selections) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	OVER VOTE (too many selections) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	OVER
		Total votes in this race →	

TALLY SHEET | Type of Election: | Date of Election: | Name of Presiding Judge: | Pct. No. | Batch: | Page _____ of _____

Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called ✓ If you make a mistake, circle the erroneous slash ✓ Slash in opposite direction to show later use ✓

RACE: Lieutenant Governor — Candidate Total

			Candidate Total
DAN PATRICK 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	DAN PATRICK 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	DAN PATRICK 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	PATRICK
MIKE COLLIER 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MIKE COLLIER 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	MIKE COLLIER 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	COLLIER
SHANNA STEELE 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	SHANNA STEELE 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	SHANNA STEELE 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	STEELE
UNDER VOTE (no selection) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	UNDER VOTE (no selection) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	UNDER VOTE (no selection) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	UNDER
OVER VOTE (too many selections) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	OVER VOTE (too many selections) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	OVER VOTE (too many selections) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	OVER
		Total votes in this race →	

RACE: Attorney General — Candidate Total

			Candidate Total
KEN PAXTON 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	KEN PAXTON 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	KEN PAXTON 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	PAXTON
ROCHELLE MERCEDES GARZA 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	ROCHELLE MERCEDES GARZA 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	ROCHELLE MERCEDES GARZA 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	GARZA
MARK ASH 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MARK ASH 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	MARK ASH 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	ASH
UNDER VOTE (no selection) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	UNDER VOTE (no selection) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	UNDER VOTE (no selection) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	UNDER
OVER VOTE (too many selections) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	OVER VOTE (too many selections) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	OVER VOTE (too many selections) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	OVER
		Total votes in this race →	

TALLY SHEET | Type of Election: | Date of Election: | Name of Presiding Judge: | Pct. No. | Batch: | Page _____ of _____

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RACE: COMPTROLLER OF PUBLIC ACCOUNTS — Candidate Total

			Candidate Total
GLENN HEGAR 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	GLENN HEGAR 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	GLENN HEGAR 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	HEGAR
JANET T DUDDING 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	JANET T DUDDING 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	JANET T DUDDING 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	DUDDING
V ALONZO ESCHEVARIA-GARZA 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	V ALONZO ESCHEVARIA-GARZA 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	V ALONZO ESCHEVARIA-GARZA 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	GARZA
UNDER VOTE (no selection) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	UNDER VOTE (no selection) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	UNDER VOTE (no selection) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	UNDER
OVER VOTE (too many selections) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	OVER VOTE (too many selections) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	OVER VOTE (too many selections) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	OVER
		Total votes in this race →	

RACE: COMMISSIONER OF THE GENERAL LAND OFFICE — Candidate Total

			Candidate Total
DAWN BUCKINGHAM 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	DAWN BUCKINGHAM 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	DAWN BUCKINGHAM 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	BUCKINGHAM
JAY KLEBERG 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	JAY KLEBERG 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	JAY KLEBERG 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	KLEBURG
ALFRED MOLISON, JR 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	ALFRED MOLISON, JR 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	ALFRED MOLISON, JR 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	MOLISON
WRITE IN: 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	WRITE IN: 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	WRITE IN: 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	WI:
UNDER VOTE (no selection) 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	UNDER VOTE (no selection) 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	UNDER VOTE (no selection) 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	UNDER

DRAFT
TX-ROS-24-0322-C-000022

OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

TALLY SHEET | Type of Election: | Date of Election: | Name of Presiding Judge: | Pct. No. | Batch: | Page _____ _____

Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called | If you make a mistake, circle the erroneous slash | Slash in opposite direction to show later use

RACE: COMMISSIONER OF AGRICULTURE

Candidate Total

SID MILLER | SID MILLER | SID MILLER | MILLER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

SUSAN HAYS | SUSAN HAYS | SUSAN HAYS | HAYS

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

RACE: RAILROAD COMMISSIONER

Candidate Total

WAYNE CHRISTIAN | WAYNE CHRISTIAN | WAYNE CHRISTIAN | CHRISTIAN

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

LUKE WARFORD | LUKE WARFORD | LUKE WARFORD | WARFORD

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

JAMIE ANDRES DIEZ | JAMIE ANDRES DIEZ | JAMIE ANDRES DIEZ | DIEZ

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

HUNTER WAYNE CROW | HUNTER WAYNE CROW | HUNTER WAYNE CROW | CROW

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

TALLY SHEET | Type of Election: | Date of Election: | Name of Presiding Judge: | Pct. No. | Batch: | Page _____ _____

Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called | If you make a mistake, circle the erroneous slash | Slash in opposite direction to show later use

RACE: JUSTICE, SUPREME COURT, PLACE 3

Candidate Total

DEBRA LEHRMANN | DEBRA LEHRMANN | DEBRA LEHRMANN | LEHRMANN

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

ERIN A NOWELL | ERIN A NOWELL | ERIN A NOWELL | HAYS

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

THOMAS EDWARD OXFORD | THOMAS EDWARD OXFORD | THOMAS EDWARD OXFORD | OXFORD

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

RACE: JUSTICE, SUPREME COURT, PLACE 5

Candidate Total

REBECA HUDDLE | REBECA HUDDLE | REBECA HUDDLE | HUDDLE

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

AMANDA REICHEK | AMANDA REICHEK | AMANDA REICHEK | REICHEK

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

TALLY SHEET | Type of Election: | Date of Election: | Name of Presiding Judge: | Pct. No. | Batch: | Page _____ _____

Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called | If you make a mistake, circle the erroneous slash | Slash in opposite direction to show later use

RACE: JUSTICE, SUPREME COURT, PLACE 9

Candidate Total

EVAN YOUNG | EVAN YOUNG | EVAN YOUNG | E YOUNG

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

JULIA MALDONADO | JULIA MALDONADO | JULIA MALDONADO | MALDONADO

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

RACE: JUDGE, COURT OF CRIMINAL APPEALS, PLACE 5

Candidate Total

SCOTT WALKER | SCOTT WALKER | SCOTT WALKER | WALKER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

DANA HUFFMAN | DANA HUFFMAN | DANA HUFFMAN | HUFFMAN

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER VOTE (no selection) | UNDER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER VOTE (too many selections) | OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

OVERSIGHT

TALLY SHEET | Type of Election: | Date of Election: | Name of Presiding Judge: | Pct. No. | Batch: | Page

Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called | If you make a mistake, circle the erroneous slash | Slash in opposite direction to show later use

RACE: JUSTICE, SUPREME COURT, PLACE 6 — Candidate Total

JESSE F MCCLURE	JESSE F MCCLURE	JESSE F MCCLURE	MCCLURE
ROBERT JOHNSON	ROBERT JOHNSON	ROBERT JOHNSON	JOHNSON
UNDER VOTE (no selection)	UNDER VOTE (no selection)	UNDER VOTE (no selection)	UNDER
OVER VOTE (too many selections)	OVER VOTE (too many selections)	OVER VOTE (too many selections)	OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

RACE: MEMBER, STATE BOARD OF EDUCATION, DISTRICT 8 — Candidate Total

AUDREY YOUNG	AUDREY YOUNG	AUDREY YOUNG	A YOUNG
RHETT ROSENQUEST SMITH	RHETT ROSENQUEST SMITH	RHETT ROSENQUEST SMITH	SMITH
UNDER VOTE (no selection)	UNDER VOTE (no selection)	UNDER VOTE (no selection)	UNDER
OVER VOTE (too many selections)	OVER VOTE (too many selections)	OVER VOTE (too many selections)	OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

TALLY SHEET | Type of Election: | Date of Election: | Name of Presiding Judge: | Pct. No. | Batch: | Page

Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called | If you make a mistake, circle the erroneous slash | Slash in opposite direction to show later use

RACE: STATE REPRESENTATIVE, DISTRICT 137 — Candidate Total

GENE WU	GENE WU	GENE WU	WU
LEE SHARPE	LEE SHARPE	LEE SHARPE	SHARPE
UNDER VOTE (no selection)	UNDER VOTE (no selection)	UNDER VOTE (no selection)	UNDER
OVER VOTE (too many selections)	OVER VOTE (too many selections)	OVER VOTE (too many selections)	OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

RACE: CHIEF JUSTICE, 1ST COURT OF APPEALS — Candidate Total

TERRY ADAMS	TERRY ADAMS	TERRY ADAMS	ADMAS
JULIE COUNTISS	JULIE COUNTISS	JULIE COUNTISS	COUNTISS
TED WOOD	TED WOOD	TED WOOD	WOOD
UNDER VOTE (no selection)	UNDER VOTE (no selection)	UNDER VOTE (no selection)	UNDER
OVER VOTE (too many selections)	OVER VOTE (too many selections)	OVER VOTE (too many selections)	OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

TALLY SHEET | Type of Election: | Date of Election: | Name of Presiding Judge: | Pct. No. | Batch: | Page

Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called | If you make a mistake, circle the erroneous slash | Slash in opposite direction to show later use

RACE: JUSTICE, 1ST COURT OF APPEALS, PLACE 4 — Candidate Total

APRIL FARRIS	APRIL FARRIS	APRIL FARRIS	FARRIS
MIKE ENGELHART	MIKE ENGELHART	MIKE ENGELHART	ENGELHART
UNDER VOTE (no selection)	UNDER VOTE (no selection)	UNDER VOTE (no selection)	UNDER
OVER VOTE (too many selections)	OVER VOTE (too many selections)	OVER VOTE (too many selections)	OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

Total votes in this race

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TALLY SHEET	Type of Election: General	Date of Election: Nov 5, 2022	Name of Presiding Judge: Juan Carlos	Pct. No. 123	Batch: 12	Page 1 of 7

Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called | 1 | If you make a mistake, circle the erroneous slash 1 | Slash in opposite direction to show later use

RACE: United States Represenatative, District 9 — Candidate Total

JIMMY LEON																		JIMMY LEON																		JIMMY LEON																		LEON
A	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	

AL GREEN																		AL GREEN																		AL GREEN																		GREEN
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	

UNDER VOTE (no selection)																		**UNDER VOTE** (no selection)																		**UNDER VOTE** (no selection)																		UNDER
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	

OVER VOTE (too many selections)																		**OVER VOTE** (too many selections)																		**OVER VOTE** (too many selections)																		OVER
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	

Total votes in this race →

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Numbered Box/Bingo Tally Sheet Hand Counting Method

Before Beginning the Hand Count:
Based on the number of ballots and number of races on the ballot IN THE PRECINCT, determine in advance how many counting teams will be needed to complete the precinct hand count within a 4 hour time period or whatever timeframe is desired. The longer the time period is for the hand count, the less the public will trust the election and the more potential for errors. Previous testing has determined a counting time of ~6 seconds per race with a team of two consisting of a Caller and a Counter. The Caller will call and complete one Tally Sheet. The Counter will complete two Tally Sheets.

How to calculate timing:

1) (Number of Races on Ballot X 6 seconds = Average Seconds to Count 1 Ballot.

2) Average Seconds to Count 1 Ballot / 60 = Average Minutes to Count 1 Ballot.

3) Average Minutes to Count 1 Ballot x Number of Expected Ballots = Total Estimated Minutes to Count All Expected Ballots.

4) Total Estimated Minutes to Count All Expected Ballots / 60 = Total Estimated Hours to Count All Expected Ballots

5) Total Estimated Hours to Count All Estimated Ballots / Number of Hours in which you want to complete the counting = Number of Teams Needed.

Components of Counting Station:
One station consists of:

- 2 counting people (**Caller** and **Counter**)
- 2 paper trays (“Counted Ballots” and “Issues”)
- Pack of Sticky Notes (to note issues on ballots)
- “Recounting” Card
- *“Check # Ballots in Batch”* card

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- Sharpies for completing Tally Sheet and Batch Summary Sheet
- Chairs and Tables
- 2 cameras - one over the ballots and one over the entire station
- Tripod to hold the cameras

Set up the station for counting:

1. Place the *Start Over* and the *Check # Ballots in Batch* cards face down beside the **Counter's** station.
2. Place the Sharpies/pens & Sticky Notes where convenient.
3. Place the Counted Ballots Tray in center of table.
4. Place Issues Tray beside the **Caller**
5. If filming - Set up the tripod and cameras so the ballots and the counting station can be clearly seen on the video recording
6. Connect the cameras to a laptop for recording public viewing if desired

Preparing to Count:

The Judge will give each station a labeled Batch Bag

- The Batch Bag label - which is affixed to the outside of the Bag includes:
    - election name and date
    - precinct number
    - batch number
    - number of ballots
    - signature lines for Judge, Alternate Judge and Poll Watcher

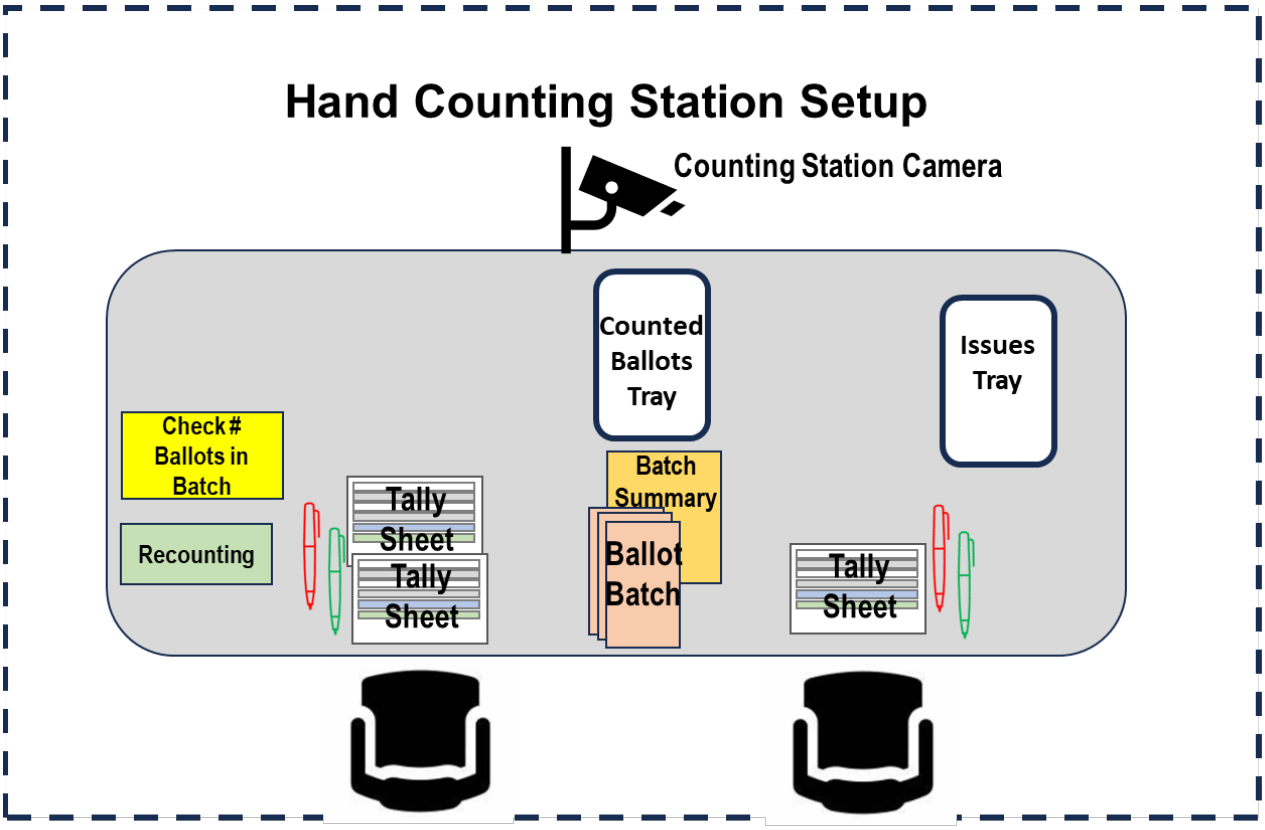
A Batch Bag contains…

1. Tally Sheets (3)
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3. Batch of Ballots (50 ballots)

Once a Batch Bag is delivered to the counting station…

7. Take everything out of the Batch Bag.
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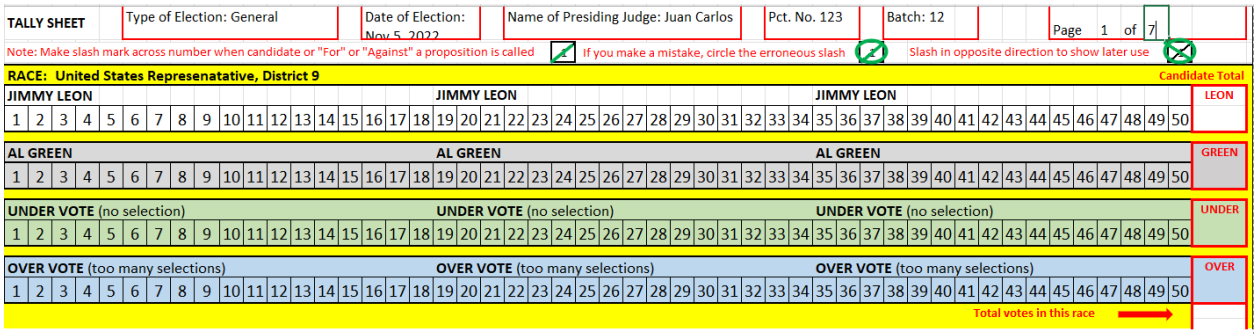
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Note: *Recounting* and *Check # Ballots in Batch* cards are face down until needed

The Tally Sheet:

The Tally Sheet has separate rows for each candidate/under vote/over vote/for or against (for propositions). To help counting teams differentiate the Candidate/For/Against rows alternate between white or gray and the **Under Vote row** is always **Green** and **Over Vote row** is always **Blue.**

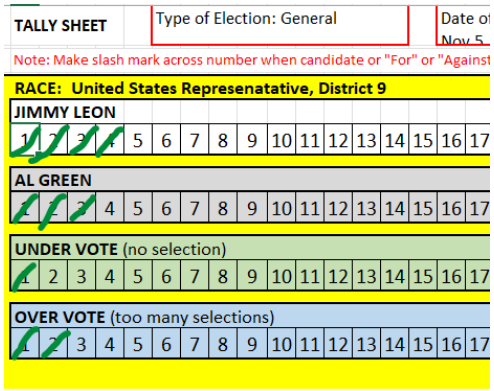


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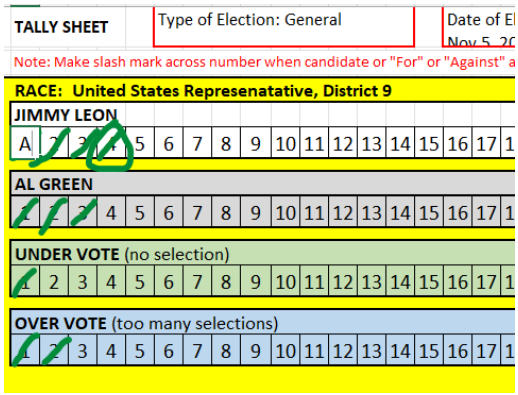
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The counting team will mark according to which vote selection is called out using a colored Sharpie (this makes the markings more visible to observers and the camera).

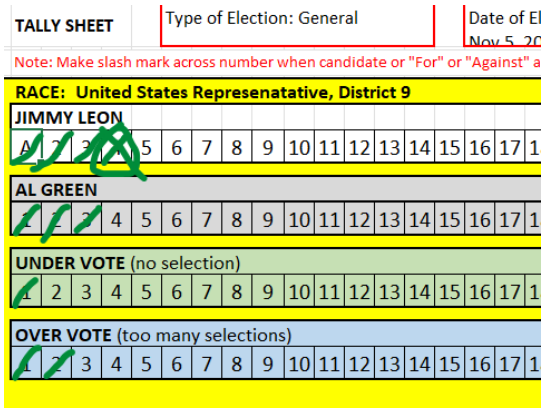
Counters will make a slash across the next open numbered square next to called candidate or under or over vote.



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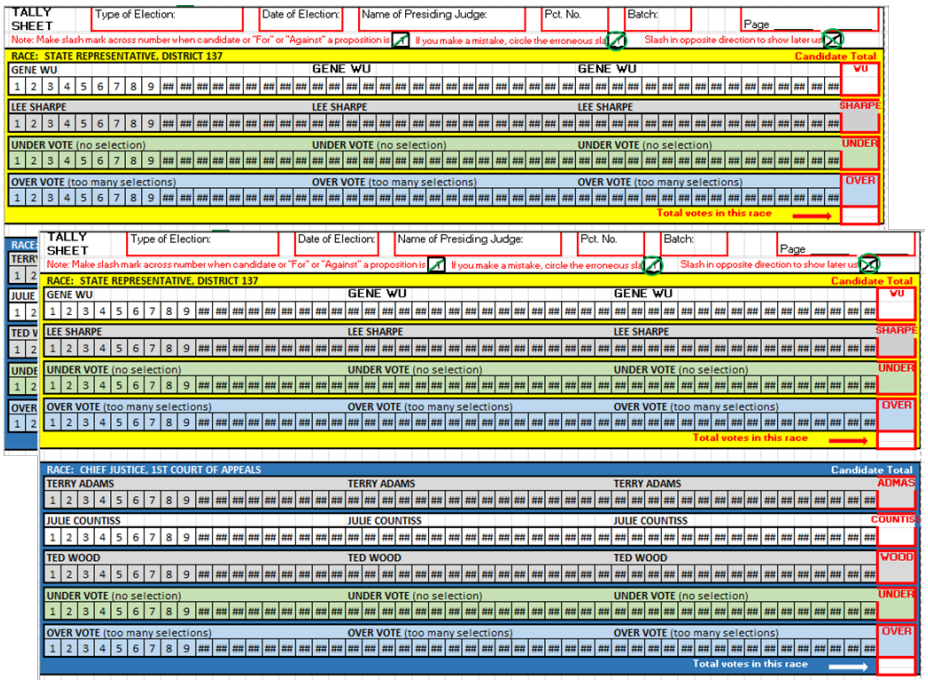
When the next vote is called for this *candidate or Under or Over vote* make a slash in green in the opposite direction (creating an ”X”) to indicate this is now a counted vote.



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Calling the Count & Recording the Vote:
Votes are counted by race, meaning the **Counting Team** will count the first race on every ballot in the batch and then return to the front of the batch to begin counting the second race, and so forth until all races have been counted.

To begin, place the batch of ballots face down on top of the Batch Summary Sheet in between the members of the counting team. Place 1 set of Tally Sheets in front of the **Caller** and 2 sets of Tally Sheets in front of the **Counter**. The **Counter** may want to stack the 2 sets of Tally Sheets on top of each other such that section for the race being called covers any other races on the Tally Sheet.



With the ballots face down, the **Counting Team** will confirm that a ballot has a Judge signature. It there is no signature a sticky note stating “no signature” is placed on the ballot and the ballot is placed in the Issues Tray for the **Judge** to review. (TO BE INSERTED process for signaling that a judge review is needed.) If there is a signature, the **Caller** will flip the ballot to the front side. With the ballot flat on the table the **Caller** will place their finger next to the selection mark for the race being counted and call out the candidate selected. This helps the **Counter** to quickly locate and confirm that what was called is what was marked. The **Caller** then calls out the name of candidate for which the vote was marked on the ballot (or an

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under or over vote) and then marks their tally sheet in the first open numbered box next to the candidate's name. Note: The **Caller** must announce the vote selection loud enough for the camera to pick up what is being called while capturing the vote selection pointed at by the **Caller**.

The **Counter** will then mark the first open box next to the candidate on each of their two Tally Sheets while calling out the name of the candidate/under/over and the number of the box marked. This is important to ensure that the **Caller** and **Counter** have marked the same number with each vote called.

If there is a difference noted in number being marked, the **Caller** and **Counter** discuss to identify the discrepancy. If the discrepancy is clear (usually marked on wrong candidate's line), they correct their Tally Sheets immediately and continue counting the ballots for the race being counted. If the source of the discrepancy is not clear, the previously counted ballots in that batch will need to be recounted for that race (described below).

Once a vote selection has been called and recorded on the Tally Sheets the **Caller** will place the ballot face up in the Counted Ballots Tray so that the cameras can easily record the selection on the ballot. Then the **Counting Team** continues to the next ballot in the batch, until all ballots in the batch have been counted for the race that is being counted.
Note: Both the Caller and the Counter should be looking at the ballot to make sure the Caller calls the ballot correctly.

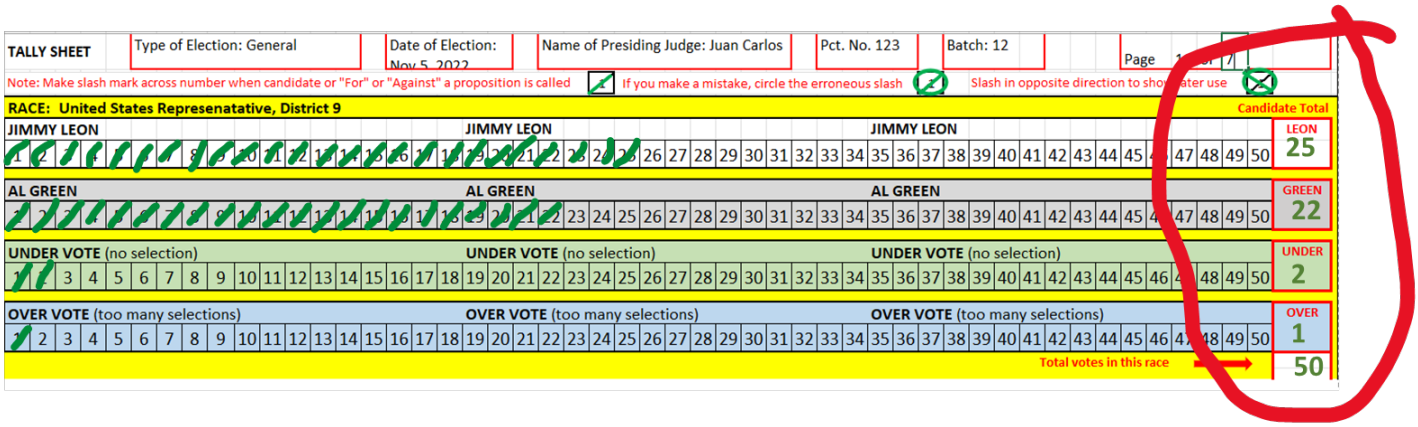
Recording Write-In Votes:
Counting Teams will be provided with a list of approved write-ins. candidates. When a write-in vote is encountered the **Counting Team** will check the Approved Write-In List to confirm that the vote is for an approved write-in. If the candidate written in on the ballot is on the Approved Write-In List the **Caller** and the **Counter** will write the name of the candidate in a blank Write-In row on the Tally Sheet and then make a slash in the first open box on the write-in row. If the name of the write-in is not on the Approved Write-In List the vote will be recorded as an "Under Vote" on the Tally Sheet.

Determining Voter Intent:

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The **Counting Team** may encounter ballots where the intent of the voter is not clear. In these cases, the Counting Team will follow the Guidelines for Determining Voter Intent. If the **Counting Team** still cannot agree upon the intent, the Judge will be needed to determine intent. A sticky note labeled "Intent" is placed on the ballot beside the race in question and the ballot is placed in the Issues Tray. (Note: This Process is TBD)

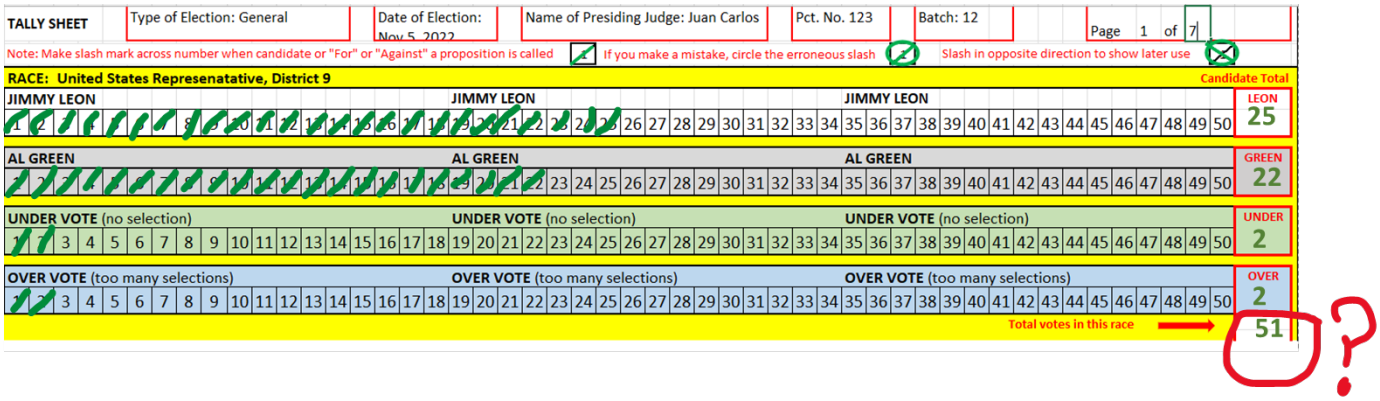
Completing a Race Count:
When all ballots in the batch have been called for the race being counted, The **Caller** and **Counter** will confirm the count of votes for each candidate and any under or over votes with each other and the enter the number of votes received in the Totals Column on the right of the Tally Sheet. Next, these candidate/under/over vote totals must be added together. The total of these tallies should equal the number of ballots in the batch (generally 50).



Note: This is a reconciliation step and will indicate if there was a) an error in marking the Tally Sheet or b) the original number of ballots in the Batch is incorrect.
If the totals for the candidate and under/over votes equal 50, then the totals are recorded on the Batch Summary Sheet.

If the sum of the candidate and under/over votes totals does not equal the number of ballots supposed to be in the batch, the totals are not recorded on the Batch Summary Sheet until the count can be confirmed.

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First count the number of ballots in the batch to confirm there are 50. Place the *Check # of Ballots in Batch* card under the camera to indicate you will be checking the number of ballots in the batch. Count the ballots in stacks of 10. If the check of the number of ballots shows there are not 50 ballots in the batch and the votes counted for the candidates and under/over votes from the Tally Sheet match to the number of ballots determined to be in the batch, the vote totals should be entered on the Batch Summary Sheet with a notation of the number of ballots in the batch, initialed by the **Counting Team**. (Note: format of Batch Summary Sheet TBD)

Batch of 51 EB & LT

Batch Summary

BATCH: 12	Date: 5-Nov-22	Precinct: 123	Name/Sigture:

US Rep Dist 9	
Jimmy I Leon	25
Al Green	22
Under vote	2
Over vote	2
Total	51

Attorney General	
Ken Paxton	
Rochelle M Garza	
Mark Ash	
Under vote	
Over vote	
Total	

Railroad Commisioner	
Wayne Christian	
Luke Warford	
Jaime Andres Diez	
Hunter Wayne Crow	
Under vote	
Over vote	
Total	

Judge, CoCA, Place 6	
Jesse F McClure III	
Robert Johnson	
Under vote	
Over vote	
Total	

Govenor	
Greg Abbott	
Beto O'Rourke	

Comptroller of Public Accounts

Justice, SC, Place 3

Member, SBOE, Dist 8	
Audry Young	
Rhett Rosenquest Smith	

If it is determined there are indeed 50 ballots in the batch and the vote totals do not equal 50, the batch must be recounted.

Recounting:

If the batch must be recounted, place the Recounting Card under the camera to indicate that the batch will be counted again. Then remove the Recounting Card and set it aside.

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If there are any uncounted ballots when the recounting is started, set the uncounted ballots to the side. Remove the counted ballots from the Counted Ballots Tray. Sort the counted ballots by candidate selected/under/over vote etc. Then count the number of ballots for each candidate/under/over vote. Correct the Tally Sheet/s adding slashes and/or circling erroneous marks. Once the corrections have been made, the counted ballots are placed back in the Counted Ballots Tray and counting of any uncounted ballots resumes. If no uncounted ballots are left for the race being counted, the batch of ballots will be placed back in the original position to get ready to count the next race.

Completing a Batch:
After a batch of ballots is fully counted, the **Counting Team** places the Counted Ballots and all completed Tally Sheets in the Batch Bag. The **Counting Team** creates a second Batch Summary Sheet, signs both Batch Summary Sheets and places one in the Batch Bag. The second Batch Summary Sheet is attached to the outside of the Batch Bag. The Batch Bag is then place in Ballot Box 3 or given to the **Judge** to place in Ballot Box 3.

Compiling Batch Results:
The **Judge** will compile the totals from all Batch Summary Sheets to complete the election results for the polling location.

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Numbered Box/Bingo Tally Sheet Hand Counting Method

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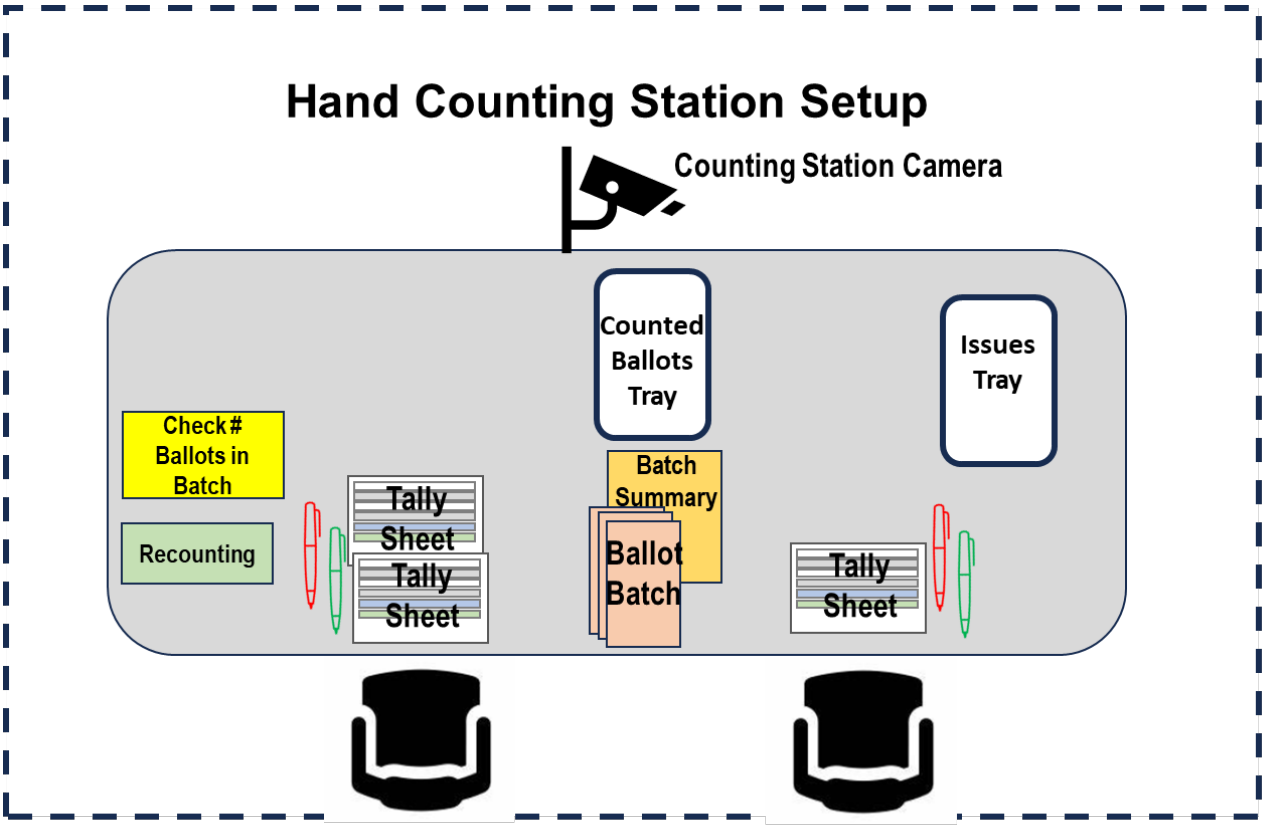
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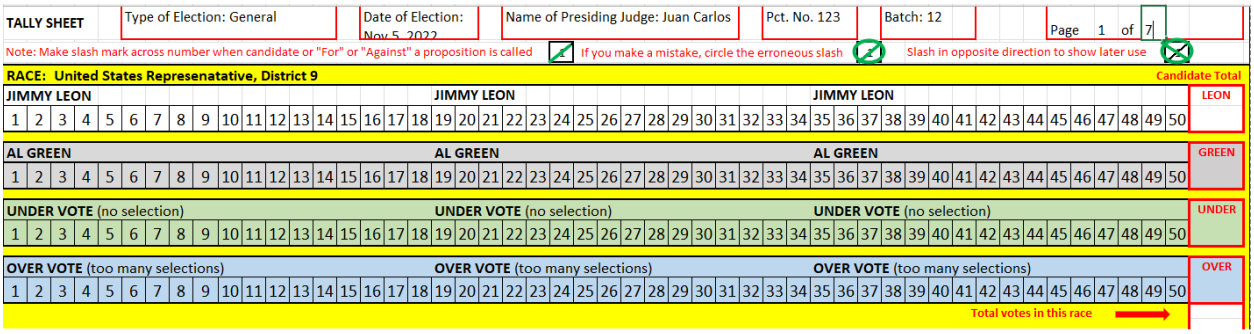
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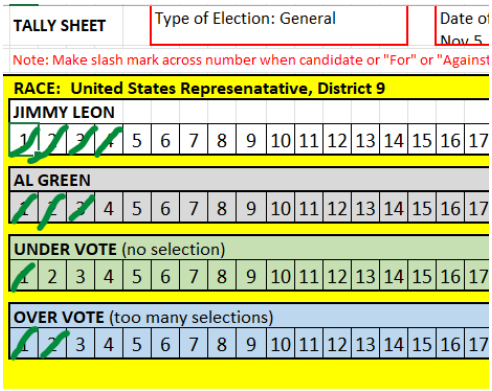


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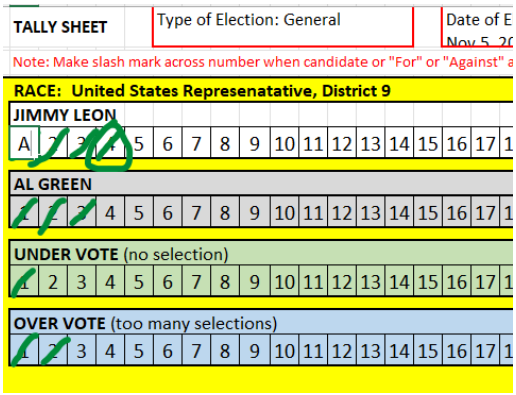
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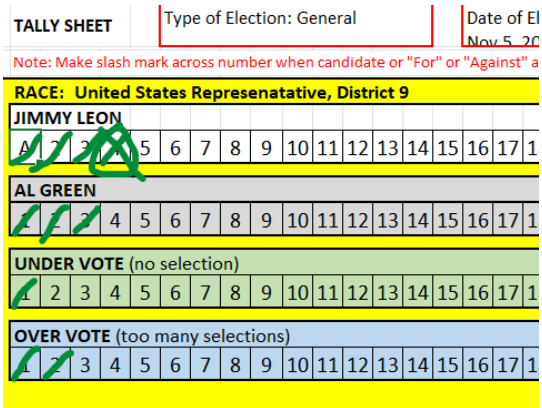
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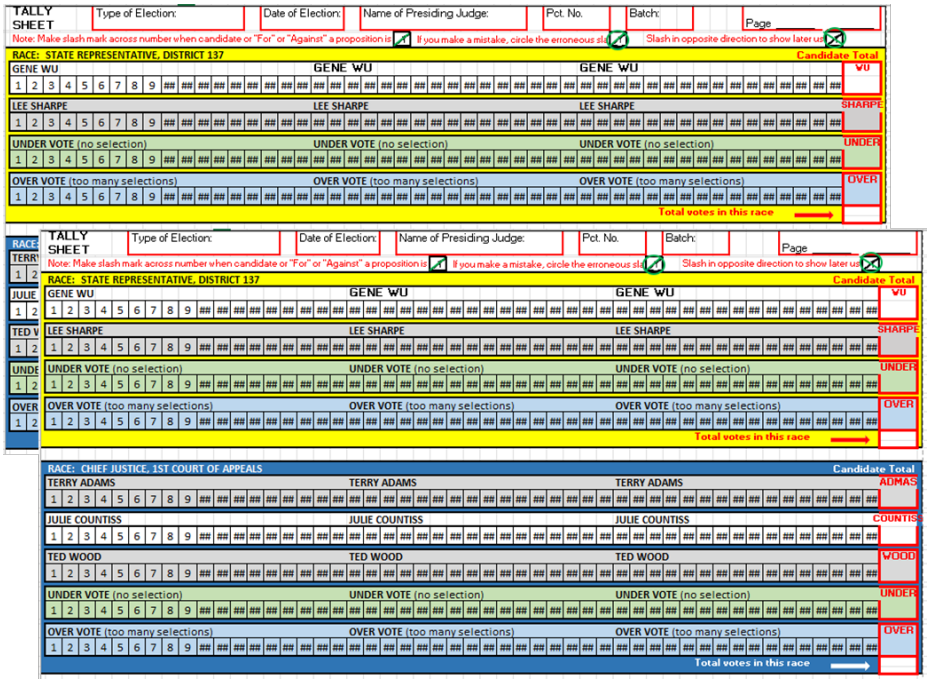
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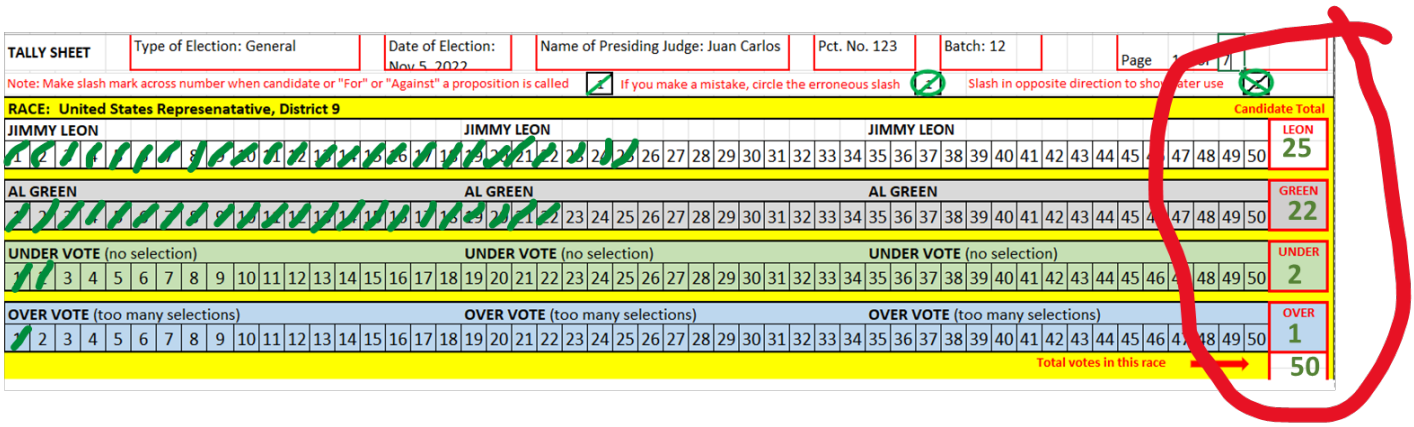
Recording Write-In Votes:
Counting Teams will be provided with a list of approved write-ins. candidates. When a write-in vote is encountered the **Counting Team** will check the Approved Write-In List to confirm that the vote is for an approved write-in. If the candidate written in on the ballot is on the Approved Write-In List the **Caller** and the **Counter** will write the name of the candidate in a blank Write-In row on the Tally Sheet and then make a slash in the first open box on the write-in row. If the name of the write-in is not on the Approved Write-In List the vote will be recorded as an "Under Vote" on the

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Tally Sheet. (You should make sure that the tally sheet includes a row for each write-in candidate who appears on the list of declared write-ins.)

Determining Voter Intent:
The **Counting Team** may encounter ballots where the intent of the voter is not clear. In these cases, the Counting Team will follow the Guidelines for Determining Voter Intent. If the **Counting Team** still cannot agree upon the intent, the Judge will be needed to determine intent. A sticky note labeled "Intent" is placed on the ballot beside the race in question and the ballot is placed in the Issues Tray. (Note: This Process is TBD) (What Guidelines for Determining Voter Intent are they referring to?) (What do they do with the ballot after the judge reviews it for intent? Presumably, the issue with the judge will be resolved before the counters move on to the next batch of 50 ballots.)

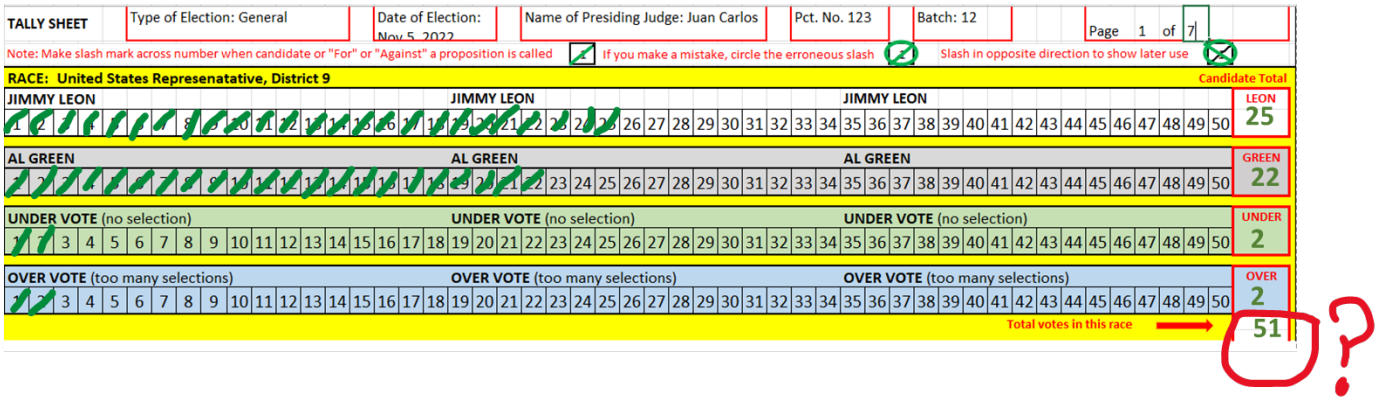
Completing a Race Count:
When all ballots in the batch have been called for the race being counted, The **Caller** and **Counter** will confirm the count of votes for each candidate and any under or over votes with each other and the enter the number of votes received in the Totals Column on the right of the Tally Sheet (each tally sheet should include this information). Next, these candidate/under/over vote totals must be added together. The total of these tallies should equal the number of ballots in the batch (generally 50).



Note: This is a reconciliation step and will indicate if there was a) an error in marking the Tally Sheet or b) the original number of ballots in the Batch is incorrect.
If the totals for the candidate and under/over votes equal 50, then the totals are recorded on the Batch Summary Sheet.

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If the sum of the candidate and under/over votes totals does not equal the number of ballots supposed to be in the batch, the totals are not recorded on the Batch Summary Sheet until the count can be confirmed.


TALLY SHEET | Type of Election: General | Date of Election: Nov 5, 2022 | Name of Presiding Judge: Juan Carlos | Pct. No. 123 | Batch: 12 | Page 1 of 7

Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called | If you make a mistake, circle the erroneous slash | Slash in opposite direction to show later use

RACE: United States Represenatative, District 9 — Candidate Total

JIMMY LEON — LEON 25

AL GREEN — GREEN 22

UNDER VOTE (no selection) — UNDER 2

OVER VOTE (too many selections) — OVER 2

Total votes in this race → 51 ?

First count the number of ballots in the batch to confirm there are 50. Place the *Check # of Ballots in Batch* card under the camera to indicate you will be checking the number of ballots in the batch. Count the ballots in stacks of 10. If the check of the number of ballots shows there are not 50 ballots in the batch and the votes counted for the candidates and under/over votes from the Tally Sheet match to the number of ballots determined to be in the batch, the vote totals should be entered on the Batch Summary Sheet with a notation of the number of ballots in the batch, initialed by the **Counting Team**. (Note: format of Batch Summary Sheet TBD)

Batch of 51 EB & LT

Batch Summary

BATCH: 12	Date: 5-Nov-22	Precinct: 123	Name/Sigture:

US Rep Dist 9	
Jimmy I Leon	25
Al Green	22
Under vote	2
Over vote	2
Total	51

Attorney General	
Ken Paxton	
Rochelle M Garza	
Mark Ash	
Under vote	
Over vote	
Total	

Railroad Commisioner	
Wayne Christian	
Luke Warford	
Jaime Andres Diez	
Hunter Wayne Crow	
Under vote	
Over vote	
Total	

Judge, CoCA, Place 6	
Jesse F McClure III	
Robert Johnson	
Under vote	
Over vote	
Total	

Govenor	
Greg Abbott	
Beto O'Rourke	

Comptroller of Public Accounts

Justice, SC, Place 3

Member, SBOE, Dist 8	
Audry Young	
Rhett Rosenquest Smith	

If it is determined there are indeed 50 ballots in the batch and the vote totals do not equal 50, the batch must be recounted.

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Recounting:
If the batch must be recounted, place the Recounting Card under the camera to indicate that the batch will be counted again. Then remove the Recounting Card and set it aside.
If there are any uncounted ballots when the recounting is started, set the uncounted ballots to the side. Remove the counted ballots from the Counted Ballots Tray. Sort the counted ballots by candidate selected/under/over vote etc. Then count the number of ballots for each candidate/under/over vote. Correct the Tally Sheet/s adding slashes and/or circling erroneous marks. Once the corrections have been made, the counted ballots are placed back in the Counted Ballots Tray and counting of any uncounted ballots resumes. If no uncounted ballots are left for the race being counted, the batch of ballots will be placed back in the original position to get ready to count the next race.

Completing a Batch:
After a batch of ballots is fully counted, the **Counting Team** places the Counted Ballots and all completed Tally Sheets in the Batch Bag. The **Counting Team** creates a second Batch Summary Sheet, signs both Batch Summary Sheets and places one in the Batch Bag. The second Batch Summary Sheet is attached to the outside of the Batch Bag. The Batch Bag is then place in Ballot Box 3 or given to the **Judge** to place in Ballot Box 3.

Compiling Batch Results:
The **Judge** will compile the totals from all Batch Summary Sheets to complete the election results for the polling location.

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TX-SOS-24-0322-C-000043

From: Christina Adkins
To: Erik Buntin; Dennis Tryon
Subject: FW: Highlighted Changes - Approval of Hand Count Process
Date: Tuesday, March 5, 2024 9:54:09 AM
Attachments: Highlighted changes Echo123 Hand Count Method 2-12-24.docx

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From: TCRP Elections <elections.tcrp@gmail.com>
Sent: Tuesday, February 13, 2024 3:36 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Chuck Pinney <CPinney@sos.texas.gov>
Subject: Highlighted Changes - Approval of Hand Count Process

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

I realized that in reformatting the Echo Method document it will make it hard for you to quickly confirm that I did indeed make the changes you requested.

This copy highlights in yellow any changes that were made after I spoke with you last week and I've left Comments to show where your requested changes were made. I hope this version makes it a faster review.

Regards,
Elizabeth

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ECHO 123 HAND COUNTING METHOD

SUMMARY

The Echo123 hand count method is so named because counters tally results by calling, echoing the vote called and making a slash across the first available number in a row of boxes numbered 1 to 50 for each candidate/proposition on the ballot and each under and over vote by race.

Ballots are counted by a **COUNTING TEAM** which consists of a **CALLER** and a **COUNTER**. Since Chapter 65 of the Texas Election Code for hand counting requires tallies to be recorded on 3 unique tally sheets, the **CALLER** will call out the vote and record the tally on 1 of the required tally sheets. The **COUNTER** will echo the vote the caller has called followed by the number of the box being marked while recording the tally on each of their 2 tally sheets. The **CALLER** will then echo the vote and the box being marked on the 1 tally sheet they are marking.

Example: If the third vote for candidate Smith is encountered, the **CALLER** will call "Smith", the **COUNTER** will call "Smith, 3" while marking the first tally sheet and then again call "Smith, 3" while marking the second tally sheet. The **CALLER** will then call "Smith, 3" while marking their tally sheet

Note: Texas Election Code does not specify a required number of members of a counting team (added). The Numbered Box method described above uses 2 person teams but is applicable to any sized team.

Commented [A1]: Response to SoS comment - Fixed reference to TEC to say no specific number is prescribed

Ballots are separated into batches (typically 50 ballots) by precinct and provided to counting teams. The counting teams tally the votes for one race across all the ballots in a batch, record the results on a batch summary sheet and then move on to count the next race. Once the votes for all races have been counted and

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recorded for all ballots in a batch, the counting team receives a new batch of ballots and begins the counting process again.

HAND COUNT PLANNING

ROLES

The **JUDGE** is required to complete official returns and may, along with the **ALTERNATE JUDGE**, be a part of a counting team depending on the location of hand counting and the volume of ballots to be counted. If the hand count is in a central location involving many counting teams the Judge and Alternate Judge will need to be available to resolve issues the counting teams are unable to resolve amongst themselves such as determining if a ballot is valid if no Judge signature is present or determining voter intent when the counting team can not come to a consensus. If the hand count is conducted at the polling location, then the volume of ballots may be low enough that the Judge and Alternate Judge of the polling location may also be part of a Counting Team.

COUNTING TEAMS consist of 2 people (a Caller and a Counter) and are responsible for recording vote tallies by batch. Each Counting Team will have their own table (Counting Station) preset with all necessary supplies. Each Counting Teams is assigned a unique number to be used on hand count documents to identify their work.

BATCH PREPARERS/BATCH CONTROLLER, under supervision of the Judge/Alternate Judge, remove ballots from the ballot box to sort by precinct (if this was not done after the Qualification process) and count into batches of 50 and verify that all ballots have a Judge signature and ballot number. Each Batch Bag only contains ballots for one precinct. Batch Preparers place the batches into Batch Bags along with Tally Sheets and Batch Summary Sheets. The Batch Preparers are responsible for completing the labels on the Batch Bag before they are delivered to a Counting Team. The Batch Controller will keep a Master List of Batches by Precinct which logs each Batch Bag created, number of ballots contained in the batch, the associated precinct, Counting Team assigned, and any changes to the batches. Batch Preparers may serve on Counting Teams or as Runners or Floaters once all Batch Bags have been prepared. A Batch Controller should be assigned throughout the hand count to address any issues

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with Batch Bags and maintain the Master List of Batches by Precinct which will be delivered to the Judge and stored with other hand count materials.

RUNNERS deliver Batch Bags to be counted to Counting Teams, provide Counting Teams with additional tally sheets when a recount of a race is needed (each Runner will have a file of Recount Tally Sheets for each race on the ballot), collect counted Batch Bags from Counting Teams and deliver them to the Judge Results Table. If managing a large number of Counting Stations, Runners can be assigned to a specific Pod (a group of approximately 4-6 Counting Teams/Stations). Pods can be identified by a specific letter, number, or color. Runners serve as points of contact and problem solvers for their Pod when Counting Teams encounter issues not defined in the process. Runners also place replacements when a Counting Team Member must leave the Counting Station.

JUDGE ASSISTANTS act as support for the Judge/Alternate Judge. They are responsible for receiving completed Batch Bags at the Judge Results Table, confirming number of ballots in batch, compiling the tallies from the Batch Summary Sheets, and assisting the Judge in validating the compilation and preparing returns. Judge Assistants will also return Batch Bags to Ballot Box 3 for long term storage. Approximately 4 assistants are needed per 2500 ballots counted.

VIDEO TECHS are responsible for setting up video recording equipment at each Counting Station, ensuring recording is constant and resolving issues. Video Techs are assigned responsibility for 1 to 3 Pods depending on the size of Pods.

ESTIMATING NUMBER OF COUNTING TEAMS

Based on the number of ballots and number of races on the ballot, determine in advance how many counting teams will be needed to complete the hand count within the timeframe desired. Previous testing has determined a counting time of ~6 seconds per race with a counting team of two. How to calculate Number of Counting Teams:

1) (Number of Races on Ballot X 6 seconds = Average Seconds to Count 1 Ballot.
2) Average Seconds to Count 1 Ballot / 60 = Average Minutes to Count 1 Ballot.
3) Average Minutes to Count 1 Ballot x Number of Expected Ballots = Total Estimated Minutes to Count All Expected Ballots.

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4) Total Estimated Minutes to Count All Expected Ballots / 60 = Total Estimated Hours to Count All Expected Ballots
5) Total Estimated Hours to Count All Estimated Ballots / Number of Hours in which you want to complete the counting = Number of Teams Needed.

HAND COUNT PREPARATION

LOCATION SET UP

COMPONENTS OF COUNTING STATION

- 2 counting people (**CALLER** and **COUNTER**)
- 2 paper trays (labeled "Counted Ballots" and "Issues")
- Pack of Sticky Notes (to note issues on ballots)
- Stapler and tape
- *"Runner"* flag
- "*Judge"* review card
- Card Stand
- Non-bleed markers for completing Tally Sheets
- Ball point pens for completing the Batch Summary Sheets
- Chairs and Tables
- Video for high level, overall live stream of counting location

If filming counting stations individually

- "*Recounting*" card
- 2 cameras - one over the ballots and one over the entire station
- Tripod to hold the cameras
- Power cords plugs

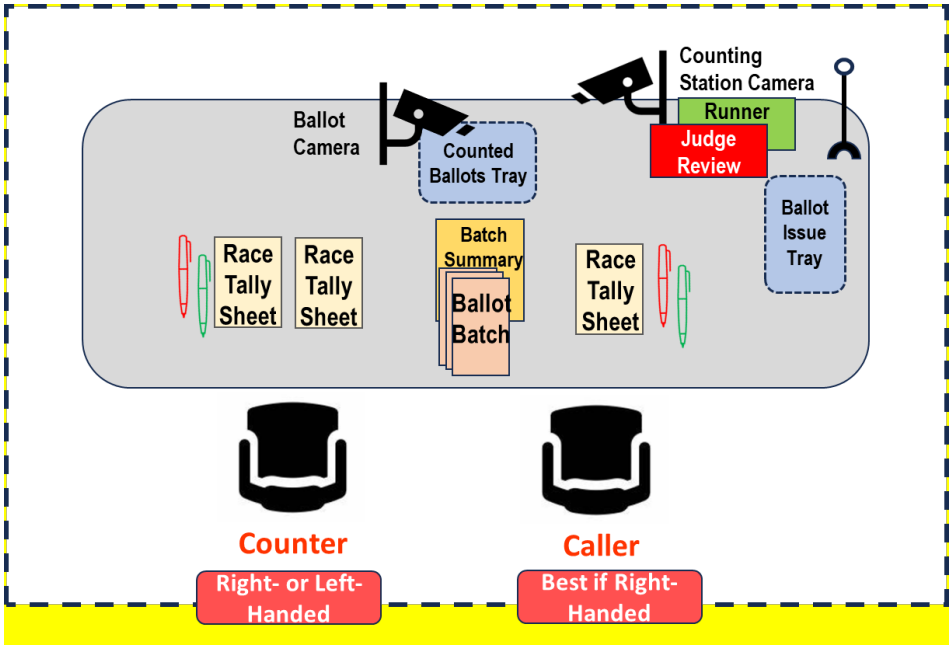
SETTING UP COUNTING STATION

1. Place the markers/pens, sticky notes and arrows, and stapler where convenient.
2. Place the Counted Ballots Tray in center of table.
3. Place Issues Tray beside the **CALLER**
4. Place *"Runner"* flag near the Issues Tray
5. Place "*Judge"* review card in the Issues Tray
6. Place the Card Stand next to the Issues Tray

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If filming counting stations individually

1) Place the "*Recounting*" cards face down beside the **COUNTER**.
2) Set up the tripod and cameras so the ballots and the counting station can be clearly seen on the video
3) Connect the cameras to a laptop for recording and public viewing if desired



Counting Station Set Up

PREPARING BATCH BAGS

A Batch Bag contains…

- Tally Sheets (3)
- Batch Summary Sheet (2)
- Batch of Ballots (50 ballots or less if there are not 50 ballots from a precinct, it is helpful to analyze number of ballots per precinct in previous elections to determine most logical batch size).

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A Batch Bag Label is affixed to the outside of the Batch Bag and includes:

- Election name and date
- Precinct number w/ initial lines for Counting Team
- Batch number
- Number of ballots in batch w/ initial lines for Counting Team
- Counting Team assigned

BATCH PREPARERS WILL

1. Sort ballots by precinct.
2. Counting ballots into batches of the desired number - typically 50 (25 in Travis County Hand Count)
3. Review ballots to confirm Judge signature and ballot number are present.
4. Provide any ballots lacking a Judge signature or ballot number to the Judge to determine validity of the ballot.
    a. The **JUDGE** will determine if the ballot is valid.
    b. If determined to be valid, the ballot will be returned to the Batch Preparer to be included in a batch from the appropriate precinct.
    c. If determined to be invalid the Judge will write the rationale for why the ballot is not acceptable on the back of the ballot per TEC 65.009
    d. **JUDGE** will clip a note to the front of the ballot stating, "Do Not Count – Invalid" and returned to the Batch Preparer to be included in a batch from the appropriate precinct. (Added post submission to SoS, realized we didn't say where it would go)
5. Place a batch of ballots, 3 Tally Sheets and 2 Batch Summary Sheets that correspond to the ballot precinct/style of the ballots into a Batch Bag.
6. Affix a Batch Bag Label to the Batch Bag and complete the label with batch number, number of ballots, and precinct number.
7. Deliver prepared Batch Bags to the **BATCH CONTROLLER** who will log batch details (batch number, number of ballots, and precinct number into the Master List of Batches by Precinct.

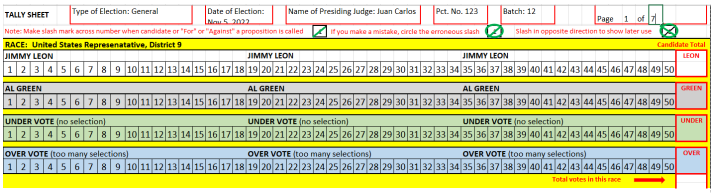
Commented [A2]: Fleshed this section out a bit. Added checking Judge Signature and ballot number to the batching process versus having the counting team do the check. Makes counters process simpler and allows EVBB judge to immediately address during batching process before batches go out to be counted.

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GENERAL INSTRUCTIONS

MARKING THE TALLY SHEET

The Tally Sheet has separate rows for each candidate/under vote/over vote/for or against (for propositions).



UNDER AND OVER VOTES

An **Under Vote** is when a voter makes more than the allowed number of selections for a race. If the markings for the selections are not similar, voter intent must be determined (see **Issue Resolution – Voter Intent** section for further details)

An **Over Vote** is when the voter makes no selection for a race.

To help **COUNTING TEAMS** differentiate the Candidate/For/Against rows alternate between white or gray and the **Under Vote row** is always **Green** and **Over Vote row** is always **Blue.**

Recording Over and Under votes for an accuracy check since **Under** and **Over Votes** added to candidate/proposition votes equals the number of ballots in a batch.

RECORDING WRITE-IN VOTES

Note: there are no approved write candidates for the March 5th, 2024, Primary in Travis County

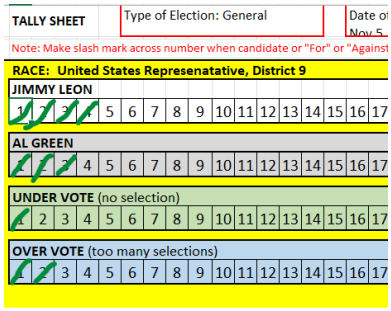
Tally Sheets provided to the **Counting Teams** will include rows with the name of each approved write-in candidate. Votes for a write-in candidate are called and recorded in the same manner as candidates printed on the ballot.

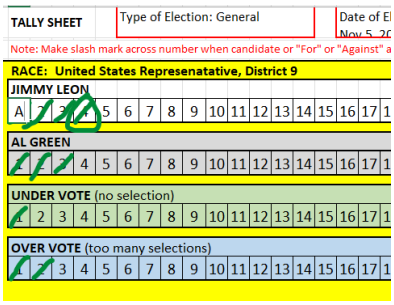
- If there is not a row on the Tally Sheet for the write-in that indicates the person is not an approved write-in candidate.
- Votes for non-approved write-in candidates are considered **Under Votes** and to be recorded in the "Under Vote" row on the Tally Sheet.
- A write-in vote may not be counted if a sticker containing a candidate's name is affixed to the ballot by the voter per Texas Election Code 65.008 (b).

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MARKING METHOD

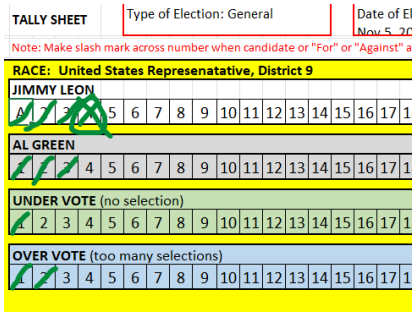
The **COUNTING TEAM** will mark according to which vote selection is called out using a colored marker (this makes the markings more visible to observers and cameras). **COUNTERS** will make a slash (from upper right to lower left "**/**") across the next open numbered square next to called candidate or under or over vote.





If a slash mark is made in error, a circle is made around the slash made in error.

When the next vote is called for this *candidate or Under or Over vote* make a slash in green in the opposite direction (from upper left to lower right "****") creating an "**X**" to indicate this is now a counted vote.



CALLING AND TALLYING THE COUNT

Votes are counted by race, meaning the **COUNTING TEAM** will count the first race on every ballot in the batch and then return to the front of the batch to begin counting the second race, and so forth until all races have been counted.

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Since the **COUNTER** will be marking 2 sets of Tally Sheets the **COUNTER** may want to stack the 2 sets of Tally Sheets on top of each other such that the section for the race being called covers any other races on the Tally Sheet.

STEPS FOR CALLING AND MARKING

1) **CALLER** places their finger next to the selection mark for the race being counted and calls out the vote loud enough for poll watchers to hear and video cameras record what was called. Note: Pointing to the vote helps the **COUNTER** to quickly locate and confirm that what is called matches what is marked on the ballot.
2) **COUNTER** looks at ballot to confirm what was called is what is marked on the ballot.
3) **COUNTER** then marks their Tally Sheets in the first open numbered box on the row for which the vote was called out.
4) **COUNTER** echos the selection called followed by the number of the box they are marking 2 times (once while marking the first of their Tally Sheets and again when marking the second of their Tally Sheets).
5) **CALLER** observes **COUNTER** marking their 2 Tally Sheets
6) **CALLER** then marks their Tally Sheet while echoing the selection called and the number of the box they are marking.

Note: Echoing the **CALLER** and calling out the number being marked each time a Tally Sheet is marked is important to ensure that the **CALLER** and **COUNTER** have marked the same number with each vote called.

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COUNTING A RACE

The process begins with a Runner delivering a Batch Bag to a Counting Team. The Counting Team then follows 4 steps.

Step 1: Confirming the Batch Bag Contents
Step 2: Review of Ballots for Intent Issues
Step 3: Calling & Tallying
Step 4: Recording and Reconciling the Tally

STEP 1: CONFIRMING THE BATCH BAG CONTENTS

1) Take the ballots out of the Batch Bag.
2) Confirm that all ballots are for the same precinct as listed on the Batch Bag Label.
3) If the precinct matches, both members of the **COUNTING TEAM** members initial beside the precinct number on the Batch Bag Label

IF ANY PRECINCT NUMBERS DO NOT MATCH

I. Return all ballots to the Batch Bag
II. Place the Runner Flag in the card stand and return the batch bag to the **Runner** when they arrive.
   a. **RUNNERS** will collect the Batch and remove the Runner Flag from the card stand, return the mixed precinct Batch Bag to the Batch Bag preparation area where they will be batched correctly.
   b. **RUNNER** immediately returns to Counting Team to deliver a new Batch Bag
   c. The mixed precinct Batch Bag will be separated and batched correctly by the **BATCH PREPARERS** and the **BATCH CONTROLLER** will then update the Master List of Batches by Precinct to reflect the changes made.
   d. **COUNTING TEAM** starts the process of confirming the contents of the new batch they receive.

4) Next Count the number of ballots (recommended in stacks of 10) and confirm that the number of ballots in the batch is the same as listed on the Batch Bag.
5) If the number of ballots matches the number indicated on the Batch Bag Label, both members of the **COUNTING TEAM** initial beside the number on the Batch Bag Label

IF THE NUMBER OF BALLOTS DOES NOT MATCH

I. If the number of ballots does not match the number indicated on the Batch Bag Label, count the number of ballots once more.

Commented [A3]: Change here is that any batches with any precinct number issues go back to the batch preparers to fix and counting team gets a new batch to count. In previous version there were rather complicated steps for counting team to update the precinct number on the batch bag label and send any mismatched ballots back to batch preparers. Changed to keep all the ballots together an ensue the changes get tracked on master batch tracker.

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II. If after the second count the number of ballots matches the number indicated on the Batch Bag Label, both members of the **COUNTING TEAM** initial beside the number on the Batch Bag Label.

III. If after the second count the number of ballots does not match the number indicated on the Batch Bag Label, cross out the number of ballots listed on the Batch Bag Label, write in the correct number of ballots, and both members of the **COUNTING TEAM** initial beside the new number.

IV. Place Runner Flag in the card stand and communicate the change in number of ballots in the Batch to the **RUNNER** when they arrive.

a. Once the change has been communicated, the **Runner** will remove the Runner Flag from the card stand and communicate to the **Batch Coordinator** the changed number of ballots in the Batch. The **Batch Coordinator** then documents the change in the Master List of Batches by Precinct.

6) Take the remaining materials out of the Batch Bag.

7) Place **one** Tally Sheet in front of the **CALLER** and **two** Tally Sheets in front of the **COUNTER**.

8) Place the Batch Summary Sheet face up in the space between the **COUNTER** and the **CALLER** and place the batch of ballots face up on top of the Batch Summary Sheet.

STEP 2: REVIEW OF BALLOTS FOR INTENT ISSUES

Before counting the first race, **Caller** and **Counter** quickly scan the front and back of each ballot to compare the style in which votes were selected on that ballot (i.e., a check mark, candidate name circled, etc.) and if there is any variation from the style used across races on the ballot. This helps the team catch any variations that would impact how the team interprets voter intent. The review of all selections on a ballot is only done when counting the first race. After counting the first race on the ballot, the **Counting Team** will only do a comparison of selection style when questions of intent arise on a specific ballot.

The **COUNTING TEAM** may determine a Judge Review is needed after scanning the ballots for intent or after encountering an internet issue while tallying the ballots. In either case, the team will place a sticky note arrow on the ballot indicating the location of the intent issue, place the ballot into the Issues Tray and place the *Judge* card in card stand. (Further details in **Issue Resolution – Judge Review for Intent** section)

Commented [A4]: Only change here is that counting teams may immediately after initial scan of the ballot put ballot with intent questions into the issue tray for judge review. In previous version I had them doing this as they came upon them during counting. Now that can do it at both times.

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STEP 3: CALLING & TALLYING

Once ballots have been quickly scanned for voter intent indications tallying of votes begins. Starting with the ballots face up in between the Counting Team members follow the steps below.

1) **CALLER** places their finger next to the selection mark for the race being counted and calls out the vote loud enough for poll watchers to hear and video cameras record what was called. Note: Pointing to the vote helps the **Counter** to quickly locate and confirm that what is called matches what is marked on the ballot.
2) **COUNTER** looks at ballot to confirm what was called is what is marked on the ballot.
3) **COUNTER** then marks their Tally Sheets in the first open numbered box on the row for which the vote was called out.
4) **COUNTER** echos the selection called followed by the number of the box they are marking 2 times (once while marking the first of their Tally Sheets and again when marking the second of their Tally Sheets).
5) **CALLER** observes **COUNTER** marking their 2 Tally Sheets
6) **CALLER** then marks their Tally Sheet while echoing the selection called and the number of the box they are marking.

Note: Echoing the **CALLER** and calling out the number being marked each time a Tally Sheet is marked is important to ensure that the **CALLER** and **COUNTER** have marked the same number with each vote called. (for what to do when tallies don't match see **Issue Resolution** section)

Once a vote selection has been called and recorded on the Tally Sheets

7) **CALLER** places the ballot face up in the Counted Ballots Tray so that the cameras can easily record the selection on the ballot.
8) **COUNTING TEAM** continues to the next ballot in the batch, until all ballots in the batch have been counted for the race that is being counted.

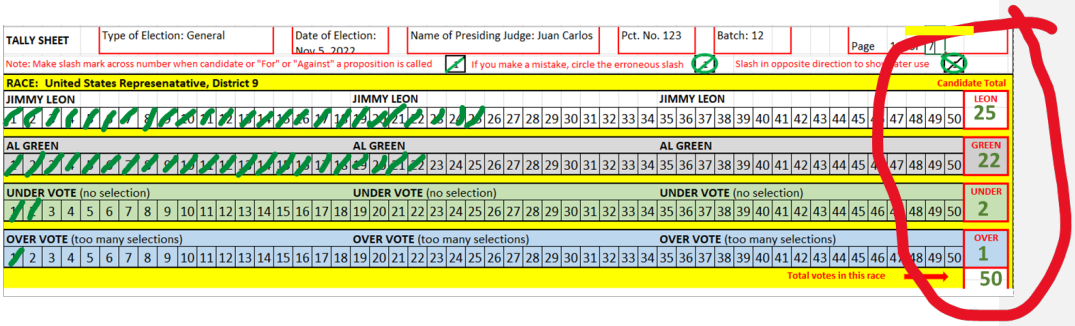
STEP 4: RECORDING AND RECONCILING THE TALLY

When all ballots in the batch have been called for the race being counted,

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1. The **CALLER** and **COUNTER** confirm the count of votes for each candidate and any under or over votes with each other as they enter the total number of votes received for each candidate/measure and any under or over votes in the *Total* Column on all 3 Tally Sheets.

2. The **CALLER** and **COUNTER** add the vote totals from each row to determine the total votes in the batch for the race that was counted (including under and over votes). The total of these tallies is recorded in the *Total Votes in Race* box and should equal the number of ballots in the batch (50 in this example). If the totals in the Total column on the Tally Sheet equal the number of ballots in the batch, then the totals reconcile.



3. The **COUNTING TEAM** then collects all ballots from the Counted Ballots Tray, places them between the Counting Team members and begins to count the next race on the ballot.

4. If *Total Votes in Race* does not match, the race will need to be recounted (see **Issue Resolution – Recounting** section for further details).

Completing the Total column on the Tally Sheet is a reconciliation step and will indicate if there was an error in marking the Tally Sheet. **Note: Counting Teams will not fill in the *Total* column on the Tally Sheet if they have a ballot in the Issue Tray that has not yet been resolved by the Judge.** The **Counting Team** may continue to count the votes for races and mark them on the Tally Sheet but will wait to fill in the *Total* column as the total will change once a determination has been made and the vote(s) from the ballot(s) in question in the Issue Tray are included on the Tally Sheet. (See **Issue Resolution** section for further details)

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COMPLETING A BATCH

After all ballots in a batch been counted for all races, the tallies are recorded in the *Total* column and summed in the *Total Votes in Race* box, vote totals from the *Total* column are recorded on the Tally Sheets the Counting Team prepares the batch to be returned to the Runner.

Commented [A5]: Specified that Batch Summary is completed after all races in batch have been counted. It wasn't specified before and some in training were doing it after each race.

THE COUNTING TEAM WILL

1. Review the headers of the Tally Sheets to make sure all information has been filled in (Precinct #, Batch #, and Team #).
2. Enter the Tally Sheet totals from the *Totals* column into the Batch Summary Sheets (an original (#1) and a copy (#2)).
3. Remove & count the number of any invalid ballots that were placed in the Batch Bag after a Judge Review. Records this number on the bottom of Batch Summary Sheets #1 and #2. Then returns invalid ballot(s) to Batch Bag.

Batch Summary Election: March 5, 2024 Republican Primary - BBM Hand Count

Presiding Judge: Ramona Koeh | Ballot Type: Absentee | Prepared by:_____

Pct. # | Batch # | Team #

President		Justice S.C. Place 2		Precinct Chair 273		Prop 7	
Ron Desantis		Jimmy Blacklock		Daivd Doman		Yes	
Chris Christie		Under		Steven Crountway		No	
Asa Hutchinson		Justice S.C. Place 4		Under		Under	
Donald J. Trump		Brian Walker		Over		Over	
David Stuckenberg		John Devine		Precinct Chair 281		Prop 8	
Ryan L. Binkley		Under		Stephen Liebel		Yes	
Vivek Ramaswamy		Justice S.C. Place 6		Jeff Flauding		No	
Nikki Haley		Jane Bland		Under		Under	
Uncommitted		Under		Over		Over	
Under		Presiding Judge C A		Precinct Chair 330		Prop 9	
Over		Sharon Keller		Ed Hauser		Yes	
US Senator		David J. Schenck		Randy Rosengarten		No	
Ted Cruz		Under		Under		Under	

Commented [A6]: Added instructions to document invalids, accepted and counted ballots in space newly added to batch summary sheet

4. Record the number of Accepted Ballots Counted and the Total Ballots Counted on the bottom of the Batch Summary Sheets (#1 & #2).
5. Sign both Batch Summary Sheets (#1 & #2).
6. Place the Counted Ballots in the Batch Bag.
7. Place the 3 completed Tally Sheets in the Batch Bag.
8. Tape the Batch Summary Sheet #1 to the outside of the Batch Bag to be used for compiling results
9. Place Batch Summary Sheet #2 in the Batch Bag
10. Place Runner Flag on card stand.
11. Give completed Batch Bag is to the **RUNNER** when they arrive.
12. The **COUNTING TEAM** is now ready to receive another Batch to count.

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THE RUNNER WILL

1. Pick up the counted Batch Bag and provide new Batch Bag to the **Counting Team**.
2. Deliver counted Batch Bag to the **BATCH CONTROLLER**

THE BATCH CONTROLLER WILL

1. Update the *Master List of Batches by Precinct* with any changes to the number of ballots in the batch or any ballots determined to be invalid.
2. Deliver the complete batch to the Judge Assistants to be added to the Results Report.

Commented [A7]: Changed process from completed batches going directly to Judge Assistants for compilation of results to first going to Batch Controller to make sure any changes the counting team made to batch bag label get recorded on the Master Batch tracker

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ISSUE RESOLUTION

COUNTING TEAMS may encounter issues instances where **Tallies Don't Match** which might require the race to be **Recounted** or where there is a question of **Voter Intent** which might require **Judge Review**.

TALLIES DON'T MATCH

If during tallying of votes the **COUNTING TEAM** notices they do not have the same tally, the **CALLER** and **COUNTER**

1. Discuss to identify the reason for the discrepancy.
2. If the source of the discrepancy is immediately clear (usually a vote was marked on wrong candidate/Under/Over row), the **COUNTING TEAM** corrects the Tally Sheets by circling the slash made in error and adding a slash on the correct row then continues counting the rest of the ballots for the race being counted.
3. If the source of the discrepancy is not immediately clear, the batch will need to be recounted for that race. (See **RECOUNTING A RACE**)

Commented [A8]: Response to SoS - Took out the process of partial recount, sorting by selection and just counting the ballots in the stack. Now everything will be a recount unless just marked on wrong line and discovered by the next call

RECOUNTING A RACE

If tally discrepancies for a race are not immediately evident or are discovered after all ballots in a batch have been counted, then the entire batch of ballots must be recounted for the race in question.

Since Tally Sheets will have been marked up while conducting the initial count of a race, **RUNNERS** will provide **COUNTING TEAMS** with new tally sheets to conduct a recount of a race. These tally sheets will contain only the race to be recounted and will be labeled Recount Tally Sheet. Once the recount is complete, **COUNTING TEAMS** will return to the original set of Tally Sheets to count and record votes for the next race on the ballot.

To recount a race,

1) Place the Runner Flag in the card stand to notify **RUNNERS** that Recount Tally Sheets are needed.
2) Place the Recounting Card under the camera for 5 seconds to indicate that the race will be counted again. Then remove the Recounting Card and set it aside.
3) Write "Recounted" on original tally sheet for the race to be recounted.

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4) Once Recount Tally Sheets are received from the **RUNNER**, remove the Runner Flag from card stand and return the Ballots face up to the original start position between the **CALLER** and the **COUNTER.**
5) Begin counting the votes for the race in question following the same method described in the **Counting A Race** section above.
6) After votes have been tallied and race the *Total* column and Total Votes in Race box have been completed on Recount Tally Sheet, staple the Recount Tally Sheets to the back of original set of tally sheets.

DETERMINING VOTER INTENT

The **COUNTING TEAM** may encounter ballots where the intent of the voter is not clear. In these cases, the Counting Team will follow the guidelines in Texas Election Code 65.009.

COUNTING IRREGULARLY MARKED BALLOT.

(a) Failure to mark a ballot in strict conformity with this code does not invalidate the ballot.

(b) Marking the ballot by marking through the names of candidates for whom or the statements beside the propositions for which the voter does not desire to vote does not invalidate the ballot. (c) A vote on an office or measure shall be counted if the voter 's intent is clearly ascertainable unless other law prohibits counting the vote.

(d) The intent of the voter in marking a ballot may be determined by:

(1) a distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;

(2) an oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;

(3) a line drawn through:

(A) the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;

(B) the name of each political party except one in a manner that clearly indicates a preference for the political party not marked; or

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(C) a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or

(4) any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.

If the **COUNTING TEAM** agrees on the voter intent based on reviewing the style in which other races on the ballot were marked, they can tally the vote and continue counting the race.

JUDGE REVIEW OF INTENT

If the Counting Team cannot determine or agree upon the voter's intent, The **Judge** will be needed to determine intent. The Alternate Judge may only make determinations when the Judge is not physically present or unless the Judge documents specific scenarios where the Alternate Judge may make the determination. To initiate a **Judge Review**, the **COUNTING TEAM** will

Commented [A9]: Response to SoS comment - Added documented scenarios when Alt Judge may make determinations

1. Place a sticky note arrow is placed on the ballot beside the race in question.
2. Place the ballot in question in the Issues Tray
3. Place Judge Card in the Card Stand to signal that the **JUDGE** is needed to determine voter intent.
4. Continue to count the next ballot in the batch.

Note: **COUNTING TEAMS** may continue to count races while waiting on a **JUDGE** response but may not move on to counting a new batch until issues are resolved and all votes tallied for the current batch.

When a **COUNTING TEAM** places the Judge Card on the Card Stand

1. The **JUDGE** will come to the counting station to resolve the intent issue for the race indicated by sticky note arrow note on the ballot in the Issues Tray.
2. The **JUDGE** will review the ballot and make the appropriate determination.
3. The **JUDGE** Write on the sticky note arrow the determined voter intent by writing the last name of the candidate ("yes" or "no" if for a proposition) determined to be the voter's intended selection and remove the Judge Card from the Card Stand.
4. If the **COUNTING TEAM** is in the middle of counting a race the **JUDGE** may choose to only write their determination on the sticky note arrow on the ballot and leave it in the Issues Tray instead of interrupting to also give a verbal determination. The **Judge** may also determine it is best to wait until the **Counting Team** can come to a stopping point to discuss.

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Note: If a **Counting Team** must stop in the middle of counting a race, it is critical to make sure to mark the last called vote and put the counted ballot in the Counted Tray so as not to confuse where to begin counting again. It may be helpful to place a blank sticky note on top of the next ballot to be counted.

INCORPORATING JUDGE'S DETERMINATION

Once the **Counting Team** has been given the determination, they will

1. At the end of counting a race, the **Counting Team** will add the vote(s) from any resolved Ballot in the Issue Tray to the Tally Sheet for any race in which the ballot's votes were not included
2. Add the resolved issue ballot(s) back to the batch and being counting next race.

*Example: The **Counting Team** could not determine voter intent while counting the second race on the ballot. The ballot was placed in the Issue Tray. The team then continued to count the rest of the ballots for the second race as well as the third and part of the fourth race before the **Judge** was able to make the intent determination. Therefore, the **Counting Team** will finish counting all the ballots in the batch for the fourth race and then record the votes from the now resolved issue ballot on the Tally Sheet for the second, third and fourth races on the ballot.*

Note: In some rare cases the **JUDGE** may determine that a **ballot is invalid** (example: missing signature or ballot number). In this scenario the votes on the ballot are not counted for any of the races and it is taken from the Issue Tray and put back the Batch Bag to avoid accidentally counting the ballot. All invalid ballots are returned to the Runner in the Batch Bag along with the Counted Ballots once the counting of the Batch is complete**. For the Travis County Hand Count all invalid ballot issues will be resolved during the batching process and should not be encountered by COUNTING TEAMS**.

Commented [A10]: Response to SoS comment about invalid ballots needing to stay with batch - clarified

JUDGE/ALTERNATE JUDGE ASSISTANTS WILL

1. Remove Batch Summery Sheets attached to the outside of the Batch bags and stack them by precinct.
2. Store Batch Bags in Ballot Box 3 once the totals have been compiled into the Results Report.

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COMPILING RESULTS

JUDGE ASSISTANTS will be entering the totals from the Batch Summary Sheets #1 that are attached to the Batch Bag.

JUDGES ASSISTANTS WILL

1. Remove the Batch Summary Sheets #1 from the Batch Bags
2. Work in pairs and enter the total from the same completed batches at the same time to compare for discrepancies.
3. Assist the the **JUDGE** and **ALTERNATE JUDGE** in comparing the Batch Summary Sheets #1 to the compiled results to verify that all counts were entered correctly.
4. Assist the **JUDGE** in placing the Precinct and Race Results Reports and Tally Sheets into the proper envelopes.
5. Seal the counted batches in secure bags noting on the Master Batch by Precinct List the secure bag number where in each batch is placed.
6. Place the secure bags of counted batches will then be placed in Ballot Boxes and the Ballot Box Number noted on the Master Batch by Precinct List.

Commented [A11]: Response to SoS question - clarified source for compiling results is Batch Summary Sheets. Also provided more detail on Judge Assistant roll in preparing batches to be returned to County

THE JUDGE AND ALTERNATE JUDGE WILL

1. Prepare, sign, and certify Precinct & Race Results Report
2. Secure and seal Ballot Boxes.
3. Document the seal number for each Ballot Box on the Master Batch by Precinct List
4. Delivers result and Ballot Boxes to proper authorities.

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HAND COUNTER RULES

- **HAND COUNTERS** should not leave their Counting Station unattended when ballots are at their station.
- **HAND COUNTERS** are encouraged to avoid leaving the Counting Station while a batch is being counted unless it is an emergency.
- If a Hand Counter needs to leave during counting of a Batch, The **COUNTING TEAM** will notify a **RUNNER** that a replacement is needed. The **COUNTING TEAM** will compare tallies to ensure there are no discrepancies and the **HAND COUNTER** needing to leave will sign their Tally Sheet(s) indicating the **1) time of departure** and **2) that all counts were correct** as of that time. The **HAND COUNTER** needing to leave may depart once a replacement arrives.
- If a break is needed, they should be taken between counting of Batches. Once a Batch is completed and given to a **RUNNER**, the **COUNTING TEAM** can let the **RUNNER** know not to bring the next Batch Bag until they return from the break.
- Please be timely with returning from a break or it may cause the hand count to extend longer than necessary.
- Please leave large purses or bags at home. Only small bags and drink bottles will be allowed at the Counting Stations. These will be kept on the floor in plain view. Drink bottles are not to be placed on the Counting Station table when ballots are present.

AMERICAN OVERSIGHT

From: Christina Adkins
To: Adam Bitter; Alicia Pierce
Cc: Kristi Hart
Subject: FW: Letter re: Nov. 28 meeting
Date: Wednesday, December 13, 2023 2:17:33 PM
Attachments: DCRP.SOS.ltr. (12.13.2023).pdf

See the attached letter.

From: Jennifer Hajdu [redacted]
Sent: Wednesday, December 13, 2023 1:42 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Russ Ramsland [redacted]; Wes Bowen [redacted]; Tan Parker <tan@tanparker.com>
Subject: Letter re: Nov. 28 meeting

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Ms. Adkins:

Attached, please find my letter of today's date recapping our November 28, 2023 meeting and adding an incident form the run off election last week.

We appreciate your prompt attention.

Jennifer

Jennifer Stoddard Hajdu
Dallas County Republican Party Chairman
Dallas County Republican Party
11617 N. Central Expressway, Suite 240
Dallas, TX 75243

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(214) 663-6648



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FIGHTING FOR FREEDOM

Office of the Chairwoman
Jennifer Stoddard Hajdu

December 13, 2023

Secretary Jane Nelson
Secretary of State
Office of the Texas Secretary of State
P.O. Box 12887
Austin, Texas 78711-2887
secretary@sos.texas.gov

Re: *Dallas County Election Abnormalities – November 2022 & 2023*

Dear Secretary Nelson:

Thank you for hosting Senator Tan Parker, Russ Ramsland, Wes Bowen, and me in your office on November 28, 2023 to discuss some of the election abnormalities we have been experiencing in Dallas County. To recap the E-Pollbook issues observed in Dallas:

November 2022 Midterms:

- After the polls closed at 7:00 p.m. in the voting centers on November 8, 2022, several voting centers experienced a large influx of additional voters being added to the E-Pollbooks that far exceeded the number of voters that actually checked into the voting center. In some instances, these surges exceeded 1,000 more voters than those that checked in and were reflected on the manual paper check in roster.
- The Dallas County Elections Administrator was at a loss to explain the surges and contacted the Dallas County elections vendor, ES&S for an explanation. ES&S's explanation was that the servers it oversees were inundated, and the E-Pollbooks were simply syncing (even though the E-Pollbooks were surging over the number of voters that actually checked in at the locations).
- For the first time, we learned that the E-Pollbooks servers are exclusively hosted by a third-party, for-profit corporation and that the Dallas County Elections Department, Dallas County and the State of Texas have no access to the server and no ability to see or audit what is occurring on the server.
- Well over seven days after the election, on November 21-25, 2022, the Dallas County Elections Administrator invited a Dallas GOP team to examine the E-Pollbooks in question at the Dallas County Elections Department equipment warehouse. During the observation, the E-Pollbooks that had surged

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were still open and (i) the voters appearing on the E-Pollbooks were still fluctuating and (ii) new voters check in could still be added. We have videos to prove this.

- We have never received an explanation for the activity observed on the E-Pollbooks well after the election.
- The Dallas County Elections Administrator has reported to me that in order to remedy the 2022 issues, ES&S is placing Texas on a separate server. This creates concerns for us about potential manipulation of the Texas specific server.

November 7, 2023 Constitutional Election:

- Beginning on the first day of early voting, many voting centers reported a serious lack of connectivity of the E-Pollbooks to the internet, with outages lasting many hours if not the entire day, and in some cases for multiple days.
- The November 7, 2023 election was a very low turnout election with approximately 12% turnout, but far less than 12% daily during early voting.
- The outages continued throughout early voting with 33 of 65 voting centers reporting lack of connectively of the E-Pollbooks or varying voter totals that would have to be subsequently updated – i.e. changed.
- During the outages, voters were still processed (meaning their voter were not registered with the other E-Pollbooks until much later, thereby potentially allowing a voter to vote more than once undetected).
- On election day, the E-Pollbooks continued to fail to connect to the internet with one specific location in University Park, Texas, not connecting to the in internet until approximately 4:15 p.m. on election day – less than three hours before poll closings.
- In many voting centers, the E-Pollbooks did not sync. In several voting centers the E-Pollbooks within a single voting center reported different numbers for the total number of registered voters in Dallas County. For example, the seven E-Pollbooks at Coppell Town Center showed six different numbers for the total number of Dallas County registered voters between 6:51 – 6:54 p.m.
- The Preliminary Election Reconciliation performed at the end of election night showed 3,076 more votes than voters. The notes on the Reconciliation blames the discrepancy on the E-Pollbooks not syncing and states that it will be resolved during the canvass. *See Preliminary Election Reconciliation – Unofficial Totals.*
- The Dallas Elections Administrator's explanation was that the cradle modems on the E-Pollbooks were old and ran on 4G technology and the County was on a 5G network. These same E-Pollbooks did not demonstrate this kind of lack of connectivity in the May 2023 election, just six months prior to the November 7, 2023 election. Moreover, one election judge was told that her location was given the new 5G router, but that for it to work, it had to be placed near a window – a particular window – in the room. Even when placed in the window, the router did not communicate with the five E-Pollbooks in the room until approximately 4:15 p.m.
- On election day, some of the voting center E-Pollbooks are programmed for peer-to-peer communication while others are not. This inconsistency causes concern. At approximately 6:45 p.m., some of the E-Pollbooks that were set on peer-to-peer communication were remotely changed without any warning or explanation to the election judges. We need to know who controls these E-Pollbooks. It is not the Elections Department, the County, the State, or the Parties.
- The clock time on the E-Pollbooks is often not accurate. The Election Department instructs the poll workers not to worry about the errors because the time stamps do not matter. In an audit, the time

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stamp could be probative. All aspects of the E-Pollbooks should be accurate for security and audit purposes.

- Dallas County voters' mistrust in elections was heightened on November 7 because of their awareness of the equipment malfunctions.

December 9 Municipal Run Off Election:

As recently as this past Saturday, an incident occurred that makes it very clear that the E-Pollbooks are controlled by an outside server that neither the Elections Department nor the County has any access to or control over. In the Rowlett municipal run off election, the E-Pollbooks at Voting Center 2925 showed a message questioning a voter status that the poll workers had never seen before and that does not apply to the typical check in process. The message resulted in requiring poll workers to issue provisional ballots to voters that should have been issued regular ballots. The poll workers contacted the Elections Department which had no explanation for the issue. The Elections Department took new E-Pollbooks to the Voting Center. The new E-Pollbooks initially appeared to function with the correct voter qualification question, but when connected to the network, reversed and displayed the erroneous qualification question that required the poll workers to issue provisional ballots to almost all voters. Later in the morning the erroneous message disappeared with no explanation from the Elections Department. The Elections Administrator went to the Voting Center to speak with the poll workers and admitted that the Department had no idea why the erroneous message was on the E-Pollbooks and had no control over the E-Pollbooks to correct the problem. This is unacceptable.

The surge of the E-Pollbooks after the vote centers closed and control over the E-Poll books by a server controlled solely by a third-party is extremely concerning. It demonstrates that the E-Pollbooks are not reliable, transparent or trustworthy. The movement of the number of voters in the E-Pollbooks several days after the election is inexplicable and demonstrates that the E-Pollbooks can be manipulated and used in a fraudulent manner. The increased problems with E-Pollbook connectivity throughout Dallas County in the November 2023 election only exacerbates these concerns. The lack of integrity in the Dallas County election systems has created serious disenfranchisement among the Dallas County election workers, the Dallas County voters, and potential candidates for office.

Immediate changes are needed to SB 924 and Chapter 65 of the Texas Elections Code in order to allow Texas counties to design secure voting systems with regionally combined precinct voting with hand (i.e. paper) pollbooks, hand marked sequentially numbered watermarked ballots, and hand counting of ballots within the combined precinct voting centers. Changing Chapter 65 would also mean that other chapters would need minor amendments. We also want to reinstate the mandatory use of paper vote rosters, hand written by the election clerks, to ensure that we have a robust means of post – election auditing.

Many Republican County Chairs in Texas agree with the effort to return voting in Texas to a precinct-based paper ballot system without the use of electronic pollbooks of any kind. This far, we have confirmed that the Harris, Collin, Bexar, Navarro, Tarrant and Travis county Chairs agree with this. Kerr, Gillespie, and Montgomery Counties have also passed resolutions on returning to hand marked, hand counted paper ballots. County wide voting, particularly in large counties, has opened the voting system to the possibility if not the probability of external or internal manipulation of voters and votes that cannot be detected by the county parties, election departments counties or the State.

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And, as we discussed, it appears that a court in Georgia could soon declare that machines voting systems, such as those used throughout Texas, are uncertifiable. We do not want to be caught unprepared should this occur. Nor do we want to be channeled into the ultimate in insecure election solutions – mobile voting.

We seek the Secretary of State's and the Texas Legislature's immediate assistance in this effort. Senator Tan Parker is leading the legislative effort. We ask that you encourage Governor Abbott to add election integrity to the current Special Session, or to another Special Session to begin no later than Jan. 8th 2024. Texas should be leading on election integrity. Texas is far too important to the United States to leave her exposed to a voting system for which abundant evidence exists that indicates it is being illegally manipulated.

We appreciate your prompt response.

Sincerely,

/s/ Jennifer Stoddard Hajdu
Jennifer Stoddard Hajdu
Dallas County GOP Chair

/s/ Wes Bowen
Wes Bowen
Dallas County GOP Election Integrity Chair

/s/ Russ Ramsland
Russ Ramsland, Election Integrity Expert
Allied Special Operations

cc: Via U.S. Mail & Email:
Ms. Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
James E. Rudder Bldg., 2nd Floor
1019 Brazos Street
Austin, Texas 78701
CAdkins@sos.texas.gov

Senator Tan Parker
Senator Bryan Hughes
Senator Bob Hall

AMERICAN OVERSIGHT

From: Christina Adkins
To: Chuck Pinney
Subject: FW: Letter re: Nov. 28 meeting
Date: Wednesday, December 13, 2023 5:16:18 PM
Attachments: DCRP.SOS.ltr. (12.13.2023).pdf

FYI

From: Jennifer Hajdu [redacted]
Sent: Wednesday, December 13, 2023 1:42 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Russ Ramsland [redacted]>; Wes Bowen [redacted]>; Tan Parker <tan@tanparker.com>
Subject: Letter re: Nov. 28 meeting

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Jennifer Stoddard Hajdu
Dallas County Republican Party Chairman
Dallas County Republican Party
11617 N. Central Expressway, Suite 240
Dallas, TX 75243

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DALLAS COUNTY REPUBLICAN PARTY

FIGHTING FOR FREEDOM

Office of the Chairwoman
Jennifer Stoddard Hajdu

December 13, 2023

Secretary Jane Nelson
Secretary of State
Office of the Texas Secretary of State
P.O. Box 12887
Austin, Texas 78711-2887
secretary@sos.texas.gov

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- After the polls closed at 7:00 p.m. in the voting centers on November 8, 2022, several voting centers experienced a large influx of additional voters being added to the E-Pollbooks that far exceeded the number of voters that actually checked into the voting center. In some instances, these surges exceeded 1,000 more voters than those that checked in and were reflected on the manual paper check in roster.
- The Dallas County Elections Administrator was at a loss to explain the surges and contacted the Dallas County elections vendor, ES&S for an explanation. ES&S's explanation was that the servers it oversees were inundated, and the E-Pollbooks were simply syncing (even though the E-Pollbooks were surging over the number of voters that actually checked in at the locations).
- For the first time, we learned that the E-Pollbooks servers are exclusively hosted by a third-party, for-profit corporation and that the Dallas County Elections Department, Dallas County and the State of Texas have no access to the server and no ability to see or audit what is occurring on the server.
- Well over seven days after the election, on November 21-25, 2022, the Dallas County Elections Administrator invited a Dallas GOP team to examine the E-Pollbooks in question at the Dallas County Elections Department equipment warehouse. During the observation, the E-Pollbooks that had surged

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were still open and (i) the voters appearing on the E-Pollbooks were still fluctuating and (ii) new voters check in could still be added. We have videos to prove this.

- We have never received an explanation for the activity observed on the E-Pollbooks well after the election.
- The Dallas County Elections Administrator has reported to me that in order to remedy the 2022 issues, ES&S is placing Texas on a separate server. This creates concerns for us about potential manipulation of the Texas specific server.

November 7, 2023 Constitutional Election:

- Beginning on the first day of early voting, many voting centers reported a serious lack of connectivity of the E-Pollbooks to the internet, with outages lasting many hours if not the entire day, and in some cases for multiple days.
- The November 7, 2023 election was a very low turnout election with approximately 12% turnout, but far less than 12% daily during early voting.
- The outages continued throughout early voting with 33 of 65 voting centers reporting lack of connectively of the E-Pollbooks or varying voter totals that would have to be subsequently updated – i.e. changed.
- During the outages, voters were still processed (meaning their voter were not registered with the other E-Pollbooks until much later, thereby potentially allowing a voter to vote more than once undetected).
- On election day, the E-Pollbooks continued to fail to connect to the internet with one specific location in University Park, Texas, not connecting to the in internet until approximately 4:15 p.m. on election day – less than three hours before poll closings.
- In many voting centers, the E-Pollbooks did not sync. In several voting centers the E-Pollbooks within a single voting center reported different numbers for the total number of registered voters in Dallas County. For example, the seven E-Pollbooks at Coppell Town Center showed six different numbers for the total number of Dallas County registered voters between 6:51 – 6:54 p.m.
- The Preliminary Election Reconciliation performed at the end of election night showed 3,076 more votes than voters. The notes on the Reconciliation blames the discrepancy on the E-Pollbooks not syncing and states that it will be resolved during the canvass. *See Preliminary Election Reconciliation – Unofficial Totals.*
- The Dallas Elections Administrator's explanation was that the cradle modems on the E-Pollbooks were old and ran on 4G technology and the County was on a 5G network. These same E-Pollbooks did not demonstrate this kind of lack of connectivity in the May 2023 election, just six months prior to the November 7, 2023 election. Moreover, one election judge was told that her location was given the new 5G router, but that for it to work, it had to be placed near a window – a particular window – in the room. Even when placed in the window, the router did not communicate with the five E-Pollbooks in the room until approximately 4:15 p.m.
- On election day, some of the voting center E-Pollbooks are programmed for peer-to-peer communication while others are not. This inconsistency causes concern. At approximately 6:45 p.m., some of the E-Pollbooks that were set on peer-to-peer communication were remotely changed without any warning or explanation to the election judges. We need to know who controls these E-Pollbooks. It is not the Elections Department, the County, the State, or the Parties.
- The clock time on the E-Pollbooks is often not accurate. The Election Department instructs the poll workers not to worry about the errors because the time stamps do not matter. In an audit, the time

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stamp could be probative. All aspects of the E-Pollbooks should be accurate for security and audit purposes.

- Dallas County voters' mistrust in elections was heightened on November 7 because of their awareness of the equipment malfunctions.

December 9 Municipal Run Off Election:

As recently as this past Saturday, an incident occurred that makes it very clear that the E-Pollbooks are controlled by an outside server that neither the Elections Department nor the County has any access to or control over. In the Rowlett municipal run off election, the E-Pollbooks at Voting Center 2925 showed a message questioning a voter status that the poll workers had never seen before and that does not apply to the typical check in process. The message resulted in requiring poll workers to issue provisional ballots to voters that should have been issued regular ballots. The poll workers contacted the Elections Department which had no explanation for the issue. The Elections Department took new E-Pollbooks to the Voting Center. The new E-Pollbooks initially appeared to function with the correct voter qualification question, but when connected to the network, reversed and displayed the erroneous qualification question that required the poll workers to issue provisional ballots to almost all voters. Later in the morning the erroneous message disappeared with no explanation from the Elections Department. The Elections Administrator went to the Voting Center to speak with the poll workers and admitted that the Department had no idea why the erroneous message was on the E-Pollbooks and had no control over the E-Pollbooks to correct the problem. This is unacceptable.

The surge of the E-Pollbooks after the vote centers closed and control over the E-Poll books by a server controlled solely by a third-party is extremely concerning. It demonstrates that the E-Pollbooks are not reliable, transparent or trustworthy. The movement of the number of voters in the E-Pollbooks several days after the election is inexplicable and demonstrates that the E-Pollbooks can be manipulated and used in a fraudulent manner. The increased problems with E-Pollbook connectivity throughout Dallas County in the November 2023 election only exacerbates these concerns. The lack of integrity in the Dallas County election systems has created serious disenfranchisement among the Dallas County election workers, the Dallas County voters, and potential candidates for office.

Immediate changes are needed to SB 924 and Chapter 65 of the Texas Elections Code in order to allow Texas counties to design secure voting systems with regionally combined precinct voting with hand (i.e. paper) pollbooks, hand marked sequentially numbered watermarked ballots, and hand counting of ballots within the combined precinct voting centers. Changing Chapter 65 would also mean that other chapters would need minor amendments. We also want to reinstate the mandatory use of paper vote rosters, hand written by the election clerks, to ensure that we have a robust means of post – election auditing.

Many Republican County Chairs in Texas agree with the effort to return voting in Texas to a precinct-based paper ballot system without the use of electronic pollbooks of any kind. This far, we have confirmed that the Harris, Collin, Bexar, Navarro, Tarrant and Travis county Chairs agree with this. Kerr, Gillespie, and Montgomery Counties have also passed resolutions on returning to hand marked, hand counted paper ballots. County wide voting, particularly in large counties, has opened the voting system to the possibility if not the probability of external or internal manipulation of voters and votes that cannot be detected by the county parties, election departments counties or the State.

Pol. Ad. Paid For By Dallas County Republican Party
11617 North Central Expressway, Suite 240, Dallas, Texas 75243

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And, as we discussed, it appears that a court in Georgia could soon declare that machines voting systems, such as those used throughout Texas, are uncertifiable. We do not want to be caught unprepared should this occur. Nor do we want to be channeled into the ultimate in insecure election solutions – mobile voting.

We seek the Secretary of State's and the Texas Legislature's immediate assistance in this effort. Senator Tan Parker is leading the legislative effort. We ask that you encourage Governor Abbott to add election integrity to the current Special Session, or to another Special Session to begin no later than Jan. 8th 2024. Texas should be leading on election integrity. Texas is far too important to the United States to leave her exposed to a voting system for which abundant evidence exists that indicates it is being illegally manipulated.

We appreciate your prompt response.

Sincerely,

/s/ Jennifer Stoddard Hajdu
Jennifer Stoddard Hajdu
Dallas County GOP Chair

/s/ Wes Bowen
Wes Bowen
Dallas County GOP Election Integrity Chair

/s/ Russ Ramsland
Russ Ramsland, Election Integrity Expert
Allied Special Operations

cc: Via U.S. Mail & Email:
Ms. Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
James E. Rudder Bldg., 2nd Floor
1019 Brazos Street
Austin, Texas 78701
CAdkins@sos.texas.gov

Senator Tan Parker
Senator Bryan Hughes
Senator Bob Hall

AMERICAN OVERSIGHT

From: Christina Adkins
To: "TCRP Elections"
Cc: Chuck Pinney
Subject: FW: Rather urgent - Questions on Envelopes and their contents for hand count
Date: Friday, March 1, 2024 10:58:41 AM

Elizabeth,

Here's our response.

Chapter 66 of the Election Code outlines the various records that are collected at a polling place, the containers those records are retained in, and the officer to whom each of those records and containers should be delivered to at the end of the night on election night. Under Election Code 87.063, the early voting ballot board will distribute the early voting ballots, returns, and other records in the same manner described in Chapter 66 for distribution of those records from a polling place. However, there may be certain records produced by the early voting ballot that are not addressed directly in Chapter 66, or certain records outlined in Chapter 66 that are created at polling places but which are not created at the early voting ballot board.

Envelope 1 - this list looks correct.

Envelope 2:

- Based on the way I read 87.041(c), the poll list would consist of the voters whose ballots by mail were accepted. In general, you should be comparing the total number of voters on the poll list to the total number of ballots counted so I think that lines up.
- Since we're just talking about mail ballots, the signature roster would apply.
- The precinct early voting list is basically the same as the poll list (accepted ballots), but it would be broken down for each precinct.
- We agree that polling place affidavits would not apply here.
- Yes, poll watchers can be appointed to the ballot board, including for the counting process. 87.026 outlines the people who can be present at ballot board.

Envelope 3:

- There is no ballot register in this situation.

Envelope 4:

- You can use the poll list or early voting roster instead of a precinct list of registered voters here, unless you also have the OLRV when they were reviewing the mail ballots. Looking at 63.001(e), in a traditional paper world they would indicate the voter's voting history on the OLRV, so I think that's the idea behind including it here. I think a copy of the poll list or early voting roster can be used instead to report voting history.
- Registration correction list shouldn't apply here.
- List of ID Voters is a rare scenario, but under current law it is generally specific to ballot-by-mail. If you have any ID voters who have to return a copy of their ID with their balloting materials, then this may be provided to the ballot board at that time, but it's unlikely that this would occur.

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This would not apply. The individual affidavits that the code is referring to are the similar name affidavit and the not on list affidavit. Neither of those would apply to ballot by mail.

Envelope 5:

- Statement of Compensation should be in at least two copies under Election Code 32.094(c). One copy goes to the county chair, the other goes to the general custodian.
- The oaths should go to the general custodian, but if they are contained on the same form as the statement of compensation then they can do a duplicate form for both and provide one copy to the custodian and one to the chair.

Thanks,

Christina

From: TCRP Elections <elections.tcrp@gmail.com>
Sent: Tuesday, February 27, 2024 5:58 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Chuck Pinney <CPinney@sos.texas.gov>
Subject: Rather urgent - Questions on Envelopes and their contents for hand count

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Christina and Chuck,
I am just getting to going through the EVBB Handbook to create the envelopes we need for the hand count and develop a definitive list of things we need to include in the envelopes and in the ballot box at the end of the hand count.

I pulled the requirements from pages 34-36 of the Handbook for Early Voting Ballot Board 2023. I would appreciate your help in confirming exactly what is needed in each envelope and how it might be slightly different for the hand count of only BBM so that we are fully compliant.

Thank you,
Elizabeth

AMERICAN OVERSIGHT

Envelope no.1 goes to **County Chair** in a Primary

1. Original of Returns by Precinct
2. Tally List (one tally sheet per batch).

Envelope no. 2 goes to **General Custodian**.

1. Copy of Returns by Precinct and a Summary Return
2. One of the 3 tally sheets per batch counted
3. Poll list -List of voters from whom BBMs were received or is it who requested?
4. Signature roster - Does this apply?
5. Precinct early voting list? Isn't this the same as the list of voters from whom BBMs were received?
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7. Poll watcher certificate of appointment (Poll watchers are allowed at hand count, correct? What other types of people could be present that we need to prepare for?

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-Statement of compensation (does this need to go to the custodian if they are not involved in paying the hand counters?)

- Oaths of election officers - wanted to use oath/time sheet combo so wouldn't this go to the County Chair?

Envelope no. 3 goes to **EVBB Judge**.

1. Copy of Returns by Precinct and Summary
2. Poll list for by mail voters
3. Ballot Register?? Does this apply?? What is it? List of number of ballots by precinct??

Envelope no. 4 goes to **Voter Registrar.**

1. Precinct list of registered voters – does this apply or is it really the list of all who have applied for BBM?
2. Registration correction list – does this apply?
3. Any statement of residence completed by mail or copies of identification submitted by mail
4. List of ID voters – does this apply?

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5. Copy of Combination Form, if used instead of individual affidavits – does this apply?

Envelope no. 5 goes to **County Chair**.

1. Original Statement of Compensation – do we just need a 2-ply form? One for County Chair and one for worker? What are we required to submit to SOS to show who was paid and the hours they worked?

Contents of **Early Voting Ballot Box**

1- Ballots

2- Copy of Returns by Precinct and Summary

3- Tally list for each batch

4- Copy of poll list of early voters by mail

--

TCRP Elections Team
Elections.TCRP@gmail.com

AMERICAN OVERSIGHT

From: Christina Adkins
To: Elections-Attorneys
Subject: FW: Rather urgent - Questions on Envelopes and their contents for hand count
Date: Monday, March 4, 2024 11:19:05 AM

Copy

From: Christina Adkins
Sent: Friday, March 1, 2024 10:59 AM
To: 'TCRP Elections' <elections.tcrp@gmail.com>
Cc: Chuck Pinney <CPinney@sos.texas.gov>
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2- Copy of Returns by Precinct and Summary

3- Tally list for each batch

4- Copy of poll list of early voters by mail

--

TCRP Elections Team
Elections.TCRP@gmail.com

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted]
Bcc: Elections Internet
Subject: FW: Roster Submission Clarification
Date: Friday, January 5, 2024 9:12:40 AM

Jeannette,

Thank you for the questions. It is the responsibility of the early voting clerk to submit the roster information to the Secretary of State's office. This requirement is spelled out in Section 87.121(k) of the Texas Election Code. Additionally, there is a practical component as to why only the early voting clerk or their staff can make the submission. The rosters are required to be submitted through our state election management system. Under state law, only county election office are authorized to have log-in credentials for the state system.

When you deliver your precinct returns to the General Custodian of Election records as required under Section 66.053 of the Texas Election Code, those precinct returns contain your election day poll lists. This is the information they will use to submit the election day roster information as required under Section 87.121 into the state system. If you think the delivery of precinct election records will be delayed, you need to notify the general custodian of election records of the delay. This is all spelled out in Section 66.053 which I've provided below.

Sec. 66.053. TIME FOR DELIVERING ELECTION RECORDS. (a) The precinct election records shall be delivered to the appropriate authorities immediately after the precinct returns are completed.

(b) If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2 a.m. of the day after election day, the presiding judge, between midnight of election day and 1 a.m. of the following day, shall notify the general custodian of election records by telephone of:

(1) the total number of voters who voted at the polling place as indicated by the poll list;

(2) the vote totals tallied for each candidate and for and against each measure at the time of notification; and

(3) the expected time of finishing the count.

(c) The precinct election records shall be delivered not later than 24 hours after the polls close in each election.

Let me know if you have any other questions.

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Thanks,

Christina

From: Jeannette Hormuth [redacted]
Sent: Thursday, December 28, 2023 12:06 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Roster Submission Clarification

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Dear Christina,

I wish some guidance and answers in regard to the submission requirements of the election day voter roster to the SOS by 11 a.m. following an election. (87.121)

For our upcoming Primary election, we (Republican Party) have voted to use paper ballots, hand counted at the precinct and paper poll books in place of electronic poll pads.

As we will not be using electronic poll pads (in order to prevent such issues of breaching as have occurred in Dallas), the voter roster data will need to be inputted manually.

Here's my questions:

1. **Would it be acceptable for the information (voter roster info) to be inputted at the precincts throughout election day from the combination forms into a flat file that the county can then upload into the Team System for submission to the SOS?**

2. **Alternatively, could temporary county employees be contracted to key in the information directly unto the state secure server. If so, is it possible to have multiple log ins from each precinct by which the**

AMERICAN OVERSIGHT

information can be keyed in?

We also welcome any other viable solutions that would acceptable to accomplished our goals and meet State requirements that you may be able to offer.

Thank you for your kind attention and consideration.

I look forward to your assistance,

Sincerely,

Jeannette Hormuth
830-998-1879

AMERICAN OVERSIGHT

From: Christina Adkins
To: Elections-Attorneys
Subject: FW: Secretary Nelson in the News 12/21/23
Date: Thursday, December 21, 2023 9:40:45 AM
Attachments: image001.jpg
image002.jpg
image003.png

Check out the quote Votebeat chose! Can we finally get everyone to see that we don't "waive" state law….

From: Alicia Pierce <APierce@sos.texas.gov>
Sent: Thursday, December 21, 2023 9:25 AM
To: Alicia Pierce <APierce@sos.texas.gov>
Subject: Secretary Nelson in the News 12/21/23

Texas Secretary of State
Morning News Clips
December 21, 2023

Texas Republicans in one rural county will hand count ballots. Experts say it's "a recipe for disaster." VoteBeat/Texas Tribune December 21, 2023 (Adkins quote)

Freight rail groups push Feds to reopen Texas-Mexico border crossings Supply Chain Quarterly December 19, 2023

Farm, Rail Companies Urge Reopening of US-Mexico Crossings Shut Over Migrants Reuters December 20, 2023

Dan Patrick Floats Taking Biden Off Texas Ballot After Colorado Supreme Court Removes Trump from Primary The Texan December 20, 2023

Wisconsin elections commission rejects complaint against Trump fake electors for second time

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Associated Press December 20, 2023

Lawsuits Filed Against Three School Districts, Alleging Misleading Tax Election Ballot Language The Texan December 20, 2023

Heider Garcia sworn in as the next elections administrator in Dallas County NBC DFW December 20, 2023

Texas begins flying migrants from southern border to Chicago Associated Press December 20, 2023

Texas Republicans in one rural county will hand count ballots. Experts say it's "a recipe for disaster."

Natalia Contreras
Votebeat and The Texas Tribune
December 21, 2023
www.texastribune.org /2023/12/21/texas-republicans-hand-count-votes-election-2024/

This coverage is made possible through Votebeat, a nonpartisan news organization covering local election administration and voting access. The article is available for reprint under the terms of Votebeat's republishing policy.

When Gillespie County Republicans conduct their primary in March, they will count votes in an ill-advised way: by hand, using scores of volunteers, without any machines.

Even if they can pull off their expensive, labor-intensive plan, they risk being sued by losing candidates or reprimanded by the state. And they may run up a huge bill of unnecessary costs.

"Hand-counting is a recipe for disaster," said Bob Stein, a political science professor at Rice University and election administration expert. He and most other experts agree on this, and studies back them up: The

method is time-consuming, costly, less accurate, and less secure than using machines to tally votes.

The factors that led Gillespie Republicans to this plan are not unique to this rural county of nearly 30,000 people, west of Austin in Texas' Hill Country. This summer, leaders of the GOP in counties as large as Dallas and as small as Uvalde in South Texas seriously considered hand-counting ballots for their primary elections, according to public records and interviews with election officials.

The phenomenon has been a shock to Stein, who said the effort could undermine confidence in the outcome of the election.

"It will not be reliable nor valid. It'll cost an enormous amount of money and everyone, every candidate, will be challenging the count," he said.

Party leadership in larger counties have, so far, resisted a full hand count. In Dallas County, leadership determined it would be impossible with present resources. In Travis County, the local GOP decided on a significantly watered-down hand-counting plan, focusing on a small percentage of primary ballots cast.

Gillespie County Republicans, though, must now recruit and train 100 additional election workers to do the election day tasks that normally fall to county election workers.

Then there's the enormous job of manually tallying the votes in the roughly dozens of races on the more than 3,000 ballots expected to be cast in the primary, racing against the clock to finish before the state's 24-hour deadline for reporting results.

But party official David Treibs, a precinct chair who's been leading the hand-count planning, doesn't think it will be much of a hassle.

"It's not anything that's really complicated. If you go '1, 2, 3, 4, 5' then you can do it," Treibs, who has no experience hand-counting ballots, told Votebeat. "So it's not like calculus, you know? If you have a good attention span, then I think most people can do it."

Ben Adida, executive director for VotingWorks, a nonprofit voting system vendor, which helped the state of Georgia perform a hand-counted audit of the state's 2020 presidential results, agreed that hand-counting was nothing like calculus. But, he said, it was also nothing like counting to five.

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"Imagine being asked to count the number of sheets in a large ream of paper, the kind you get from Staples," he said. Mistakes aren't allowed, nor are programs like Excel. Plus, "You have to do it 80 times, because there are 40 contests with 2 candidates each."

Adida said he understands why hand-counting sounds easy, but once you've done it, you quickly realize it's a daunting process with dozens of steps.

Citing his opposition to hand-counting ballots, Gillespie County GOP Chair Mo Saiidi resigned in September. Days after his departure, the remaining members of county Republican leadership finalized their decision to move forward.

"I could not in good conscience continue presiding over an election using a method that I did not feel was the right process to go through," Saiidi said. "And I felt it was flawed. I felt it was not well thought out. I didn't think it was the right thing for the community."

Things have been spiraling out of control in Gillespie elections for nearly two years. In 2022, the county's entire elections department quit following harassment and threats from far-right voter fraud activists. This year, voter fraud activists in the county were hosting events featuring well-known conspiracy theorists, pushing for hand counts.

Jim Riley, who was hired earlier this year to lead the decimated elections department, did not respond to Votebeat's multiple requests for comment.

Bruce Campbell, the Gillespie County Republican Party chair who replaced Saiidi, told Votebeat last week there's "no effort or willingness" from the party to back out of hand-counting. Texas election administrators see the end of the year as the drop-dead deadline for making such decisions, so it's likely too late to back out.

"We're pretty much on that path now," Campbell said. Volunteers have been practicing hand-counting and he's certain they'll be ready on election day. "Everybody that's going to do it will have done it enough that it won't be new to them," he said.

Under Texas law, during a primary election — which lasts for two weeks and through the Friday before election day, March 5 — county governments operate early voting, though parties can choose their counting method. On Election Day, the political parties are free to run

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voting and the counting method in any way they choose so long as it's legal.

Across the state, county parties select from a variety of options, ranging from contracting the entirety of the process out to the county elections department — to use county-owned voting and tabulation equipment — to retaining complete party control. The operational costs of the primary election varies based on the method of counting the parties decide to use.

In 2020, Dallas County's Republican Primary — contracting for county services on election day only — cost more than $300,000, records show. This included hourly payments to more than 750 election workers. In Travis, Republicans paid more than $70,000 for 450 hourly workers on election day. In Gillespie, the same day cost more than $8,000, including 45 workers. Experts say these costs would more than double under hand-counting regimes because the method requires more people, in some cases additional polling locations, more space, and far more time.

Records show that Republican county party leaders, including Gillespie County GOP leaders, had only a fleeting notion of what the financial or legal requirements for operating election day voting and tabulation entailed when they began their advocacy for hand-counting.

"Now we need help! We have to run two elections all by ourselves," Tries, the Gillespie precinct official, wrote in an August email to the secretary of state's election division in reference to the primary and the runoff election. The secretary of state's office received similar emails, calls, and text messages from other county Republican leaders throughout the summer from across the state, records show.

State law requires a minimum of three poll workers at each polling location. To hand-count, at least three additional workers are required. By law, these workers are paid by the hour, and though parties can recruit unpaid volunteers, state officials advise against it to prevent legal disputes. Hand-counting often takes days rather than hours, stretching the limitations of unpaid work. Records show county officials didn't recognize how quickly costs and responsibilities would mount until they'd already told constituents hand-counting was a real possibility.

"We are choosing to not use any electronic devices during the 2024 election year," Uvalde County GOP Chair Rhonda Vigil wrote in an August email to the secretary of state's election division. "Please send me the information needed so I can show anyone that I ask that everything that

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I'm doing is perfectly legal. Thank you very much for your help and your time. God bless."

As party chairs have slowly debated their plans for running their primaries, some county election administrators were left to fret.

"Dallas County is anxious to obtain the Secretary of State's guidance regarding conducting a hand count during a Primary Election," Dallas County elections administrator Michael Scarpello wrote in an October email. "Not having that information is significantly hampering our efforts to plan for the Primary with both the Democratic and Republican parties."

Dallas County Republicans would ultimately decide against hand-counting because there was almost no way for the party to recruit and train more than 1,000 election workers and to gather the additional supplies needed to pull it off. After weeks of investigating the feasibility, the party determined it was not possible under current law, Jennifer Stoddard Hajdu, the Dallas County GOP chair, told Votebeat.

For instance, to count by hand in a county that size, the party would have had to purchase 2,400 ballot boxes — special boxes that meet state law requirements to keep ballots secure — that cost $150 each, she said. Stoddard Hajdu says now the party has created a task force to research what changes the Legislature could make to make it easier to pursue a hand count.

Following the various emails and calls with questions the secretary of state's office received about hand counting, it warned officials that it may not have enough money to reimburse every county party that chooses to hand-count, due to the high costs.

The state currently has about $22 million allocated to reimburse political parties and counties for their primary and runoff election expenses. About $5 million of that comes from candidate filing fees.

At an Austin gathering of more than 500 local party chairs in September, Christina Adkins, the state's elections division director, warned the costs might quickly spiral out of control.

"It is entirely possible that your costs may exceed our ability to pay for the primary election," she said, standing behind a podium inside a large hotel ballroom. For over an hour, Adkins went through slide after slide of a presentation detailing rules, procedures, and logistical requirements of a

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hand count. “If everybody in the state goes to hand-counting, we may not have the funds to pay for everything.”

That caused discomfort and surprise in the room. It also left many of the attendees with more questions. “What if we underestimate the number of people we have to hand-count and we don’t make the 24-hour deadline?” one person asked, referencing the length of time under law each county has to return results.

A Dallas-area activist expressed concern over possible costs. “We need to know how much money you’re going to authorize because the number we have right now is high,” she told Adkins.

Adkins directed every party chair in the room considering a hand count to take a look at how much a previous similar election cost them and to consider the fact that additional workers, additional hours, and additional supplies would be required.

She also did not waver on one point: No county will get a pass on following the law because of the logistical difficulties of hand-counting.

“The law spells out exactly how a hand count has to occur. I cannot give you a dispensation. That's the word that keeps coming up: ‘Well, can you give us a dispensation to do this a different way?’” Adkins said to the crowd in September. “I cannot. You have to follow state law.”

While other large county Republican parties — such as those in Dallas and Bexar — briefly entertained hand-counting before rejecting it as too costly, Travis County’s GOP resisted calls from both the county and Democrats in the county to make a final choice until this week. Instead of doing a full hand-count — which party leadership had publicly toyed with — they’ll count only mail-in ballots by hand.

There are still several questions left unanswered about how they’ll carry out this plan, and Travis County GOP did not respond to questions about whether they are concerned about potential delays and errors. In an email, party chair Matt Mackinac said “we have a motivated group that will recruit the necessary workers. We are seeking to use existing state law to increase transparency and confidence in the election. That’s our goal.” .

Given Texas’s restrictive laws around who can legally cast a mailed ballot — mostly voters over the age of 65 and those casting absentee ballots — these ballots will make up only a fraction of primary ballots.

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Nonetheless, experts say hand-counting even 1,000 mail-in ballots may be challenging to pull off.

"Depending on when they begin to process mail ballots, hand-counting might delay reporting final vote totals on election night," said Stein.

The indecision and drama was largely new for Travis County. For years there, Democrats and Republicans have run a joint primary election, sharing the cost of contracting with the county to use its polling locations, equipment, and workers. The months of delays this year, Democrats say, brought their own planning to a standstill.

Katie Naranjo, Travis County Democratic Party Chair said that if Republicans move forward with their plan to hand-count ballots they'll be tampering with their own election because of the potential delays and errors.

"Republicans have made their intent clear: to erode trust in our election process, and disenfranchise voters – not just Democratic voters, but Republican voters too," she said in a statement. "While the joint primary contract today does not infringe upon Democrats' right to hold our own primary election, the process and results of the Republican Primary are still very uncertain."

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Freight rail groups push Feds to reopen Texas-Mexico border crossings

Ben Ames
Supply Chain Quarterly
December 19, 2023
www.supplychainquarterly.com /articles/9320-freight-rail-groups-push-

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feds-to-reopen-texas-mexico-border-crossings

Two of the nation's largest freight rail groups are pushing federal law enforcement to re-open two international border crossings at Eagle Pass and El Paso, TX, after U.S. Customs and Border Protection (CBP) had closed rail operations at those sites on Sunday.

According to CBP, the move was a necessary response to a "recent resurgence of smuggling organizations moving migrants through Mexico via freight trains." In a statement Sunday, the agency said, "CBP is continuing to surge all available resources to safely process migrants in response to increased levels of migrant encounters at the Southwest Border, fueled by smugglers peddling disinformation to prey on vulnerable individuals."

However, trade group the Association of American Railroads (AAR) today called on CBP to reopen those international crossings, saying they serve as key arteries for the North American rail network. "The urgency of reopening these crossings and restoring rail service between the two nations cannot be overstated," AAR President and CEO Ian Jefferies said in a release. "There are not separate U.S. and Mexican rail networks; there is only one interconnected North American rail network. Every day the border remains closed unleashes a cascade of delay across operations on both sides of the border, impacting customers and ultimately consumers."

Support for the AAR's position came today from the Intermodal Association of North America (IANA), which represents over 1,000 intermodal freight transportation providers and suppliers including the Class 1 railroads. "While acknowledging the ongoing border issues, it is imperative that the flow of freight remains unencumbered throughout these challenges. The reopening of these border crossings is vital to reinstating the essential flow of trade between the U.S. and Mexico," Joni Casey, President and CEO of IANA, said in a release.

The CBP decision most directly impacts operations for two Class I railroads – Union Pacific and BNSF – which together operate 24 trains daily at these crossings, moving agricultural products, automotive parts, finished vehicles, chemicals, and consumer goods, AAR said.

But freight traffic crossing the U.S.-Mexico border has been growing quickly for all modes and locations in recent months. That rise is due in large part to a rise in the number of American companies their "nearshoring" manufacturing facilities to Mexico instead of relying

completely on China, in an effort to reduce their risk exposure to maritime shipping, clogged canals, and congested ports.

For example, the freight-transportation brokerage RXO says its cross-border loads from Mexico through Q3 jumped 38% compared to the same quarter last year, led by shipments from automakers and other goods manufacturers.

And last month, the Chicago-based fourth party logistics provider (4PL) Redwood Logistics warned that over $1 billion in freight and nearly 8,000 trailers have been disrupted at the U.S.-Mexico border between September and December, 2023. Redwood blamed a U.S. shift from trailer inspection tasks to immigration tasks for created a backlog like that experienced by seaports from 2020 through 2022.

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Farm, Rail Companies Urge Reopening of US-Mexico Crossings Shut Over Migrants

Cheney Orr, Laura Gottesdiener and Ted Hesson
Reuters
December 20, 2023
www.usnews.com /news/world/articles/2023-12-20/migrant-surge-at-u-s-mexico-border-slows-trade-as-washington-seeks-answers

EAGLE PASS, Texas (Reuters) -Dozens of major U.S. agricultural groups on Wednesday urged the U.S. to reopen two rail crossings on the Texas-Mexico border in an effort to restore the trade routes shuttered due to increased migrant crossings, saying they are causing steep export losses.

In a sharply worded letter to U.S. Homeland Security Secretary Alejandro Mayorkas, the growers - representing corn, milk, rice and soybean producers, among others - said the crossings could be easily reopened.

"Each day the crossings are closed we estimate almost 1 million bushels of grain exports are potentially lost along with export potential for many other agricultural products," the groups wrote, adding that blocking food heading to Mexico could lead to inflation or food insecurity there.

Railroad companies and business groups, including the U.S. Chamber of Commerce, in recent days have pressed U.S. Customs and Border Protection (CBP) to reopen the two rail bridges in Eagle Pass and El Paso,

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Texas, after U.S. border authorities closed them on Dec. 18 in order to "redirect personnel" to process migrants crossing the border.

Among the groups signing the agricultural business letter were the National Grain and Feed Association, U.S. Wheat Associates, American Soybean Association and National Corn Growers Association.

U.S. Border Patrol apprehended about 10,800 migrants at the southwest border on Monday, according to an internal agency report reviewed by Reuters, which several current and former officials said was near or at a single-day record high.

The news came after Mexico's immigration agency said in an internal Dec. 1 memo reviewed by Reuters that it would suspend migrant removals due to an end-of-year funding crunch.

Operations should return to normal in January, a Mexican source familiar with the matter said, adding that the U.S. closure of legal border crossings appeared to be an attempt by the U.S. to pressure Mexico over the scaled-back enforcement.

Mexico's foreign ministry spokesperson said no date had been set for resuming the repatriations.

The agricultural groups said CBP could reopen the railroad bridges with as few as five employees per crossing, challenging the agency's rationale for closing the trade routes.

A White House spokesperson said on Wednesday that the U.S. is "working closely with the Mexican government in attempt to resolve this issue, and also surging personnel to the region. We are communicating regularly with industry leaders to ensure we are assessing and mitigating the impacts of these temporary closures."

In October, total rail freight between the El Paso and Eagle Pass ports topped $3 billion in both directions, according to the U.S. Department of Transportation. That accounted for some 4% of total trade across the U.S.-Mexico border that month.

Neil Bradley, chief policy officer of the U.S. Chamber of Commerce, said in a statement to Reuters that the rail shutdowns "will inflict significant economic harm" and "do nothing to secure the border."

The increase in migrant crossings comes as Democratic President Joe

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Biden, who is running for re-election in 2024, has sought to strike a deal with Republican lawmakers that would pair increased U.S. border security with military aid for Ukraine and Israel.

But a bipartisan group of senators negotiating a compromise have so far failed to reach a deal as a Christmas break approaches.

'NEED TO HAVE OPEN TRADE'

Eagle Pass and El Paso have received thousands of newcomers in recent days, as migrants - including many families with young children - make their way to the border by bus, atop cargo trains, on foot and even by bicycle.

Among them was Isabel Rodriguez, 55, who said he fled his home country of El Salvador after he was attacked earlier this year by gang members who were enraged that his nephew had refused to join their ranks.

"I left my country because they threatened to kill me, and they said they would find me wherever I went," he said, speaking by the riverbank in the Mexican city of Piedras Negras, across from Eagle Pass.

On Wednesday in Eagle Pass, hundreds of migrants were being held in an outdoor area near the Rio Grande. Three migrants were carried out with medical emergencies in the afternoon while others called out for food, a Reuters witness said.

CBP said it was aware of two medical emergencies, one related to dehydration and another that appeared to be seizure-related.

During a press conference near the border, U.S. Representative Tony Gonzales, a Republican who represents Eagle Pass, urged U.S. lawmakers to make legal changes to deter illegal border crossings that have disrupted trade and transit.

"This has to come to an end," Gonzales said. "We need to have open trade and commerce again."

Some 270 U.S. Immigration and Customs Enforcement (ICE) agents have been pulled from their jobs handling deportations and international investigations to help with migrant transport and other tasks at the border, a Department of Homeland Security (DHS) official told Reuters, requesting anonymity to discuss internal operations.

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Union Pacific and Berkshire Hathaway's BNSF Railway, two of the nation's largest freight railroad companies, warned of supply chain disruptions ahead of the Christmas holiday due to the railway bridge closures.

Union Pacific said in a statement on its website that a range of products - including grain, beer, metals, cement and automotive parts - have been halted due to the closures. The closed bridges account for about 45% of its cross-border shipments and that the overall economic impact of the closure will be more than $200 million per day.

BNSF declined to comment on the value of goods affected by the closings.

In addition to the railroad crossing closures, U.S. border authorities this month have closed a busy pedestrian crossing near San Diego, California, and another crossing in remote Lukeville, Arizona, to free up workers to process arriving migrants.

(Reporting by Cheney Orr in Eagle Pass, Texas, Ted Hesson in Washington and Laura Gottesdiener in Monterrey, Mexico; Additional reporting by David Shepardson in Washington; Karl Plume in Chicago; and Cassandra Garrison and Dave Graham in Mexico City; Editing by Mary Milliken, Aurora Ellis and Leslie Adler)

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Dan Patrick Floats Taking Biden Off Texas Ballot After Colorado Supreme Court Removes Trump from Primary
CAMERON ABRAMS
After the Colorado Supreme Court decided to remove former President Donald Trump from the state's Republican primary ballot, Lt. Gov. Dan Patrick said that the same could be done for President Biden in Texas.

Patrick made the remark during an interview with Fox News, where he told Laura Ingraham that because of the way the Biden administration has handled the southern border, Texas could remove him from the 2024 presidential election ballot.

"We are fed up," Patrick said.

"In fact, seeing what happened in Colorado, Laura makes me think, except we believe in democracy in Texas. Maybe we should take Joe Biden off the ballot in Texas for allowing eight million people to cross the border since

he has been president, disrupting our state far more than anything anyone else has done in recent history."

The Colorado Supreme Court ruled in a 4 to 3 ruling that Trump was disqualified from serving as U.S. president and thus cannot appear on the primary ballot in the state. The court cited Section 3 of the 14 Amendment, which prevents someone from holding public office "who shall have engaged in insurrection or rebellion against the [United States], or given aid or comfort to the enemies thereof." The amendment was enacted after the U.S. Civil War to keep former members and supporters of the Confederacy from serving in the government.

"A majority of the court holds that President Trump is disqualified from holding the office of President under Section Three of the Fourteenth Amendment of the United States Constitution," the ruling said. "Because he is disqualified, it would be a wrongful act under the Election Code for the Colorado Secretary of State to list him as a candidate on the presidential primary ballot."

"We do not reach these conclusions lightly," the majority opinion added. "We are mindful of the magnitude and weight of the questions now before us. We are likewise mindful of our solemn duty to apply the law, without fear or favor, and without being swayed by public reaction to the decisions that the law mandates we reach."

The Colorado Supreme Court ruling will be stayed until January 4, 2024 in order to allow the U.S. Supreme Court time to review it.

Colorado's ruling is a reversal of a lower court's decision that did find Trump had "engaged in insurrection" for his actions during the January 6 Capital riot but nonetheless allowed him to remain on the ballot in the state.

The Colorado Republican Party stated on social media that it "will withdraw from the Primary as a Party and convert to a pure caucus system if this is allowed to stand."

"This is a major and extraordinary holding from a state supreme court," wrote Derek Muller, a law professor at the University of Notre Dame. "Never in history has a presidential candidate been excluded from the ballot under Section 3 of the Fourteenth Amendment."

The Trump campaign has vowed to "swiftly file an appeal to the United States Supreme Court and a concurrent request for a stay of this deeply undemocratic decision."

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"Democrat Party leaders are in a state of paranoia over the growing, dominant lead President Trump has amassed in the polls," Trump campaign spokesperson Steven Cheung said. "They have lost faith in the failed Biden presidency and are now doing everything they can to stop the American voters from throwing them out of office next November."

"We have full confidence that the U.S. Supreme Court will quickly rule in our favor and finally put an end to these unAmerican lawsuits."

Texas-based lawyer Adam Loewy clarified online that "SCOTUS doesn't even need to rule for Trump to stay on the ballot. They just need to take it and the stay remains and he's on the ballot."

With its 6 to 3 conservative majority, the U.S. Supreme Court will now be tasked with weighing one of the most consequential legal cases in recent memory.

"Removing Trump from the ballot in Colorado under this theory is spurious, likely unconstitutional, & a sadly predictable, but outrageous form of lawfare," Congressman Chip Roy (R-TX-21) wrote online.

"SCOTUS should end this."

U.S. Sen. Thom Tillis (R-NC) responded to the Colorado decision by introducing a bill to amend the Help America Vote Act of 2002 by adding language that would withhold federal election administration funds to states "misusing the Fourteenth Amendment for political purposes."

Disclosure: Unlike almost every other media outlet, The Texan is not beholden to any special interests, does not apply for any type of state or federal funding, and relies exclusively on its readers for financial support.

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Wisconsin elections commission rejects complaint against Trump fake electors for second time

SCOTT BAUER
Associated Press
December 20, 2023
www.houstonchronicle.com /news/politics/article/wisconsin-elections-commission-rejects-complaint-18566573.php

MADISON, Wis. (AP) — Wisconsin's bipartisan elections commission, for a second time, has unanimously rejected a complaint against fake presidential electors who attempted to cast the state's ballots for Donald Trump in 2020.

The Wisconsin Elections Commission first rejected the complaint in March 2022. But a judge in May ordered the commission to rehear the complaint, this time without one of its members who served as one of the fake electors for the former president.

The commission released its unanimous 5-0 decision to reject the complaint Wednesday without explaining why. The elections commission's discussion of the complaint, as well as its vote on Tuesday, was conducted in closed meetings.

The complaint asked the elections commission to investigate the fake electors' actions and declare that they broke the law.

Last year, when it rejected the complaint the first time, the commission attached a letter from the Wisconsin Department of Justice that said that Republicans who attempted to cast the state's 10 electoral college votes for Trump did not break any election laws. The state Justice Department concluded that Republicans were legitimately trying to preserve Trump's legal standing as courts were deciding if he or Biden won the election.

Fake electors met in Wisconsin and other battleground states that Trump lost in 2020, attempting to cast ballots for the former president even though he lost. Republicans who participated in Wisconsin said they were trying to preserve Trump's legal standing in case his defeat was overturned in court.

The fake electors settled a lawsuit filed against them by Democrats seeking more than $2 million in damages. The case is proceeding against two of Trump's attorneys.

Under the settlement, the Madison-based liberal law firm Law Forward which filed the original complaint with the elections commission against the electors agreed to withdraw the second complaint. But the elections commission was still free to take action on the complaint, which its attorney noted on Wednesday when announcing it was rejected.

One of the Wisconsin fake electors was Bob Spindell, a Republican member of the elections commission. He voted to reject the complaint last year,

but did not participate this time after he agreed that his involvement was improper. There have been calls for Spindell to be removed from the elections commission over his role as a fake elector.

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Lawsuits Filed Against Three School Districts, Alleging Misleading Tax Election Ballot Language
BRAD JOHNSON
THE TEXAN
DECEMBER 21, 2023
HTTPS://THETEXAN.NEWS/ELECTIONS/2023/LAWSUITS-FILED-AGAINST-THREE-SCHOOL-DISTRICTS-ALLEGING-MISLEADING-TAX-ELECTION-BALLOT-LANGUAGE/ARTICLE_11670456-9F6B-11EE-AE4F-875C7B4F6DA9.HTML

Three election contests have been filed against Texas school districts, alleging misleading ballot language in an attempt to invalidate tax increases approved by voters in November.

The suits were filed against Round Rock Independent School District (ISD), New Braunfels ISD, and Lewisville ISD by individuals who live in each district; the suits are coordinated by the Travis County Taxpayers Union (TCTU) that's run by former Austin City Councilman Don Zimmerman, who is the plaintiff in the Round Rock ISD suit.

Each ballot proposition was a voter-approval tax rate election (VATRE), a term established by the 2019 Legislature in its tax reform law. Any tax rate adopted by an ISD that would bring in above 2.5 percent more revenue from the previous year must now be approved by voters at the ballot box. Also part of those reforms was a medley of "truth in taxation" policies, including a requirement for ballot language to explicitly state that passing the item would raise taxes as well as how much more in taxes it would collect.

In Round Rock ISD's case, the VATRE of $0.9190 per $100 of value is a lower rate than the year before but is not a lower tax collection due to rising appraisals. It is a frequent occurrence that local officials pass a level or lower tax rate and sell that to constituents and voters without emphasizing the fact that due to appraisals, the rate will collect more in actual dollars.

When making decisions on setting the tax rate, those officials have the appraisal roll information in front of them and know where the line is

between keeping tax collections level — notwithstanding new property added to the rolls — and collecting more dollars. That line is the "no-new-revenue" tax rate. By the simple fact that a VATRE was necessary in those ISDs, passing them would result in an increase in the taxes collected by the entities compared with collections without their passage.

But on their ballots, Round Rock ISD voters saw language that stated the VATRE would result in a 0 percent increase in Maintenance & Operations (M&O) tax revenue and an additional $0 in collections. New Braunfels ISD voters were presented with a 14.6 percent decrease and a $10.8 million decrease in collections; Lewisville ISD's ballot stipulated a 3.6 percent decrease amounting to $14.6 million less in collections.

"[Round Rock] ISD's government school not only admitted the 3 cent golden penny tax increase would increase revenue compared to last year — they bragged it was even better new revenue because not a single penny of it could be refunded as 'equity payments' (a.k.a. Robin Hood recapture) back to Texas state government," Zimmerman said in a release.

"Whether the increase is closer to $8.7 million or $19 million, the golden pennies rate increase produced more new M&O revenue than '0 percent' and '$0,' as the unlawful ballot language claimed."

Under normal circumstances, approval of a decrease or no increase in taxes would not require voter approval. In actuality, Round Rock ISD's VATRE will bring in $19 million more than the previous year in total property tax collections according to various district publications, including its Proposition A information sheet and the 2023-24 budget's general operating fund section.

In an emailed response to a question about the issue, the Williamson County Tax Assessor-Collector Larry Gadde said the ballot language is mandated by the state and that the M&O rate will bring in $23.3 million less from the previous year.

"The ballot language is not illegal," Gadde wrote. "[It] is mandated by the state and does not give the option for RRISD to explain to the voters that this rate will still result in a decrease in M&O revenue."

That's different in the other two districts, however. In New Braunfels ISD's case, the petition alleges district publications disclosed a $2.5 million increase in M&O collections while the ballot showed a decrease. The Lewisville ISD petition asserts the advertised number was a $13.5 million increase, while the ballot language showed a reduction.

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The complicating factor in all these estimates is the $13 billion tax relief deal struck by the Legislature this year and passed by statewide voters on the same ballot as these VATREs. The combined allotment from the state is estimated to reduce the average homeowner's tax bill by around $1,200 than it otherwise would be without it.

These localities subtracted the state's incoming $7.3 billion in added compression and $5.7 billion to increase the standard homestead exemption. Texas' school finance system is like a seesaw, with state funding on one side and local property tax collections on the other — and as one side increases, in this case the state's, the other is reduced.

What the districts lose in property tax collections, they'll make up for — and depending on the district, could draw in even more in total — in the 2024-25 biennium in state compression and exemption dollars. In budgeting for the next year, those taxing units were directed by the Legislature to prepare as if the November constitutional amendment passed — which it did overwhelmingly.

The lawsuits highlight a tricky situation: how to adhere to the letter of property tax law while staying true to the "truth in taxation" intentions of those reforms during a massive state injection of relief dollars that sends the typical procedure haywire. Amid all of that, local government debt in Texas has never been higher as voters continue to approve bonds and VATREs at a massive rate.

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Heider Garcia sworn in as the next elections administrator in Dallas County

Frank Heinz
NBC DFW
December 20, 2023
www.nbcdfw.com /news/politics/lone-star-politics/heider-garcia-sworn-in-as-the-next-elections-administrator-in-dallas-county/3416615/

After being named to the position in October, former Tarrant County Elections Administrator Heider Garcia was sworn in Thursday as the new elections administrator in Dallas County.

Garcia took the oath of office from Dallas County Judge Clay Jenkins Thursday afternoon and will now oversee the state's second-largest elections department.

"Heider Garcia has a proven track record of running excellent elections in several places receiving praise from elected officials in both parties and former Texas Secretaries of State. His thoroughness, fairness, and leadership abilities will be valued here," said Jenkins.

Garcia, who has more than 20 years of election experience, was hired after the county's last elections administrator, Michael Carpello, retired.

Garcia said he's excited to get to work with the staff in Dallas County, who he said he's been able to get to know over the last seven weeks. He described them as incredibly smart and dedicated and said they, like others he's known working in elections, do it for a love of country and community.

"It feels good. It feels challenging. It feels humbling, I think that's an important part of it. There's a track record that I bring with me but it's a new place, it's a new community so it's important to approach the job humbly and learn about the new community I'm serving," Garcia said.

Garcia announced in April he was resigning from his post in a letter he sent to Tarrant County Judge Tim O'Hare (R) and then-county administrator GK Maenius who has since retired. In the letter, Garcia thanked Maenius for his leadership and support while saying his decision to exit was driven by a difference of opinion with the county judge on how to conduct an election.

"Judge O'Hare, my formula to 'a quality transparent election' stands on respect and zero politics; compromising on these values is not an option for me. You made it clear in our last meeting that your formula is different, thus my decision to leave," Garcia wrote.

O'Hare told NBC 5 in April that he never asked Garcia to resign or threatened to fire him. He said Garcia decided to leave on his own.

When asked about his departure from Tarrant County, Garcia said he's only looking forward.

"I learned a lot, I grew a lot in Tarrant County. I left a lot of good friends. We had a lot of good accomplishments and I take that with me to keep moving forward. I think it's important," Garcia said. "There's a saying we have in Spanish ... you don't go back even to try to gain momentum, you keep going forward."

Jenkins, on Thursday, said he didn't get into the particulars of why Garcia

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left Tarrant County but instead chose to talk with those who worked with him and knew his work ethic.

"I reached out to Glen Whitley, my counterpart, I'm a Democrat and Glen is a Republican, I reached out to all the members of the commissioners court, and several of the elected officials of both political parties in Tarrant County and I could not find a person who did not say that Heider Garcia was honorable and excellent at his job," Whitley said.

Coming from Tarrant County, Garcia has years of experience leading large-scale elections and working with elections technology. Before spending five years in Tarrant County, he was the elections manager in Placer County, California for two years. Since leaving Tarrant County in the spring, Garcia has been working as a senior election subject matter expert for the U.S. Election Assistance Commission.

In June, Tarrant County's election commission voted unanimously to appoint Chief Deputy Clerk Clinton Ludwig as the next elections administrator. Before his appointment, Ludwig had no direct election experience.

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Texas begins flying migrants from southern border to Chicago | AP News

PAUL J. WEBER
Associated Press
December 20, 2023
apnews.com /article/texas-chicago-migrant-flights-16f23893299bc880ce1c4afaa9b9656a

AUSTIN, Texas (AP) — Texas sent a plane with more than 120 migrants from the U.S.-Mexico border to Chicago in an escalation of Republican Gov. Greg Abbott's busing operation that has given more than 80,000 migrants free rides to Democratic-led cities across the country since last year.

The first flight, which Abbott's office said left from El Paso and arrived Tuesday, was arranged a week after Chicago's city council took new action over the busloads of migrants that have drawn sharp criticism from Mayor Brandon Johnson. The city has said bus operators began trying to drop off people in neighboring cities to avoid penalties that include fines, towing or

impoundment.

Bus operators could now face tougher penalties in Chicago for not unloading new arrivals at a designated location or failing to fill out city paperwork. Abbott spokesman Andrew Mahaleris said Wednesday that the flights were the result of Johnson "targeting migrant buses" from Texas.

The flight took off a day after Abbott signed a new law this week that would allow police in Texas to arrest migrants who illegally cross the border, ratcheting up a series of aggressive measures the state has taken in protest of President Joe Biden's immigration policies.

"Until President Biden steps up and does his job to secure the border, Texas will continue taking historic action to help our local partners respond to this Biden-made crisis," Mahaleris said.

The White House criticized the flight and accused Abbott of using migrants for politics.

"Yet again, Governor Abbott is showing how little regard or respect he has for human beings," White House spokesperson Angelo Fernández Hernández said in a statement. "This latest political stunt just adds to his tally of extreme policies which seek to demonize and dehumanize people."

More than 23,000 migrants have been sent to Chicago on buses as part of Abbott's border mission known as Operation Lone Star, according to the governor's office.

The multibillion-dollar operation has also included stringing razor wire along the frontier, installing buoy barriers in the Rio Grande and deploying more officers. On Tuesday a federal appeals court ordered the Biden administration to temporarily halt cutting the concertina wire on the border while a legal challenge plays out.

Johnson's office did not immediately respond to a request for comment about the flights to his city.

Concerns have arisen about the living conditions and medical care provided for asylum-seekers arriving in Chicago, spotlighted by the death last weekend of a 5-year-old boy living at a temporary shelter for migrants.

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AMERICAN OVERSIGHT

Alicia Phillips Pierce
Assistant Secretary of State for Communications
Office of the Secretary of State
512-463-6116



AMERICAN OVERSIGHT

From: Christina Adkins
Sent: Friday, February 2, 2024 9:16 AM
To: Elections-Attorneys
Subject: FW: Training Starts This Week - Hand Count Procedures
Attachments: Echo123 Hand Count Method 1-30-24 .docx; Batch of 25 Tally Sheet 1-30-24.xlsx

FYI

From: TCRP Elections <elections.tcrp@gmail.com>
Sent: Tuesday, January 30, 2024 2:29 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Training Starts This Week - Hand Count Procedures

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

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Christina,
I did not hear back on the revisions I made to the hand count procedures in response to comments from your office. We are starting training this week and I was hoping to have confirmation that we have addressed all concerns before we start training on the process. We have continued to tweak the process and are now counting in batches of 25 after looking at data from previous elections on mail ballots that shows very few precincts received more that 25 ballots.

Attached is the latest version of procedures and the tally sheet for batches of 25.

Is it possible to have an official statement that the procedure and tally format are accepted? Can there be a note on the tally sheets like the one below indicating that the tally sheet format has been approved?

Your input would be greatly appreciated,
Elizabeth

AW8-1
Prescribed by Secretary of State
Section 65.004, Texas Election Code
3/07

TALLY SHEET

OFFICE OR "FOR" AND "AGAINST"	Name of Candidates Or Propositions	5	10	15	20	25	30

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Echo 123 Hand Counting Method

GENERAL DESCRIPTION OF METHOD

The Echo123 hand count method is so named because counters tally results by calling, echoing the vote called and making a slash across the first available number in a row of boxes numbered 1 to 50 for each candidate/proposition on the ballot and each under and over vote by race.

Ballots are counted by a Counting **Team** which consists of a **Caller** and a **Counter**. Since Chapter 65 of Texas Election Code for hand counting requires tallies to be recorded on 3 unique tally sheets, the **Caller** will both call out the vote and record the tally on 1 of the required tally sheets. The **Counter** will repeat back the vote the caller has called and then record the tally on 2 of the required tally sheets. *Note: Texas Election Code allows for teams of up to 4 (1 caller and 3 counters marking 1 tally sheet each). The Numbered Box method described below uses 2 person teams but is applicable to any sized team.*

Ballots are separated into batches (typically 50 ballots) by precinct and provided to counting teams. The counting teams tally the votes for one race across all the ballots in a batch, record the results on a batch summary sheet and then move on to count the next race. Once the votes for all races have been counted and recorded for all ballots in a batch, the counting team receives a new batch of ballots and begins the counting process again.

HAND COUNT PLANNING

Roles

The **Judge** is required to complete official returns and may, along with the **Alternate Judge**, be a part of a counting team depending on the location of hand counting and the volume of ballots to be counted. If the hand count is in a central location involving many counting teams the Judge and Alternate Judge will need to be available to resolve issues the counting teams are unable to resolve amongst themselves such as determining if a ballot is valid if no Judge signature is present or determining voter intent when the counting team can not come to a consensus. If the hand count is conducted at the polling location, then the volume of ballots may be low enough that the Judge and Alternate Judge of the polling location may also be part of a Counting Team.

Counting Teams consist of 2 people (a Caller and a Counter) and are responsible for recording vote tallies by batch. Each Counting Team will have their own table (Counting Station) preset with all necessary supplies. Each

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Counting Teams is assigned a unique number to be used on hand count documents to identify their work.

Batch Preparers/Batch Controller, under supervision of the Judge/Alternate Judge, remove ballots from the ballot box to sort by precinct (if this was not done after the Qualification process) and count into batches of 50. Each Batch Bag only contains ballots for one precinct. Batch Preparers place the batches into Batch Bags along with Tally Sheets and Batch Summary Sheets. The Batch Preparers are responsible for completing the labels on the Batch Bag before they are delivered to a Counting Team. The Batch Controller will keep a Master List of Batches by Precinct which logs each Batch Bag created, number of ballots contained in the batch, the associated precinct, Counting Team assigned, and any changes to the batches. Batch Preparers may serve on Counting Teams or as Runners or Floaters once all Batch Bags have been prepared. A Batch Controller should be assigned throughout the hand count to address any issues with Batch Bags and maintain the Master List of Batches by Precinct which will be delivered to the Judge and stored with other hand count materials.

Runners deliver Batch Bags to be counted to Counting Teams, provide Counting Teams with additional tally sheets when a recount of a race is needed (each Runner will have a file of Recount Tally Sheets for each race on the ballot), collect counted Batch Bags from Counting Teams and deliver them to the Judge Results Table. If managing a large number of Counting Stations, Runners can be assigned to a specific Pod (a group of approximately 4-6 Counting Teams/Stations). Pods can be identified by a specific letter, number, or color. Runners also serve as points of contact and problem solvers for their Pod when Counting Teams encounter issues not defined in the process.

Assistants to Judge/Alternate Judge act as runners and support for the Judge/Alternate Judge. They are responsible for receiving completed Batch Bags at the Judge Results Table, confirming number of ballots in batch, removing Batch Summary Sheets taped to the Batch Bag, organizing Batch Summary Sheets into stacks by precinct, returning batch Bags to Ballot Box 3, and assisting the Judge/Alternate Judge in compiling results. Approximately 2-3 assistants are needed per 2500 ballots counted.

Floaters fill in on counting teams if a counting team member needs to step away or leave. Approximately 1 Floater is assigned per 12 Counting Teams.

Video Techs are responsible for setting up video recording equipment at each Counting Station, ensuring recording is constant and resolving issues. Video Techs are assigned responsibility for 1 to 3 Pods depending on the size of Pods.

Estimate Number of Counting Teams

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Based on the number of ballots and number of races on the ballot, determine in advance how many counting teams will be needed to complete the hand count within the timeframe desired. Previous testing has determined a counting time of ~6 seconds per race with a counting team of two.

How to calculate Number of Teams:

1) (Number of Races on Ballot X 6 seconds = Average Seconds to Count 1 Ballot.
2) Average Seconds to Count 1 Ballot / 60 = Average Minutes to Count 1 Ballot.
3) Average Minutes to Count 1 Ballot x Number of Expected Ballots = Total Estimated Minutes to Count All Expected Ballots.
4) Total Estimated Minutes to Count All Expected Ballots / 60 = Total Estimated Hours to Count All Expected Ballots
5) Total Estimated Hours to Count All Estimated Ballots / Number of Hours in which you want to complete the counting = Number of Teams Needed.

LOCATION SET UP

Components of Counting Station:

- 2 counting people (**Caller** and **Counter**)
- 2 paper trays (labeled "Counted Ballots" and "Issues")
- Pack of Sticky Notes (to note issues on ballots)
- Stapler and tape
- Green *"Runner"* flag
- Red "*Judge"* review card
- Card Stand
- Sharpies for completing Tally Sheet and Batch Summary Sheet
- Chairs and Tables
- Video for high level, overall live stream of counting location

If filming counting stations individually

- Green "*Recounting*" card
- Yellow *"Check # Ballots in Batch"* card
- 2 cameras - one over the ballots and one over the entire station
- Tripod to hold the cameras
- Power cords plugs

Setting Up Counting Station:

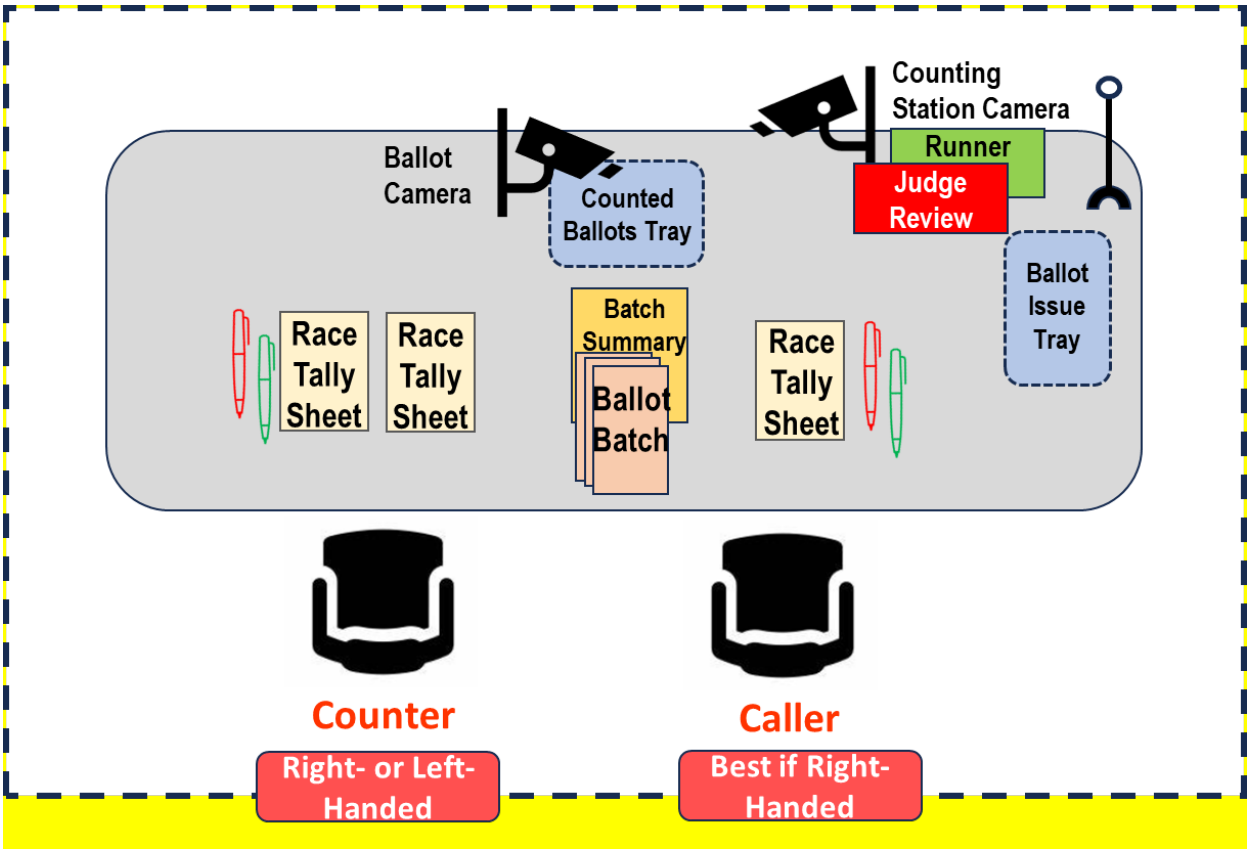
1. Place the Sharpies/pens, Sticky Notes, and stapler where convenient.

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2. Place the Counted Ballots Tray in center of table.
3. Place Issues Tray beside the **Caller**
4. Place *"Runner"* flag near the Issues Tray
5. Place "*Judge"* review card in the Issues Tray
6. Place the Card Stand next to the Issues Tray

If filming counting stations individually

7. Place the *Recounting* and the *Check # Ballots in Batch* cards face down beside the **Counter's** station.
8. Set up the tripod and cameras so the ballots and the counting station can be clearly seen on the video recording
9. Connect the cameras to a laptop for recording and public viewing if desired



BATCH BAGS:

A Runner will give each Counting Team/Station a labeled Batch Bag

The Batch Bag Label - which is affixed to the outside of the Bag includes: give example

- election name and date
- precinct number

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- batch number
- number of ballots in batch
- Counting Team assigned
- initial lines for counting team to confirm number of ballots in batch
- signature line for person who prepared the Batch Bag

A Batch Bag contains…
- Tally Sheets (3)
- Batch Summary Sheet (2)
- Batch of Ballots (50 ballots or less if there are not 50 ballots from a given precinct).

Confirming the Batch Bag Contents:

1. Take the ballots out of the Batch Bag.
2. Count the number of ballots (recommended in stacks of 10) and confirm that all ballots in the batch are for the same precinct listed on the Batch Bag
3. If the number of ballots matches the number indicated on the Batch Bag Label and all ballots are from the same precinct, both members of the **Counting Team** initial beside the number on the Batch Bag Label

If Different Number of Ballots

a. If the number of ballots does not match the number indicated on the Batch Bag Label (and it is not a case of ballots from the wrong precinct being excluded) count the number of ballots once more.
b. If after the second count the number of ballots matches the number indicated on the Batch Bag Label, both members of the **Counting Team** initial beside the number on the Batch Bag Label.
c. If after the second count the number of ballots does not match the number indicated on the Batch Bag Label, cross out the number of ballots listed on the Batch Bag Label, write in the correct number of ballots, and both members of the **Counting Team** initial beside the new number. Place Runner Flag in the card stand and communicate the change to the **Runner** when they arrive.
d. Once the change has been communicated, the **Runner** will remove the Runner Flag from the card stand and communicate to the Batch Coordinator that changes to the Batch. The **Batch**

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Coordinator then documents the change in the Master List of Batches by Precinct.

If Different Precinct

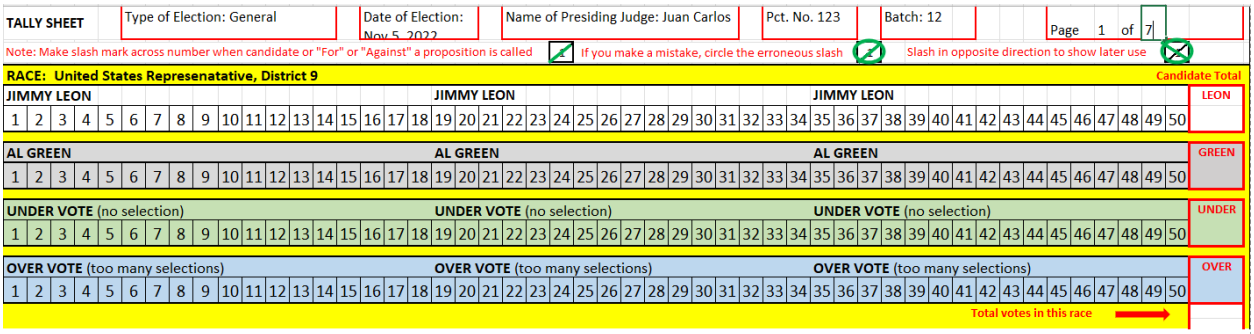
a. If the entire batch is for a different precinct than listed on the Batch Bag, cross out the precinct number listed on the Batch Bag Label, write in the correct precinct number, and both members of the **Counting Team** initial beside the new precinct number. Place the Runner Flag in the card stand and communicate the change to the **Runner** when they arrive.
b. Once the change has been communicated, the **Runner** will remove the Runner Flag from the card stand and will inform the **Batch Coordinator** of the change in precinct number associated with that batch. The Batch Coordinator will update the Master List of Batches by Precinct with the change.
c. If some, but not all, of the ballots are for a different precinct than listed on the Batch Bag, the batch will need to be returned to the Batch Bag Preparation area and the **Counting Team** given a different Batch Bag to count.
    i. Put the Runner Card in the Card Stand to call the **Runner**.
    ii. **Runners** will collect the Batch and remove the Runner Flag from the card stand, return the mixed precinct Batch Bag to the Batch Bag preparation area where they will be batched correctly.
    iii. **Runner** immediately returns to Counting Team to deliver a new Batch Bag
    iv. The mixed precinct Batch Bag will be separated and batched correctly by the **Batch Preparers**.
    v. **Batch Controller** will then update the Master List of Batches by Precinct to reflect the changes made.

4. Take the remaining materials out of the Batch Bag.
5. Place **one** Tally Sheet in front of the **Caller** and **two** Tally Sheets in front of the Counter.
6. Place the Batch Summary Sheet face up in the space between the **Counter** and the **Caller** and place the batch of ballots face down on top of the Batch Summary Sheet

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THE TALLY SHEET:

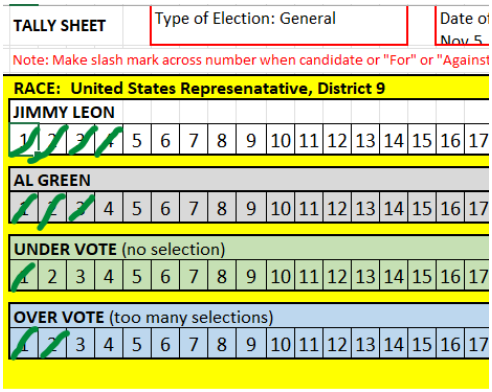
The Tally Sheet has separate rows for each candidate/under vote/over vote/for or against (for propositions). To help counting teams differentiate the Candidate/For/Against rows alternate between white or gray and the **Under Vote row** is always **Green** and **Over Vote row** is always **Blue.**



MARKING THE TALLY SHEET:

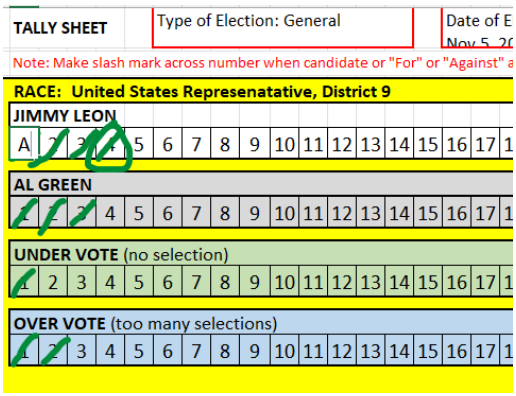
The counting team will mark according to which vote selection is called out using a colored Sharpie (this makes the markings more visible to observers and cameras).

Counters will make a slash (from upper right to lower left "**/**") across the next open numbered square next to called candidate or under or over vote.

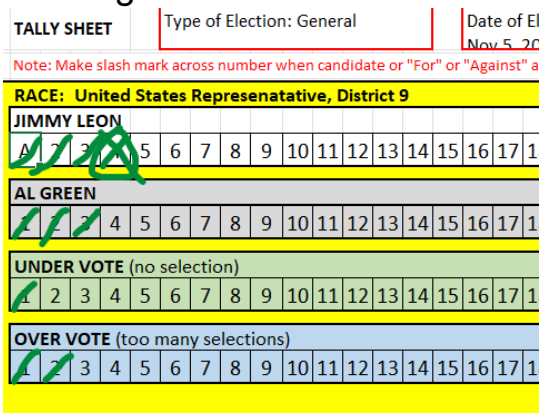


If a slash mark is made in error, circle the erroneous slash.

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When the next vote is called for this *candidate or Under or Over vote* make a slash in green in the opposite direction (from upper left to lower right "\") creating an "**X**" to indicate this is now a counted vote.



CALLING THE COUNT AND RECORDING THE VOTE:

Votes are counted by race, meaning the **Counting Team** will count the first race on every ballot in the batch and then return to the front of the batch to begin counting the second race, and so forth until all races have been counted.

Since the **Counter** will be marking 2 sets of Tally Sheets the **Counter** may want to stack the 2 sets of Tally Sheets on top of each other such that the section for the race being called covers any other races on the Tally Sheet.

With the ballots face down, the **Counting Team** will

1) Confirm that the ballot has a Judge signature
2) Turn the ballot over to confirm that there is a ballot number.
3) If there is no ballot number place a sicky note stating "No #" on the ballot.
4) If there is no signature place a sticky note stating "No Sig" on the ballot

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5) Place the ballot in the Issues Tray and the Judge Card in the Card Stand to signal that the **Judge/ Alt Judge** is needed to determine if the ballot is a valid ballot.
6) Continues to the next ballot in the batch. See ***ISSUE RESOLUTION*** section for next steps when **Judge/Alternate Judge** review is needed.

Once the ballot number and signature are confirmed

1) Before counting the first race, **Caller** and **Counter** compare all vote selections on the ballot to familiarize themselves with the style in which votes were selected (i.e., a check mark, candidate name circled, etc.) and if there is any variation from the style used across races. This helps the team catch any variations that would impact how the team interprets voter intent. The review of all selections on a ballot is only done when counting the first race. After counting the first race on the ballot, the **Counting Team** will only do a comparison selection style when questions of intent arise on a specific ballot.
2) **Caller** places their finger next to the selection mark for the race being counted and calls out the vote loud enough for poll watchers to hear and video cameras record what was called. Note: Pointing to the vote helps the **Counter** to quickly locate and confirm that what is called matches what is marked on the ballot
3) **Counting Team** marks their Tally Sheets in the first open numbered box on the row for which the vote was called out.
4) **Counter** echos what the **Caller** called out while marking their 2 Tally Sheets and calls out the number of the box they are marking.

Note: Echoing the **Caller** and calling out the number being marked each time a Tally Sheet is marked is important to ensure that the **Caller** and **Counter** have marked the same number with each vote called.

If during the course of tallying the votes the **Counting Team** notices they do not have to same tally, the **Caller** and **Counter**

1) Discuss to identify the discrepancy.
2) If the source of the discrepancy is clear (usually marked on wrong candidate/Under/Over row), correct the Tally Sheets immediately and continue counting the ballots for the race being counted.
3) If the source of the discrepancy is not clear, the previously counted ballots in that batch will need to be recounted for that race. (See **RECOUNTING A RACE – Recounting Part of a Batch for a Race**)

Once a vote selection has been called and recorded on the Tally Sheets

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1) **Caller** places the ballot face up in the Counted Ballots Tray so that the cameras can easily record the selection on the ballot.
2) **Counting Team** continues to the next ballot in the batch, until all ballots in the batch have been counted for the race that is being counted.

RECORDING WRITE-IN VOTES (note there are no approved write candidates for the March 5th 2024 Primary in Travis County):
Tally Sheets provided to the **Counting Teams** will include rows with the name of each approved write-in candidate. Votes for a write-in candidate are called and recorded in the same manner as candidates printed on the ballot. If there is not a row on the Tally Sheet for the write-in that indicates the person is not an approved write-in candidate. Votes for non-approved write-in candidates are considered under votes and to be recorded in the "Under Vote" row on the Tally Sheet. Note: A write-in vote may not be counted if a sticker containing a candidate's name is affixed to the ballot by the voter(65.008 (b))

DETERMINING VOTER INTENT:
The **Counting Team** may encounter ballots where the intent of the voter is not clear. In these cases, the Counting Team will follow the guidelines in Texas Election Code 65.009.

COUNTING IRREGULARLY MARKED BALLOT.
(a) Failure to mark a ballot in strict conformity with this code does not invalidate the ballot.
(b) Marking the ballot by marking through the names of candidates for whom or the statements beside the propositions for which the voter does not desire to vote does not invalidate the ballot.
(c) A vote on an office or measure shall be counted if the voter 's intent is clearly ascertainable unless other law prohibits counting the vote.
(d) The intent of the voter in marking a ballot may be determined by:

(1) a distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
(2) an oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
(3) a line drawn through:

(A) the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
(B) the name of each political party except one in a manner that clearly indicates a preference for the political party not marked; or
(C) a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or

(4) any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.

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If the **Counting Team** cannot agree upon the intent, The **Judge/Alt Judge** will be needed to determine intent. The **Counting Team** will

1) Place A sticky note labeled “Intent” is placed on the ballot beside the race in question
2) Place ballot in question in the Issues Tray
3) Place Judge Card in the Card Stand to signal that the **Judge/ Alternate Judge** is needed to determine voter intent.
4) Continue to count the next ballot in the batch.

Note: **Counting Teams** may continue to count races while waiting on a **Judge/Alternate Judge** response but may not move on to counting a new batch until issues are resolved and all votes tallied for the current batch.
See ***ISSUE RESOLUTION*** section for next steps when Judge/Alternate Judge review is needed.

ISSUE RESOLUTION:

When a **Counting Team** places the Judge Card on the Card Stand

- the **Judge** or **Alternate Judge** will come to their counting station to resolve the issue indicated on the sticky note on the ballot in the Issues Tray.
- The **Judge/Alternate Judge** will review the ballot and make the appropriate determination. If the **Counting Team** is in the middle of counting a race the **Judge/Alternate Judge** may choose to write their determination on the sticky note on the ballot.
- For cases of an unnumbered ballot or missing Judge signature, the **Judge/Alternate Judge** will
  - Write “OK” on the sticky note meaning the ballot is acceptable or
  - Write the rationale for why the ballot is not acceptable on the back of the ballot per TEC 65.009. Can it be on front too?
- For cases of voter intent, the **Judge/Alternate Judge** will
  - Write on the sticky note the determined voter intent such as writing the last name of the candidate determined to be the voter’s intended selection.

The **Judge/Alternate Judge** may determine it is best to wait until the **Counting Team** can come to a stopping point to discuss.
Note: If a **Counting Team** must stop in the middle of counting a race, it is critical to make sure to mark the last called vote and put the counted ballot in the Counted Tray so as not to confuse where to begin counting again. It

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may be helpful to place a blank sticky note on top of the next ballot to be counted.

Once the **Counting Team** has been given the determination, they will

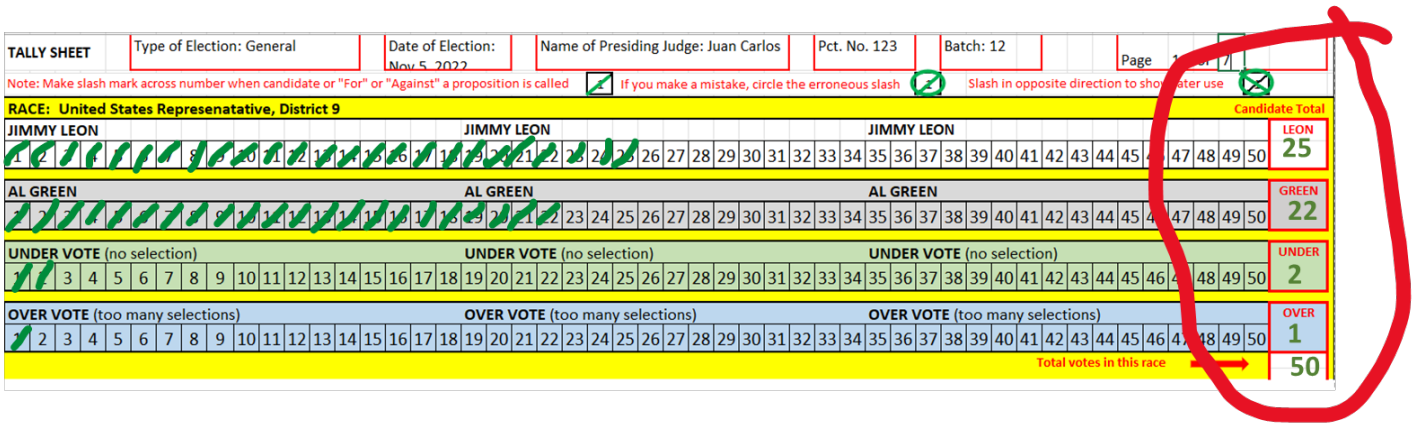
1. Remove the Review Card from the Card Stand.
2. If the **Counting Team** paused in the middle of counting a race, the ballot with the now resolved issue is left in the Issue Tray and the team continues counting the race that was paused.
3. When all of the ballots in the race that was paused have been counted and placed in the Counted Tray the **Counting Team** will add the vote(s) from any valid resolved issue ballot to the Tally Sheet for any race in which the ballot's votes were not included
4. If the Judge/Alternate Judge determined the ballot was invalid (example: missing signature or ballot number) the votes on the ballot are not counted and the ballot is returned to the Batch Bag.
5. Valid resolved issue ballot(s) is added back to the batch and counting of the next race begins.

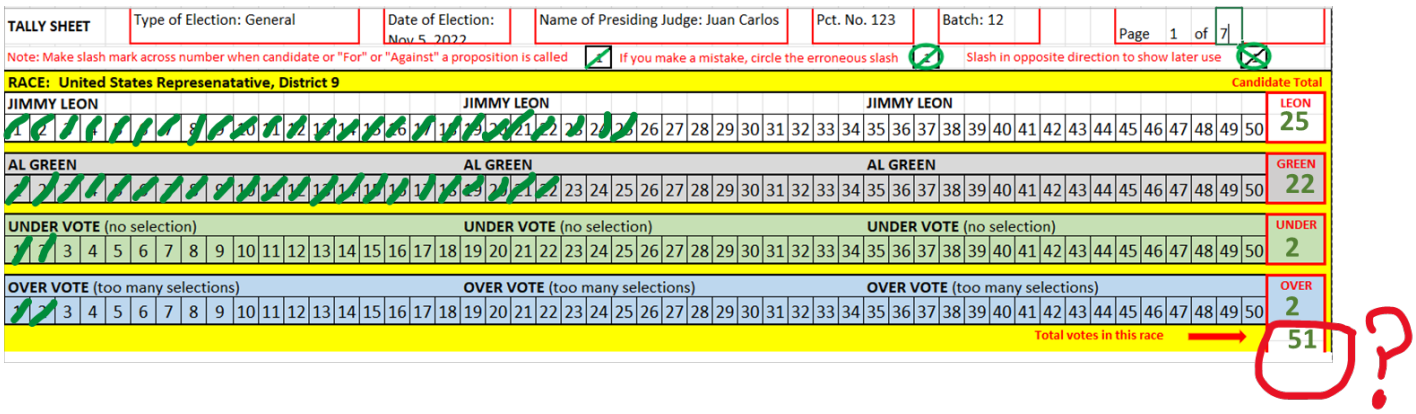
*Example: The **Counting Team** could not determine voter intent while counting the second race on the ballot. The ballot was placed in the Issue Tray. The team then continued to count the rest of the ballots for the second race as well as the third and part of the fourth race before the **Judge** was able to make the intent determination. Therefore, the **Counting Team** will finish counting all the ballots in the batch for the fourth race and then record the votes from the now resolved issue ballot on the Tally Sheet for the second, third and fourth races on the ballot.*

COMPLETING A RACE COUNT:

When all ballots in the batch have been called for the race being counted, The **Caller** and **Counter** will confirm the count of votes for each candidate and any under or over votes with each other and then enter the total number of votes received for each candidate/measure and any under or over votes in the *Candidate Total* Column on all 3 Tally Sheets. Next, these vote totals must be added together to determine the total votes in the batch for the race that was counted (including under and over votes). The total of these tallies should equal the number of ballots in the batch (generally 50).

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Completing the Total column on the Tally Sheet is a reconciliation step and will indicate if there was an error in marking the Tally Sheet. Note: **Counting Teams** will not fill in the Total column on the Tally Sheet if they have a ballot in the Issue Tray that has not been resolved by the **Judge/Alternate Judge**. The **Counting Team** may continue to count the votes for races and mark them on the Tally Sheet but will wait to fill in the Total column as the total will change once a determination has been made and the vote(s) from the ballot(s) in question in the Issue Tray are included on the Tally Sheet.

If the totals in the Total column on the Tally Sheet equal the number of ballots in the batch, then the totals reconcile and are recorded on the Batch Summary Sheets. Batch Summary Sheets are completed in duplicate, an original (#1) and a copy (#2). Once counting of a batch is completed, Batch Summary Sheet #1 is taped to the top of the Batch Bag which will be used for compiling results.
Batch Summary Sheet #2 is placed in the Batch Bag along with counted ballots and Tally Sheets

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Sample Batch Summary Sheet

Batch Summary	Election: March 5, 2024 Republican Primary - BBM Hand Count											
Presiding Judge: Ramona Koehl		Ballot Type: Absentee			Prepared by:_____							
Pct. #		Batch #			Team #							
President		**Justice S.C. Place 2**			**Precinct Chair 273**			**Prop 7**				
Ron Desantis		Jimmy Blacklock			Daivd Doman			Yes				
Chris Christie		Under			Steven Crountway			No				
Asa Hutchinson		**Justice S.C. Place 4**			Under			Under				
Donald J. Trump		Brian Walker			Over			Over				
David Stuckenberg		John Devine			**Precinct Chair 281**			**Prop 8**				
Ryan L. Binkley		Under			Stephen Liebel			Yes				
Vivek Ramaswamy		**Justice S.C. Place 6**			Jeff Flauding			No				
Nikki Haley		Jane Bland			Under			Under				
Uncommitted		Under			Over			Over				
Under		**Presiding Judge C A**			**Precinct Chair 330**			**Prop 9**				
Over		Sharon Keller			Ed Hauser			Yes				
US Senator		David J. Schenck			Randy Rosengarten			No				
Ted Cruz		Under			Under			Under				

If the sum of the candidate and under/over votes totals does not equal the number of ballots in the batch, the totals are not recorded on the Batch Summary Sheets until the count can be confirmed by recounting the race.

,

RECOUNTING A RACE:

Recounting the Full Batch for a Race

If tally discrepancies for a race are discovered after all ballots in a batch have been counted then the entire batch of ballots will be recounted for the race in question.

Since Tally Sheets will have been marked up while conducting the initial count of a race, **Runners** will provide **Counting Teams** with new tally sheets to conduct a recount of a race. These tally sheets will contain only the race to be recounted and will be labeled Recount Tally Sheet. Once the recount is complete, **Counting Teams** will return to the original set of Tally Sheets to count and record votes for the next race on the ballot.

If a race must be recounted for a full batch,

1) Place the Runner Flag in the card stand to notify **Runners** that Recount Tally Sheets are needed.
2) Place the Recounting Card under the camera for 5 seconds to indicate that the race will be counted again. Then remove the Recounting Card and set it aside.
3) Write “Recounted” on original tally sheet for the race to be recounted.

[Insert image]

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4) Once Recount Tally Sheets are received from the **Runner**, remove the Runner Flag from card stand and return the Ballots face up (judge signatures were confirmed during the initial count so there is no need to place face down and check for signatures) to the original start position between the **Caller** and the **Counter.**
5) Begin counting the votes for the race in question following the normal procedure.
6) After votes have been tallied and race results have been recorded on Recount Tally Sheet, staple the Recount Tally Sheets to original set of tally sheets.
7) Complete Batch Summary Sheet #1 for the race

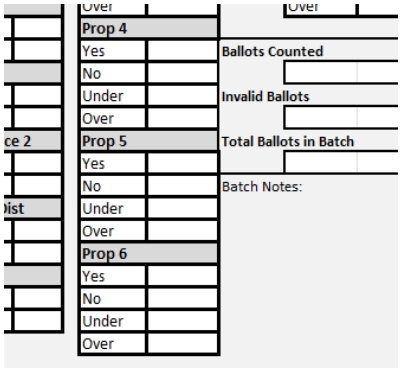
Recounting Part of a Batch for a Race
If a **Counting Team** discovers their totals for a race do not match before tallying all the ballots in the batch (i.e., some ballots were tallied, and some had yet to be tallied) then only the counted ballots need to be recounted.
The **Counting Team** will

1) Set aside the uncounted ballots.
2) Remove the counted ballots from the Counted Ballots Tray.
3) Sort the counted ballots by vote in the race being counted (all votes for Smith stacked together, all under votes stacked together, etc.).
4) Count the number of ballots in each vote stack.
5) Correct the Tally Sheet/s adding slashes and/or circling erroneous marks. Once the corrections have been made, the counted ballots are placed back in the Counted Ballots Tray
6) Return the previously set aside uncounted ballots to the space between the **Caller** and the **Counter** and resume tallying votes for the race on rest of the ballots in the batch.

COMPLETING A BATCH:
After all the races on all ballots in a batch are counted and recorded on Batch Summary Sheet #1,

the **Counting Team** will

– Remove & count the number of any invalid ballots that were placed in the Batch Bag after a Judge review. Record this number on Batch Summary Sheet #1. Then return invalid ballots to Batch Bag.



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- Copy the contents of Batch Summary #1 onto Batch Summary Sheet 2. These may be carbon copy forms so that it is only required to be filled out once.
- Sign both Batch Summary Sheets (#1 & #2)
- Place the Counted Ballots in the Batch Bag
- Place completed Tally Sheets in the Batch Bag.
- Attach Batch Summary Sheet #1 to the outside of the Batch Bag with tape.
- Place Batch Summary Sheet #2 in the Batch Bag
- Place Runner Flag on card stand.

Runners will
- Pick up counted Batch Bags and provide new Batch Bags to the **Counting Team**.
- Deliver counted Batch Bags to the Judge's Results Table

Judge/Alternate Judge Assistants will
- Receive and log counted Batch Bags
- Remove Batch Summery Sheets attached to the outside of the Batch bags and stack them by precinct
- Store Batch Bags in Ballot Box 3

COMPILING RESULTS:
Judge Assistants will be entering the results from the **Batch Summary Judges Assistants** will enter results from the same completed batches at the same time to compare for discrepancies. The **Judge** and **Alternate Judge** will compare the Batch Summary Sheets to the compiled results to verify that all counts were entered correctly.

Once, results have been compiled, **Judge Assistants** will seal the counted batches in secure bags noting on the Master Batch by Precinct List the secure bag number where in each batch is placed. The secure bags of counted batches will then be placed in Ballot Boxes and the Ballot Box Number noted on the Master Batch by Precinct List.

The **Judge** and **Alternate Judge** will
- Prepare, sign, and certify Precinct & Race Results Report
- Secure and seal Ballot Boxes.
- Document the seal number for each Ballot Box

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– Delivers result and Ballot Boxes to proper authorities.

Hand Counter Rules:

- **Hand Counters** should not leave their Counting Station unattended when ballots are at their station.
- **Hand Counters** are encouraged to avoid leaving the Counting Station while a batch is being counted unless it is an emergency.
- If a Hand Counter needs to leave during counting of a Batch, The **Counting Team** will notify a **Runner** that a replacement is needed. The **Counting Team** will compare tallies to ensure there are no discrepancies and the **Hand Counter** needing to leave will sign their Tally Sheet(s) indicating the 1) time of departure and 2) that all counts were correct as of that time. The **Hand Counter** needing to leave may depart once a replacement arrives.
- Hand Counting requires concentration so conversation while counting a Batch is discouraged. Please save chit chat for between Batches.
- If a break is needed, they should be taken between counting of Batches. Once a Batch is completed and given to a **Runner**, the **Counting Team** can let the Runner know not to bring the next Batch Bag until they return from the break.
- Counting shifts are 4 hours. The estimated time required to count all ballots includes time for up to 20 minutes of break time. Please be timely with returning from a break or it may cause the hand count to extend longer than necessary.
- Please leave large purses or bags at home. Only small bags and drink bottles will be allowed at the Counting Stations. These will be kept on the floor in plain view. Drink bottles are not to be placed on the Counting Station table when ballots are present. A separate area will be designated for storing bags if you want to bring snacks.

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TALLY SHEET - F	Election: March 5, 2024 Republican Primary		Presiding Judge: Ramona Koehl		
Pct. No. _____	Batch: _____	Team: _____	Ballot Type: Absentee		
Note: Make slash mark across number when candidate or "For" or "Against" a proposition is called	--> 1				
If you make a mistake, circle the erroneous slash	--> 1	Slash in opposite direction to show later use	--> 1		

RACE: **PRESIDENT** — Totals

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	
RON DESANTIS																										DESANTIS
CHRIS CHRISTIE																										CHRISTIE
ASA HUTCHINSON																										HUTCHINSON
DONALD J. TRUMP																										TRUMP
DAVID STUCKENBERG																										STUCKENBERG
RYAN L. BINKLEY																										BINKLEY
VIVEK RAMASWAMY																										RAMASWAMY
NIKKI HALEY																										HALEY
UNCOMMITTED																										UNCOMMITTED
UNDER VOTE (no selection)																										UNDER
OVER VOTE (too many selections)																										OVER
																										Total Votes in Race

Next Race

RACE: **UNITED STATES SENATOR** — Totals

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	
TED CRUZ																										CRUZ
R E (RUFUS) LOPEZ																										LOPEZ
HOLLAND "REDD"GIBSON																										GIBSON
UNDER VOTE (no selection)																										UNDER
OVER VOTE (too many selections)																										OVER
																										Total Votes in Race

AMERICAN OVERSIGHT

RACE: **UNITED STATES REPRESENTATIVE, DISTRICT 10** Totals

JARED B. LOVELACE	LOVELACE
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

MICHAEL T. MCCAUL	MCCAUL
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **UNITED STATES REPRESENTATIVE, DISTRICT 17** Totals

PETE SESSIONS	SESSIONS
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

JOSEPH T. LANGONE	LANGONE
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **UNITED STATES REPRESENTATIVE, DISTRICT 21** Totals

CHIP ROY	ROY
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **UNITED STATES REPRESENTATIVE, DISTRICT 35** Totals

MICHAEL RODRIGUEZ	RODRIGUEZ
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

DAVID CUDDY	CUDDY
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

ROD LINGSCH	LINGSCH
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

BRANDON CRAIG DUNN	DUNN
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

STEVEN WRIGHT	LINGSCH
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

AMERICAN OVERSIGHT

RACE: **UNITED STATES REPRESENTATIVE, DISTRICT 37** — Totals

JENNY GARCIA SHARON	SHARON
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **RAILROAD COMMISSIONER** — Totals

CHRISTI CRADDICK	CRADDICK
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

COREY HOWELL	HOWELL
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

CHRISTIE CLARK	CLARK
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

PETRA REYES	REYES
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

JAMES "JIM" MATLOCK	MATLOCK
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **JUSTICE, SUPREME COURT, PLACE 2** — Totals

JIMMY BLACKLOCK	BLACKLOCK
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **JUSTICE, SUPREME COURT, PLACE 4** — Totals

BRIAN WALKER	WALKER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

JOHN DEVINE	DEVINE
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **JUSTICE, SUPREME COURT, PLACE 6** — Totals

JANE BLAND	BLAND
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

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RACE: **PRESIDING JUDGE, COURT OF CRIMINAL APPEALS** Totals

SHARON KELLER	KELLER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

DAVID J. SCHENCK	SCHENCK
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	
Total Votes in Race	

Next Race

RACE: **JUDGE, COURT OF CRIMINAL APPEALS, PLACE 7** Totals

BARBARA PARKER-HERVEY	PARKER-HERVEY
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

GINA PARKER	PARKER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	
Total Votes in Race	

Next Race

RACE: **JUDGE, COURT OF CRIMINAL APPEALS, PLACE 8** Totals

MICHELLE SLAUGHTER	SLAUGHTER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

LEE FINLEY	FINLEY
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	
Total Votes in Race	

Next Race

RACE: **STATE REPRESENTATIVE, DISTRICT 25** Totals

DONNA CAMPBELL	CAMPBELL
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	
Total Votes in Race	

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RACE: **STATE REPRESENTATIVE, DISTRICT 19** Totals

MANNY CAMPOS	CAMPOS
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

KYLE BIEDERMANN	BIEDERMANN
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

ELLEN TROXCLAIR	TROXCLAIR
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **STATE REPRESENTATIVE, DISTRICT 46** Totals

NIKKI KOSICH	KOSICH
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **STATE REPRESENTATIVE, DISTRICT 47** Totals

SCOTT FIRSING	FIRSING
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **JUSTICE, 3RD COURT OF APPEALS DISTRICT, PLACE 2** Totals

JOHN MESSINGER	MESSINGER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **DISTRICT ATTORNEY, 53RD JUDICIAL DISTRICT** Totals

DANIEL W. BETTS	BETTS
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **COUNTY CHAIR** Totals

MATHEW MACKOWIAK	MACKOWIAK
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

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RACE: **PRECINCT CHAIR 273** Totals

DAVID DOWMAN DOWMAN

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

STEVEN COUNTWAY COUNTWAY

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

UNDER VOTE (no selection) UNDER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

OVER VOTE (too many selections) OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

Total Votes in Race

Next Race

RACE: **PRECINCT CHAIR 281** Totals

STEPHEN LIEBEL LIEBEL

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

JEFF FLAUDING FLAUDING

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

UNDER VOTE (no selection) UNDER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

OVER VOTE (too many selections) OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

Total Votes in Race

Next Race

RACE: **PRECINCT CHAIR 330** Totals

ED HAUSER HAUSER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

RANDY ROSENGARTEN ROSENGARTEN

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

UNDER VOTE (no selection) UNDER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

OVER VOTE (too many selections) OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

Total Votes in Race

Next Race

RACE: **PRECINCT CHAIR 383** Totals

CINDI DAVIDSON DAVIDSON

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

GREG KESTRANEK KESTRANEK

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

UNDER VOTE (no selection) UNDER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

OVER VOTE (too many selections) OVER

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

Total Votes in Race

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RACE: **PROPOSITION 1** Totals

YES YES

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

NO NO

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

UNDER VOTE (no selection) UNDER

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

OVER VOTE (too many selections) OVER

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

Total Votes in Race

RACE: **PROPOSITION 2** Totals

YES YES

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

NO NO

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

UNDER VOTE (no selection) UNDER

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

OVER VOTE (too many selections) OVER

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

Total Votes in Race

Next Race

RACE: **PROPOSITION 3** Totals

YES YES

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

NO NO

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

UNDER VOTE (no selection) UNDER

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

OVER VOTE (too many selections) OVER

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

Total Votes in Race

Next Race

RACE: **PROPOSITION 4** Totals

YES YES

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

NO NO

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

UNDER VOTE (no selection) UNDER

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

OVER VOTE (too many selections) OVER

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	

Total Votes in Race

Next Race

AMERICAN OVERSIGHT

RACE: **PROPOSITION 5** Totals

YES	YES
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

NO	NO
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **PROPOSITION 6** Totals

YES	YES
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

NO	NO
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **PROPOSITION 7** Totals

YES	YES
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

NO	NO
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

Next Race

RACE: **PROPOSITION 8** Totals

YES	YES
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

NO	NO
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

UNDER VOTE (no selection)	UNDER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

OVER VOTE (too many selections)	OVER
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

Total Votes in Race

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RACE: **PROPOSITION 9** Totals

YES	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	YES

NO	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	NO

UNDER VOTE (no selection)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	UNDER

OVER VOTE (too many selections)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	OVER

Total Votes in Race

Next Race

RACE: **PROPOSITION 10** Totals

YES	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	YES

NO	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	NO

UNDER VOTE (no selection)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	UNDER

OVER VOTE (too many selections)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	OVER

Total Votes in Race

Next Race

RACE: **PROPOSITION 11** Totals

YES	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	YES

NO	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	NO

UNDER VOTE (no selection)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	UNDER

OVER VOTE (too many selections)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	OVER

Total Votes in Race

Next Race

RACE: **PROPOSITION 12** Totals

YES	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	YES

NO	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	NO

UNDER VOTE (no selection)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	UNDER

OVER VOTE (too many selections)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	OVER

Total Votes in Race

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RACE: PROPOSITION 13																									Totals
YES																									YES
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	
NO																									NO
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	
UNDER VOTE (no selection)																									UNDER
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	
OVER VOTE (too many selections)																									OVER
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	
																									Total Votes in Race

I hereby certify that the within and foregoing is a true and correct tally list kept by me for the above described election. Signature of person who kept list _____

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From: Christina Adkins
Sent: Friday, October 6, 2023 11:33 AM
To: Alicia Pierce
Subject: Hand Count Document
Attachments: Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf

Alicia – Here's the document that we are sending out regarding hand-counting.

Let me know if you want to chat about anything in this document!

Thanks,

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:
VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov
www.votetexas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

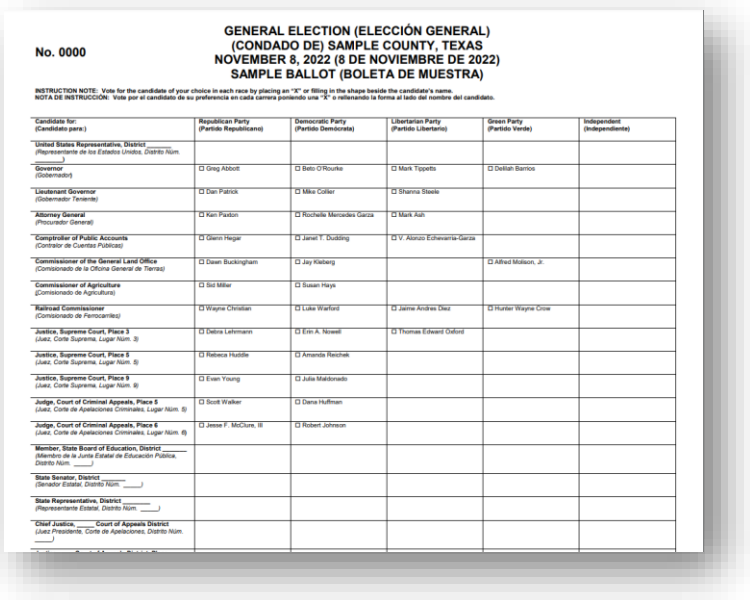
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District _____ (Representante de los Estados Unidos, Distrito Núm. _____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District _____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. _____)					
State Senator, District _____ (Senador Estatal, Distrito Núm. _____)					
State Representative, District _____ (Representante Estatal, Distrito Núm. _____)					
Chief Justice, _____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. _____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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From: Christina Adkins
Sent: Friday, October 6, 2023 10:26 AM
To: 'Donna Garcia Davidson'
Subject: Hand Count Guidance
Attachments: Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf

FYI – feel free to provide the attached document to anyone that may have questions regarding hand counting.

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov
www.votetexas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

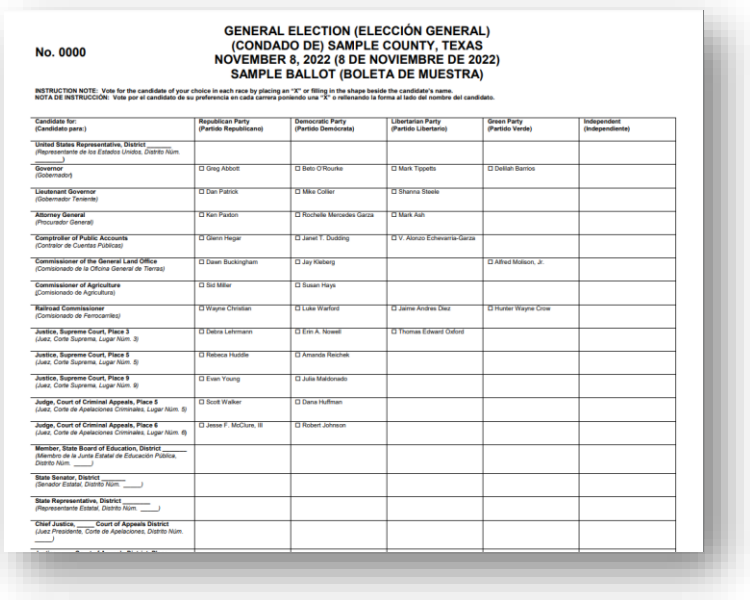
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District ____ (Representante de los Estados Unidos, Distrito Núm. ____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District ____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. ____)					
State Senator, District ____ (Senador Estatal, Distrito Núm. ____)					
State Representative, District ____ (Representante Estatal, Distrito Núm. ____)					
Chief Justice, ____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. ____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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From: Christina Adkins
Sent: Friday, October 6, 2023 10:20 AM
To: jennifer
Subject: Hand Count Guidance
Attachments: Transparency and Accountability (CA).pdf; Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf

Jennifer,

Please see the attached documents. Feel free to provide these to anyone that needs this information. If you have specific questions after reading the documentation, please don't hesitate to reach out to me.

My cell phone is – 512-289-1468

Thanks,

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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Promoting Accounting and Transparency in your Primary Election

County Chair Election Law Seminar September 2023

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AX-SOS-24-0322-C-000175

Topics

- Role of the County Chair
- Role of the County Executive Committee
- Candidate Filings
- Appointment of Poll Watchers
- Electronic Voting Systems
  - General Considerations
  - Logic and Accuracy Testing/Testing of Tabulation Equipment
  - Chain of Custody Paperwork
  - Central Counting Station Plan
  - Reconciliation Paperwork
  - Post Election Auditing – Partial Manual Count
- Hand Counting
  - Understanding the Legal Requirements
  - Election Workers
  - Polling Locations
  - Timelines for Counting
  - Practical Considerations

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Role of the County Chair

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TX-SOS-24-0322-C-000477

County Chair

- Serves on County Election Commission (31.032)
- Serves on County Election Board (51.002)
- Provides list of judges for appointment by commissioners court (32.002)
- Provides list of potential election day clerks for general election for state and county officers (32.034)
- Provides list of early voting workers (85.009)
- Appoints judges for primary election (32.006)
- Appoints poll watchers for elections with party nominee on ballot (Not primary) (33.003)

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County Executive Committee

- Supervises conduct of primary (172.111)
- Approves primary contracts/joint primary agreements (31.092)
- Approves judges in primary election (32.006)
- Determines consolidation of precincts in primary election (42.009)
- Nominates to fill vacancies under certain circumstances (202.006)
- Adopts voting system in primary election (123.001)
- Conducts ballot drawing for primary election, if requested to by primary committee (172.082)
- Sets time and place for precinct conventions (174.022)
- Appoints poll watchers for elections with party nominee on ballot (Not primary) if county chair does not make an authorized appointment (33.003)

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Things to Consider

- Who are the stakeholders in your election?
  - Voters
  - Local Candidates
  - Statewide Candidates
  - Presidential Candidates
  - State Party
  - County Election Officials
  - SOS (Expending Primary Funds)
- How do you communicate outcomes of your decisions?
  - Newsletters
  - Information Posted on Website
  - Communications with Candidates

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Candidate Filings

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Things to Consider

- Review applications in a timely fashion
- Enter information into the Candidate Filing System ASAP!
- Save copies of your correspondence when answering questions.
- Document your actions properly when making a decision on an application --- especially when it's a decision to reject an application.

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TX-SOS-24-0322-C-000182

Appointment of Poll Watchers

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Things to Consider

- For Primary Elections
  - Party cannot appoint poll watchers!
  - Candidates can appoint poll watchers.
- For Elections in which Party Affiliation is on the Ballot (GESCO, Special Elections to Fill Vacancies in Legislature or Congress)
  - County Chair has appointment authority for poll watchers.
  - CEC can only step in if County Chair is not making appointments.
  - It's an either/or situation. Both can't make appointments.
- Include information in Training of Election/Judges and Clerks on how to work with Poll Watchers
  - Access to Chain of Custody Paperwork
  - Reviewing Seals and Locks
  - EVBB Access
  - CCS Access

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TX-SOS-24-0322-C-000184

Electronic Voting Systems

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TX-SOS-24-0322-C-000485

Considerations

- In paper based systems, the ballot of record is the paper ballot
- Voter makes decisions on how their ballot counts
  - Adjudication occurs either on Ballot Marking Device and/or when depositing ballot in scanner
- Redundancy in Electronic Systems
  - Three records of vote: Paper ballot, Ballot Image, Cast Vote Record
- Access to Ballot Images and Cast Vote Records
  - Immediately after canvass
  - Actual Ballots are available on Day 61 after election day

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TX-SOS-24-0322-C-000486

Logic and Accuracy Testing/Testing of Tabulation Equipment

- Published Notice
- Public Test
- Hash Validations
- Test of Tabulation Equipment is happening a minimum of three times
- Representative Sample
- Review Outcome of Tests!

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TX-SOS-24-0322-C-000187

Chain of Custody

- Two Person Verifications
- Ensure that training includes filling out Chain of Custody Paperwork
- Sample Forms
- Review paperwork at Equipment Intake for Early Voting/Election Day
- Folder/Container for paperwork commonly reviewed by Poll Watchers
  - Chain of Custody Forms
  - Register of Ballots/Ballot and Seal Certificate
  - Transfer Logs
  - Zero Tapes

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TX-SOS-24-0322-C-000188

Central Counting Station Plan

- Review Plan with county prior to posting
- Consider utilizing the CCS Plan Template created by the SOS
- Review the CCS Handbook to ensure compliance
- Have a plan on poll watcher access
- Validate that Tabulation Test 2 / Test 3 occurs at the CCS
- Livestreaming requirements (county of 100,000 or more)

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TX-SOS-24-0322-C-000489

Reconciliation Paperwork

- Work with CCS Manager prior to Election Day to understand how the reconciliation paperwork is completed.
- Learn about the records that are used for official reconciliation paperwork
- Consider adding daily reconciliation paperwork to Early Voting
- Consider adding polling place reconciliation forms to Election Day

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TX-SOS-24-0322-C-000190

Post Election Auditing

- Partial Manual Count is required for all elections
  - Hand count of a certain percentage of polling locations for election day/early voting in person/early voting by mail
  - Purpose is to validate the accuracy of the electronic voting systems
  - Not open to the public, but candidates and/or their representatives can be present for the partial manual count.
  - Educate your candidates about the partial manual count
  - Publicize outcome of partial manual count
- Risk-Limiting Audits Pilot Program
  - Applies statewide beginning 2026

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TX-SOS-24-0322-C-000191

Hand-Counting

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TX-SOS-24-0322-C-000192

General Considerations

- Authorized by state law, but requires specific procedures
- For a Primary election, decision to hand count is made by the county executive committee (Sec. 123.001).
- Rules on how to hand count are dictated by Chapter 65 of the Texas Election Code.
- No central counting stations or centralized counting for hand counts.
- ADA equipment is still required.

- **NOTE:** Section 276.019 provides that a public official or election official may not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.

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TX-SOS-24-0322-C-000193

Polling Locations

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TX-SOS-24-0322-C-000194

Requirements

- Election Precincts (polling locations) are based on voter registration precincts.
- No combining precincts in a primary election. (SB 924)
- No Countywide Polling Places (Vote Centers) for a hand counted election.
- Limited consolidation is permitted only if it doesn't create more than one ballot style per precinct. (Secs. 42.005, 42.009)
  - Must prepare a single set of precinct returns and check-in records for the consolidated precinct
- Precinct returns are prepared at individual polling locations. (Sec. 65.014)

- Example: If a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations

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Election Workers

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Officers Who Perform Counting

- **Election Day Ballots**
  - A hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- **Early Voting in Person Ballots**
  - A hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- **Ballots by Mail**
  - A hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

- **NOTE:** Election Day polling locations must have a minimum of three workers. Although clerks may be replaced or additional workers may be brought in, the presiding judge must be available to continue performing their duties until all ballots are counted and precinct returns are prepared.

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TX-SOS-24-0322-C-000197

Procedures for Hand Counting

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TX-SOS-24-0322-C-000198

General Guidelines

- The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code.
- There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.
- Chapter 65 requires:
  - One “Caller” and other members of team act as “Talliers”
  - Caller will clearly announce the name of each candidate for whom a vote has been received.
  - Talliers will record the votes on their tally list as announced.
  - Three tally lists will be maintained
  - Team shall periodically compare tally lists to determine if there are discrepancies. If discrepancy exists, the ballots must be recounted and tally lists corrected.
  - Election Officers must sign off on the tally list they keep

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Preparing Precinct Returns

- The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014).
- The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).
- Those precinct returns must state:
  - The total number of voters who voted at the polling place (as indicated by the poll list);
  - The total number of votes counted for each candidate; and
  - The total number of votes counted for and against each measure.
- The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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TX-SOS-24-0322-C-000200

Counting Time Frames

- Early Voting In Person Ballots/ Early Voting by Mail (EVBB)
  - May begin counting on election day
  - Counting must be completed no later than 24 hours after polls close
- Election Day Ballots
  - Counting may begin after the polls have been open for one hour and there are at least 10 ballots in a ballot box.
  - If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

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TX-SOS-24-0322-C-000201

Deadlines for Counting

- The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062).
- Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053).
- An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

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TX-SOS-24-0322-C-000202

Election Night Tabulation

- The general custodian prepares an unofficial tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)).
- The general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).
- For a Primary Election, the General Custodian of Election Records is the County Election Officer.
- There is nothing in Texas law that authorizes poll watchers to be present for the preparation of the unofficial tabulation.

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Logistical Considerations

- Number of election precincts (election day polling places) required for the election
- Number of election workers and availability of workers required for the hand count
  - Minimum of three per location, plus additional workers if someone is sick/does not show up on Election Day.
- Locations used as polling places
  - Consider the length of time needed for the polling location and the space provided
- Necessary supplies for a hand count
  - Minimum of four boxes per location, tables and chairs, tally sheets, marking instruments and seals for ballot boxes
  - ADA Equipment!
- Length of time necessary for tallying votes

- **RECOMMENDATION:** Use a sample ballot from a past election to mark up a minimum of 100 ballots. Conduct a hand tally for those ballots to determine time needed. Look at turnout from past elections to make projections on time needed to count ballots.
  - **EXAMPLE**:
    - Estimate of 6 seconds per race for marking 20 contests = 2 minutes per ballot
    - If turnout is 300 voters, then it will take 10 hours to complete count.
  - Don't rely on our example!! Try it out with your own workers and ballots.

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TX-SOS-24-0322-C-000204

Questions?

elections@sos.texas.gov

TX-SOS-24-0322-C-000205

The State of Texas

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Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

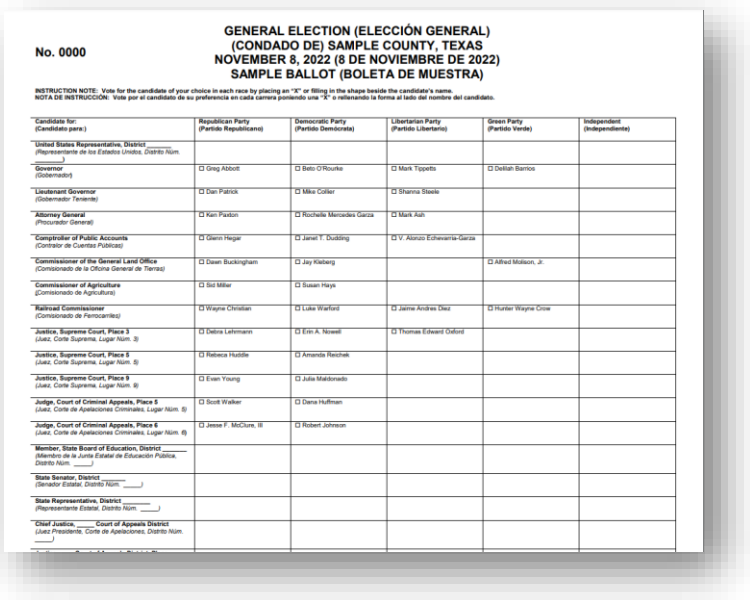
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District ____ (Representante de los Estados Unidos, Distrito Núm. ____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District ____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. ____)					
State Senator, District ____ (Senador Estatal, Distrito Núm. ____)					
State Representative, District ____ (Representante Estatal, Distrito Núm. ____)					
Chief Justice, ____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. ____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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From: Christina Adkins
Sent: Tuesday, October 10, 2023 9:54 AM
To: 'Allison Heinrich'
Subject: Hand Count Guidance
Attachments: Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov
www.votetexas.gov

Phone: 512-463-5650
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Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

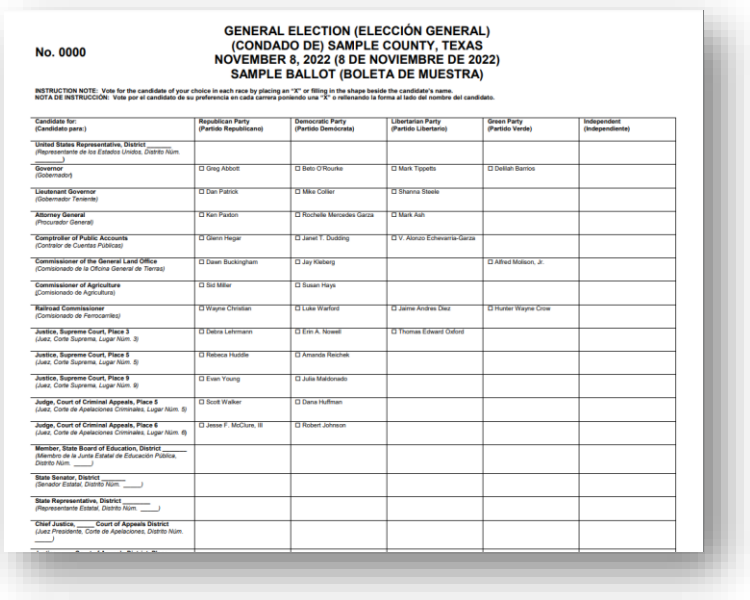
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District _____ (Representante de los Estados Unidos, Distrito Núm. _____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District _____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. _____)					
State Senator, District _____ (Senador Estatal, Distrito Núm. _____)					
State Representative, District _____ (Representante Estatal, Distrito Núm. _____)					
Chief Justice, _____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. _____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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From: Christina Adkins
Sent: Friday, October 6, 2023 10:24 AM
To: 'Jennifer Hall'
Subject: Hand Count Memo

Jen,

Please see attached. And feel free to distribute this document to anyone asking for it. Let me know if you have any specific questions/concerns.

Thanks,

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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From: Christina Adkins
Sent: Friday, October 6, 2023 10:10 AM
To: Elections-Attorneys; Election Trainers; ELEC Management
Subject: Hand Count Memo
Attachments: Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf

Attached is the memo we have prepared on hand counting. Please feel free to provide to individual requestors as appropriate.

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov
www.votetexas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

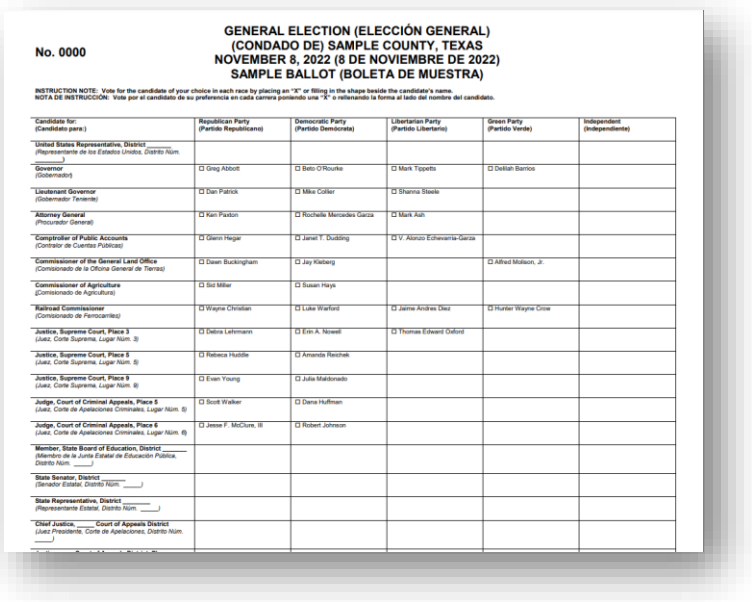
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District _____ *(Representante de los Estados Unidos, Distrito Núm. _____)*					
Governor *(Gobernador)*	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor *(Gobernador Teniente)*	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General *(Procurador General)*	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts *(Contralor de Cuentas Públicas)*	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office *(Comisionado de la Oficina General de Tierras)*	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture *(Comisionado de Agricultura)*	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner *(Comisionado de Ferrocarriles)*	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 *(Juez, Corte Suprema, Lugar Núm. 3)*	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 *(Juez, Corte Suprema, Lugar Núm. 5)*	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 *(Juez, Corte Suprema, Lugar Núm. 9)*	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 *(Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)*	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 *(Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)*	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District _____ *(Miembro de la Junta Estatal de Educación Pública, Distrito Núm. ____)*					
State Senator, District _____ *(Senador Estatal, Distrito Núm. ____)*					
State Representative, District _____ *(Representante Estatal, Distrito Núm. ____)*					
Chief Justice, ____ Court of Appeals District *(Juez Presidente, Corte de Apelaciones, Distrito Núm. ____)*					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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From: Christina Adkins
Sent: Friday, October 6, 2023 10:22 AM
To: 'Sonya Aston'
Subject: Hand Count Summary
Attachments: Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf

Sonya,

Attached is the document we've prepared regarding hand counting elections. I wanted to provide this to you in case you had anyone asking your office about the process.

Thanks,

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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The State of Texas

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www.votetexas.gov

Phone: 512-463-5650
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Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

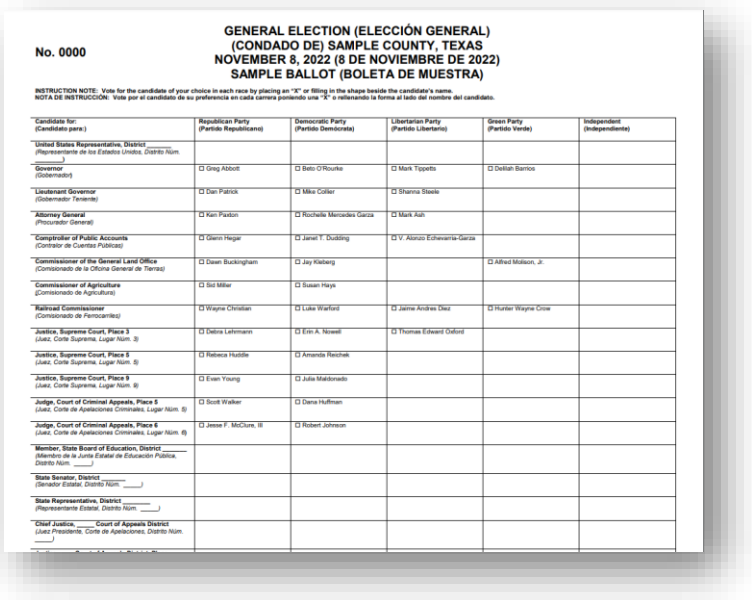
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District ____ (Representante de los Estados Unidos, Distrito Núm. ____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District ____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. ____)					
State Senator, District ____ (Senador Estatal, Distrito Núm. ____)					
State Representative, District ____ (Representante Estatal, Distrito Núm. ____)					
Chief Justice, ____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. ____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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From: Christina Adkins
To: Jeff Frazier
Subject: Hand Count
Date: Thursday, November 2, 2023 4:39:58 PM
Attachments: image001.png
Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf

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Jeff –

I've attached the hand count memo that my office has prepared. Here is the video of the presentation I gave to county chairs when we trained them on primary issues: https://youtu.be/Ij5GbLRh0c0?si=mnGnA55Bb3ehm2_6

Let me know if you need anything else from me.

Thanks!

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
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For Voter Related Information, please visit:

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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The State of Texas

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Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

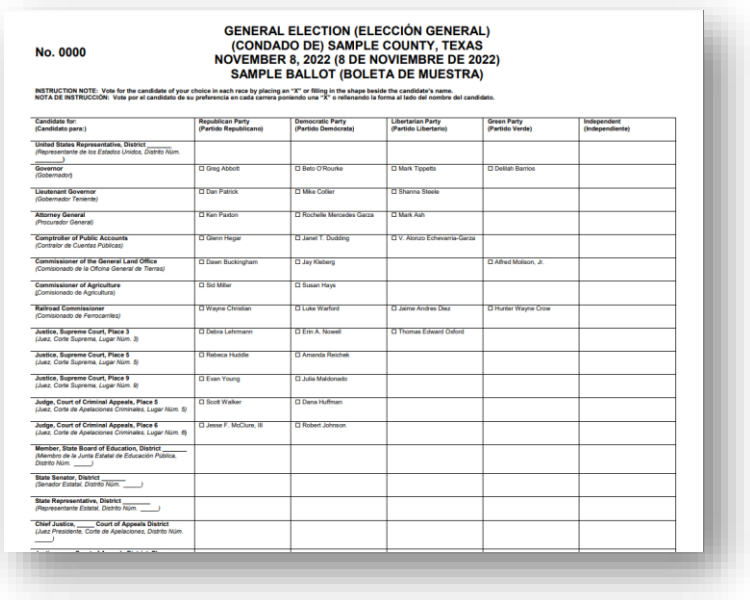
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District _____ (Representante de los Estados Unidos, Distrito Núm. _____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District _____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. _____)					
State Senator, District _____ (Senador Estatal, Distrito Núm. _____)					
State Representative, District _____ (Representante Estatal, Distrito Núm. _____)					
Chief Justice, _____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. _____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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From: Christina Adkins
Sent: Monday, October 9, 2023 1:27 PM
To: [redacted]
Subject: Hand County Guidance
Attachments: Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf

Hey,

As we discussed previously, here is a copy of the guidance we've given out on hand counting.

Let me know if you have any other questions/concerns.

Thanks,

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov
www.votetexas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

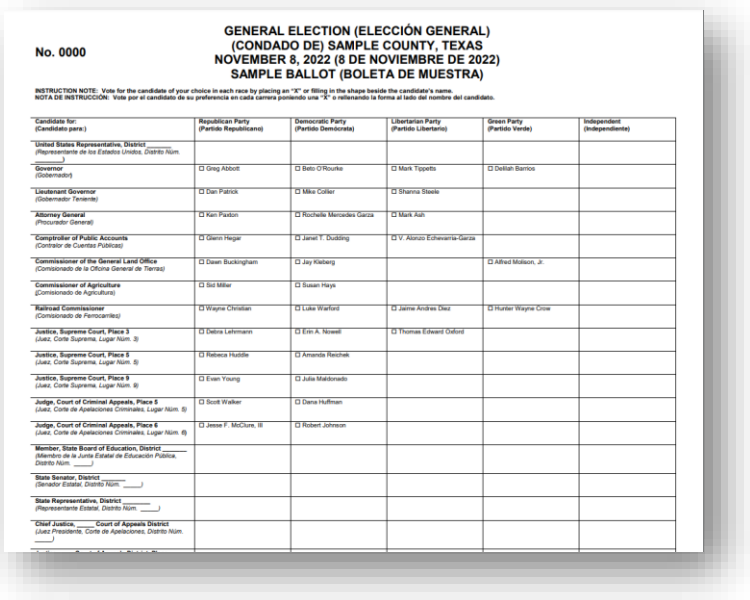
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District _____ (Representante de los Estados Unidos, Distrito Núm. _____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District _____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. _____)					
State Senator, District _____ (Senador Estatal, Distrito Núm. _____)					
State Representative, District _____ (Representante Estatal, Distrito Núm. _____)					
Chief Justice, _____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. _____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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Subject: Meeting to Discuss Hand Count Memo
Location: Microsoft Teams Meeting

Start: Wed 9/13/2023 3:00 PM
End: Wed 9/13/2023 4:00 PM
Show Time As: Tentative

Recurrence: (none)

Organizer: Christina Adkins
Required Attendees Elections-Attorneys

Microsoft Teams meeting

Join on your computer, mobile app or room device
Click here to join the meeting

Meeting ID: [redacted]
Passcode: [redacted]
Download Teams | Join on the web

Or call in (audio only)
+1 737-222-7116,[redacted] United States, Austin
Phone Conference ID: [redacted]
Find a local number | Reset PIN



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Subject: Meeting With TCRP Re hand count
Location: Christina's Office

Start: Tue 2/6/2024 3:00 PM
End: Tue 2/6/2024 4:00 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

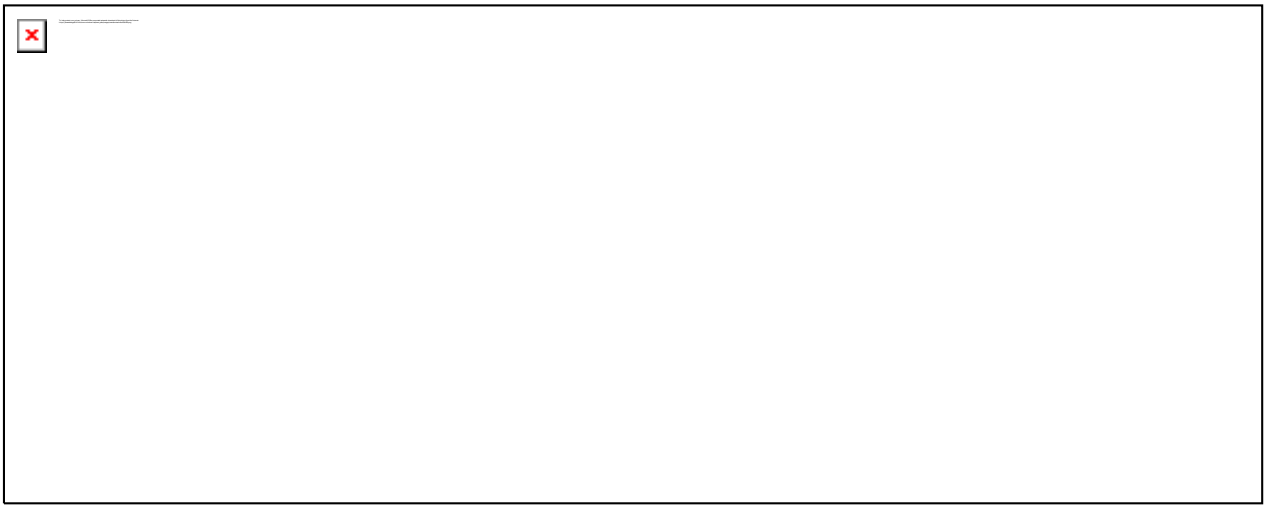
Organizer: Christina Adkins
Required Attendees Heidi Martinez; Chuck Pinney

Microsoft Teams meeting

Join on your computer, mobile app or room device
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Subject: Meeting with Travis County Republican Party re: Hand Count

Start: Wed 3/27/2024 11:00 AM
End: Wed 3/27/2024 12:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Christina Adkins
Required Attendees Chuck Pinney
Optional Attendees: Heidi Martinez; Kristi Hart

AMERICAN OVERSIGHT

Subject: Meeting with Travis County Republican Party re: Hand Count
Location: Microsoft Teams Meeting

Start: Tue 3/26/2024 2:00 PM
End: Tue 3/26/2024 3:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Christina Adkins
Required Attendees Chuck Pinney
Optional Attendees: Heidi Martinez; Kristi Hart

Microsoft Teams Need help?

Join the meeting now

Meeting ID: [redacted]
Passcode: [redacted]

Dial-in by phone

+1 737-222-7116,[redacted] United States, Austin
Find a local number
Phone conference ID: [redacted]

For organizers: Meeting options | Reset dial-in PIN

AMERICAN OVERSIGHT

From: Christina Adkins
To: "Jeannette Hormuth"
Cc: Jett Burns; Wesley Hesker
Subject: RE: Roster Submission Clarification
Date: Friday, February 16, 2024 2:05:19 PM

Jeannette,

I'm going through my emails and came across this one I missed.

You can provide the roster information in a CSV file to your general custodian, but they are still going to have to manually enter into the TEAM system. We don't allow uploads like you are describing for TEAM. The only uploads our system is capable of accepting are the ones that are produced by our certified epollbook vendors or certified voter registration vendors. The uploads from these vendors are only allowed after they have been tested and vetted by our office.

To use laptops and smart phones to capture this data, you would need to take a look at Section 61.014 of the Texas Election Code. This prohibits wireless communication devices within 100 feet of a voting station and it prohibits devices capable of recording images or sound within 100 feet of a voting station. While this section has an exception for official use, I'm not sure this qualifies for the exception as creating this secondary list in an electronic format is not a necessary function of the judge.

The devices you are describing would, in essence, be functioning like an epollbook in that you would be using it to capture the names of the voters that voted. Epollbooks are tested and certified by our office. The process you described involved bringing laptops and cell phones into a polling location without any knowledge as to their safety and security settings and that are equipped with wifi capabilities that have not been tested. Ultimately, the Republican Party in Gillespie County has to make the decision on what to do in this situation, but I believe Section 61.014 would prohibit utilizing this uncertified technology in the polling place. Additionally, if the roster has to be manually entered anyway, I'm not sure that this would save much time for the general custodian.

Let me know if you have additional questions.

Thank you,

Christina

From: Jeannette Hormuth [redacted]
Sent: Friday, January 19, 2024 8:03 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Jett Burns [redacted]; Wesley Hesker [redacted]
Subject: Fwd: Roster Submission Clarification

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Dear Christina,

Would it be possible to get answer soon?

Thanks,

Jeannette Hormuth

From: Jeannette Hormuth [redacted]>
Sent: Tuesday, January 16, 2024 12:34:14 AM
To: Christina Adkins <cadkins@sos.texas.gov>
Cc: Jett Burns [redacted]; Wesley Hesker [redacted]
Subject: Fw: Roster Submission Clarification

Dear Christina,

I am touching base on our inquiry regarding an acceptable means to submit the Voter rosters to SOS without the use of electronic poll pads.

In addition to my question (attached below on Jan 7), whether we could provide our EA with all of the necessary voter roster information by means of a CSV file (I had referred to a flat file) that the county could simply upload into their computer and therefore submit to the SOS, I now have an even more efficient option for your consideration:

We will have paper roster books for the election day (and no electronic poll books). We need to get a list of those who voted to the county as quickly as possible. We would collect the voter IDs from the combination sheets as voters check-in. A technology professional, Jett Burns, has suggested we also use smartphones or laptops which are not connected to the internet at each polling place to enter the voter IDs in excel. By entering the info throughout the day, we won't have to enter it all at once later. After the polls close, the excel sheets of the voter IDs would be given to Jett and he would use a program that is able to match those excel voter IDs to the county's official voter list. The program will output a CSV file with the voter IDs as well as the required voter info needed by the SOS. The program is fast and can

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run 200 matches in 4 seconds. We will give the county that CSV file which the county could use to send the complete required roster info to the SOS through the state system. Would this an acceptable solution?

Thank you again for your guidance. We wish for a viable solution which allows us to provide the voted roster information without the use of the electronic poll pads.

Sincerely,

Jeannette Hormuth
Gillespie County

From: Jeannette Hormuth [redacted]
Sent: Sunday, January 7, 2024 7:59 PM
To: Christina Adkins <cadkins@sos.texas.gov>
Cc: Wesley Hesker [redacted]
Subject: Roster Submission Clarification

Dear Christina,

Thank you for your response and the clarifications you offered regarding the rosters.

I understand that only the county staff can make the submission directly to the SOS. Because we are running our hand count election without electronic poll pads, and our EA has informed us that they do not have the staff to input the roster information manually from the combination sheets, we are looking for an acceptable solution that would accomplish getting the required info to the SOS.

Question: Could the voter roster info be inputted at the precincts on election day from the combination forms by election clerks into a flat file that would then be given to the county to upload into their computer? They (the county) could then upload this info into the format needed for the State System

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submission to the SOS.

Thank you, again, for your assistance in this matter.

Sincerely,

Jeannette Hormuth
830-998-1879

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Friday, January 5, 2024 9:12 AM
To: [redacted]
Subject: FW: Roster Submission Clarification

Jeannette,

Thank you for the questions. It is the responsibility of the early voting clerk to submit the roster information to the Secretary of State's office. This requirement is spelled out in Section 87.121(k) of the Texas Election Code. Additionally, there is a practical component as to why only the early voting clerk or their staff can make the submission. The rosters are required to be submitted through our state election management system. Under state law, only county election office are authorized to have log-in credentials for the state system.

When you deliver your precinct returns to the General Custodian of Election records as required under Section 66.053 of the Texas Election Code, those precinct returns contain your election day poll lists. This is the information they will use to submit the election day roster information as required under Section 87.121 into the state system. If you think the delivery of precinct election records will be delayed, you need to notify the general custodian of election records of the delay. This is all spelled out in Section 66.053 which I've provided below.

Sec. 66.053. TIME FOR DELIVERING ELECTION RECORDS. (a) The precinct election records shall be delivered to the appropriate

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authorities immediately after the precinct returns are completed.
(b) If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2 a.m. of the day after election day, the presiding judge, between midnight of election day and 1 a.m. of the following day, shall notify the general custodian of election records by telephone of:
(1) the total number of voters who voted at the polling place as indicated by the poll list;
(2) the vote totals tallied for each candidate and for and against each measure at the time of notification; and
(3) the expected time of finishing the count.
(c) The precinct election records shall be delivered not later than 24 hours after the polls close in each election.

Let me know if you have any other questions.

Thanks,

Christina

From: Jeannette Hormuth [redacted]
Sent: Thursday, December 28, 2023 12:06 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Roster Submission Clarification

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Dear Christina,

I wish some guidance and answers in regard to the submission requirements of the election day voter roster to the SOS by 11 a.m. following an election. (87.121)

For our upcoming Primary election, we (Republican Party) have voted to use paper ballots, hand counted at the precinct and paper poll books in place of electronic poll pads.

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As we will not be using electronic poll pads (in order to prevent such issues of breaching as have occurred in Dallas), the voter roster data will need to be inputted manually.

Here's my questions:

1. **Would it be acceptable for the information (voter roster info) to be inputted at the precincts throughout election day from the combination forms into a flat file that the county can then upload into the Team System for submission to the SOS?**

2. **Alternatively, could temporary county employees be contracted to key in the information directly unto the state secure server. If so, is it possible to have multiple log ins from each precinct by which the information can be keyed in?**

We also welcome any other viable solutions that would acceptable to accomplished our goals and meet State requirements that you may be able to offer.

Thank you for your kind attention and consideration.

I look forward to your assistance,

Sincerely,

Jeannette Hormuth
830-998-1879

AMERICAN OVERSIGHT

From: Christina Adkins
To: "TCRP Elections"; Chuck Pinney
Subject: RE: Approval of Echo Hand Count Method
Date: Tuesday, February 13, 2024 4:10:34 PM
Attachments: image001.png

Elizabeth,

Thanks for the email. Your alternative forms are approved.

Please let me know if you have any additional questions.

Thanks,

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: TCRP Elections <elections.tcrp@gmail.com>
Sent: Tuesday, February 13, 2024 1:34 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; Chuck Pinney <CPinney@sos.texas.gov>
Subject: Approval of Echo Hand Count Method

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Christina and Chuck,
I am submitting the following hand count method for your approval as being acceptable for the conduct of hand counts in Texas. I have attached the following files that provide a description of the method and the forms/reports used in the process.

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Echo Hand Count Method 2-12-24
Master Tally Sheet (this will be customized by ballot stayle, one example is included)
Precinct & Race Results Report
Master Batch by Precinct Tracker

The method doc was updated per your direction during our last discussion.
I also 1) reordered the content to make it more user friendly and 2) moved the process of checking ballots for Judge signature and ballot number to be the responsibility of the batch preparation team versus a step for hand counters so that it could be addressed immediately with the Judge as batches are being prepared.

I appreciate all of your assistance revising the process to make it compliant and more robust.

Thank you,
Elizabeth Baron

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From: Christina Adkins
To: "TCRP Elections"
Subject: RE: Approval of Echo Hand Count Method
Date: Friday, February 16, 2024 3:35:51 PM
Attachments: image001.png

The approval is specific to the forms. That's all I can officially give an approval on. There is nothing in the Election Code that says we have to approve alternate methods, just the forms. With the forms approval you are good to go.

I just finished reviewing the training materials. This is approved for use in training for this primary election.

Let me know if you need more from me!

Thanks,

Christina

From: TCRP Elections <elections.tcrp@gmail.com>
Sent: Thursday, February 15, 2024 12:19 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Approval of Echo Hand Count Method

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Thank you for the approval of the forms. Does that include the method as well or is that still under review? Also where does the approval of the training for hand count clerks stand?

Elizabeth

P.s. I just found your message from early January about meeting on review of the process on my spam folder. Sorry that I completely missed that meeting request. Checking the spam daily now.

On Tue, Feb 13, 2024 at 4:10 PM Christina Adkins <CAdkins@sos.texas.gov> wrote:

> Elizabeth,
>
> Thanks for the email. Your alternative forms are approved.
>
> Please let me know if you have any additional questions.
>
> Thanks,

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Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
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From: TCRP Elections <elections.tcrp@gmail.com>
Sent: Tuesday, February 13, 2024 1:34 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; Chuck Pinney <CPinney@sos.texas.gov>
Subject: Approval of Echo Hand Count Method

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Christina and Chuck,
I am submitting the following hand count method for your approval as being acceptable for the conduct of hand counts in Texas. I have attached the following files that provide a description of the method and the forms/reports used in the process.

Echo Hand Count Method 2-12-24
Master Tally Sheet (this will be customized by ballot stayle, one example is included)
Precinct & Race Results Report
Master Batch by Precinct Tracker

The method doc was updated per your direction during our last discussion.
I also 1) reordered the content to make it more user friendly and 2) moved the process of checking ballots for Judge signature and ballot number to be the responsibility of the batch preparation team versus a step for hand counters so that it could be addressed immediately with the Judge as batches are being prepared.

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I appreciate all of your assistance revising the process to make it compliant and more robust.

Thank you,
Elizabeth Baron

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From:	Christina Adkins
To:	"Bastrop - Kristin Miles (kristin.miles@co.bastrop.tx.us)"; "Cameron - Remi Garza (remi.garza@co.cameron.tx.us)"; "Bexar - Jacque Callanen (jcallanen@bexar.org)"; "Brazos - Trudy Hancock (thancock@brazoscountytx.gov)"; "Brazoria - Joyce Hudman (joyceh@brazoria-county.com)"; "Brazoria - Lisa Mujica (Lisam@brazoria-county.com)"; "Collin - Bruce Sherbet (bsherbet@co.collin.tx.us)"; "Denton - Frank Phillips (Frank.Phillips@dentoncounty.gov)"; "Hays - Jennifer Anderson (elections@co.hays.tx.us)"; "Houston - Cynthia Lum (clum@co.houston.tx.us)"; "Lubbock - Roxzine Stinson (rstinson@lubbockcounty.gov)"; "Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov)"; "Midland - Carolyn Graves (cgraves@mcounty.com)"; "Chambers - Heather Hawthorne (hhawthorne@chamberstx.gov)"; "Harris - Neeharika Tumati (neeharika.tumati@cao.hctx.net)"; "Dallas - Michael J. Scarpello (michael.scarpello@dallascounty.org)"; "Guadalupe - Lisa Hayes (lisa.hayes@co.guadalupe.tx.us)"; "Sherman - Laura Rogers (laurarogers@co.sherman.tx.us)"; "Fannin - Tammy Biggar (tbiggar@fanninco.net)"; "Obakozuwa, Rachelle (Elections)"; "Tarrant - Troy Havard (tchavard@tarrantcountytx.gov)"; "Midland - Rosa Olgin (rolgin@mcounty.com)"; "Hudspeth, Teneshia (CCO)"; "Winn, Michael (CCO)"
Cc:	Kristi Hart; "Nanette Forbes"; "Cary Roberts"
Subject:	RE: CEO Advisory Group -- Hand Count Memo
Date:	Friday, October 6, 2023 10:14:29 AM
Attachments:	Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf Transparency and Accountability (CA).pdf

I was so excited I forgot to actually attach the documents.

From: Christina Adkins
Subject: CEO Advisory Group -- Hand Count Memo

Hey everyone,

Attached is the memo our office has prepared on procedures related to hand counting. Please note that this is NOT an advisory and will not be posted on our website (at least for the time being). If you have any questions, comments, concerns, or suggestions on items we need to address, please email me directly with the suggestions.

If we think of additional items to include in the memo, we will update and re-release.

I've also included a copy of my presentation from last Friday's County Chair seminar.

Please feel free to provide this memo to anyone that asks about it.

Thanks,

Christina

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov
www.votetexas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

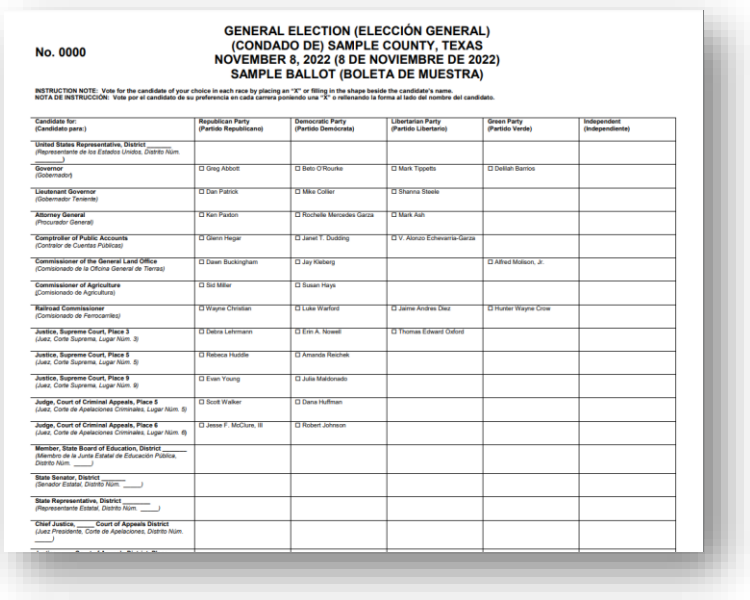
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District ____ (Representante de los Estados Unidos, Distrito Núm. ____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District ____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. ____)					
State Senator, District ____ (Senador Estatal, Distrito Núm. ____)					
State Representative, District ____ (Representante Estatal, Distrito Núm. ____)					
Chief Justice, ____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. ____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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Promoting Accounting and Transparency in your Primary Election



County Chair Election Law Seminar September 2023

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TX-SOS-24-0312-C-000341

Topics

- Role of the County Chair
- Role of the County Executive Committee
- Candidate Filings
- Appointment of Poll Watchers
- Electronic Voting Systems
  - General Considerations
  - Logic and Accuracy Testing/Testing of Tabulation Equipment
  - Chain of Custody Paperwork
  - Central Counting Station Plan
  - Reconciliation Paperwork
  - Post Election Auditing – Partial Manual Count
- Hand Counting
  - Understanding the Legal Requirements
  - Election Workers
  - Polling Locations
  - Timelines for Counting
  - Practical Considerations

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Role of the County Chair

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TX-SOS-24-0322-C-000343

County Chair

- Serves on County Election Commission (31.032)
- Serves on County Election Board (51.002)
- Provides list of judges for appointment by commissioners court (32.002)
- Provides list of potential election day clerks for general election for state and county officers (32.034)
- Provides list of early voting workers (85.009)
- Appoints judges for primary election (32.006)
- Appoints poll watchers for elections with party nominee on ballot (Not primary) (33.003)

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TX-SOS-24-0322-C-000344

County Executive Committee

- Supervises conduct of primary (172.111)
- Approves primary contracts/joint primary agreements (31.092)
- Approves judges in primary election (32.006)
- Determines consolidation of precincts in primary election (42.009)
- Nominates to fill vacancies under certain circumstances (202.006)
- Adopts voting system in primary election (123.001)
- Conducts ballot drawing for primary election, if requested to by primary committee (172.082)
- Sets time and place for precinct conventions (174.022)
- Appoints poll watchers for elections with party nominee on ballot (Not primary) if county chair does not make an authorized appointment (33.003)

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TX-SOS-24-0322-C-000345

Things to Consider

- Who are the stakeholders in your election?
  - Voters
  - Local Candidates
  - Statewide Candidates
  - Presidential Candidates
  - State Party
  - County Election Officials
  - SOS (Expending Primary Funds)
- How do you communicate outcomes of your decisions?
  - Newsletters
  - Information Posted on Website
  - Communications with Candidates

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TX-SOS-24-0322-C-000346

Candidate Filings

Things to Consider

- Review applications in a timely fashion
- Enter information into the Candidate Filing System ASAP!
- Save copies of your correspondence when answering questions.
- Document your actions properly when making a decision on an application --- especially when it's a decision to reject an application.

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TX-SOS-24-0322-C-000348

Appointment of Poll Watchers

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TX-SOS-24-0322-C-000349

Things to Consider

- For Primary Elections
  - Party cannot appoint poll watchers!
  - Candidates can appoint poll watchers.
- For Elections in which Party Affiliation is on the Ballot (GESCO, Special Elections to Fill Vacancies in Legislature or Congress)
  - County Chair has appointment authority for poll watchers.
  - CEC can only step in if County Chair is not making appointments.
  - It's an either/or situation. Both can't make appointments.
- Include information in Training of Election/Judges and Clerks on how to work with Poll Watchers
  - Access to Chain of Custody Paperwork
  - Reviewing Seals and Locks
  - EVBB Access
  - CCS Access

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TX-SOS-24-0322-C-000350

Electronic Voting Systems

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Considerations

- In paper based systems, the ballot of record is the paper ballot
- Voter makes decisions on how their ballot counts
  - Adjudication occurs either on Ballot Marking Device and/or when depositing ballot in scanner
- Redundancy in Electronic Systems
  - Three records of vote: Paper ballot, Ballot Image, Cast Vote Record
- Access to Ballot Images and Cast Vote Records
  - Immediately after canvass
  - Actual Ballots are available on Day 61 after election day

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TX-SOS-24-0322-C-000352

Logic and Accuracy Testing/Testing of Tabulation Equipment

- Published Notice
- Public Test
- Hash Validations
- Test of Tabulation Equipment is happening a minimum of three times
- Representative Sample
- Review Outcome of Tests!

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Chain of Custody

- Two Person Verifications
- Ensure that training includes filling out Chain of Custody Paperwork
- Sample Forms
- Review paperwork at Equipment Intake for Early Voting/Election Day
- Folder/Container for paperwork commonly reviewed by Poll Watchers
  - Chain of Custody Forms
  - Register of Ballots/Ballot and Seal Certificate
  - Transfer Logs
  - Zero Tapes

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TX-SOS-24-0322-C-000354

Central Counting Station Plan

- Review Plan with county prior to posting
- Consider utilizing the CCS Plan Template created by the SOS
- Review the CCS Handbook to ensure compliance
- Have a plan on poll watcher access
- Validate that Tabulation Test 2 / Test 3 occurs at the CCS
- Livestreaming requirements (county of 100,000 or more)

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Reconciliation Paperwork

- Work with CCS Manager prior to Election Day to understand how the reconciliation paperwork is completed.
- Learn about the records that are used for official reconciliation paperwork
- Consider adding daily reconciliation paperwork to Early Voting
- Consider adding polling place reconciliation forms to Election Day

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TX-SOS-24-0322-C-000356

Post Election Auditing

- Partial Manual Count is required for all elections
  - Hand count of a certain percentage of polling locations for election day/early voting in person/early voting by mail
  - Purpose is to validate the accuracy of the electronic voting systems
  - Not open to the public, but candidates and/or their representatives can be present for the partial manual count.
  - Educate your candidates about the partial manual count
  - Publicize outcome of partial manual count
- Risk-Limiting Audits Pilot Program
  - Applies statewide beginning 2026

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TX-SOS-24-0322-C-000357

Hand-Counting

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TX-SOS-24-0322-C-000358

General Considerations

- Authorized by state law, but requires specific procedures
- For a Primary election, decision to hand count is made by the county executive committee (Sec. 123.001).
- Rules on how to hand count are dictated by Chapter 65 of the Texas Election Code.
- No central counting stations or centralized counting for hand counts.
- ADA equipment is still required.

- **NOTE:** Section 276.019 provides that a public official or election official may not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.

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TX-SOS-24-0322-C-000359

Polling Locations

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TX-SOS-24-0322-C-000360

Requirements

- Election Precincts (polling locations) are based on voter registration precincts.
- No combining precincts in a primary election. (SB 924)
- No Countywide Polling Places (Vote Centers) for a hand counted election.
- Limited consolidation is permitted only if it doesn't create more than one ballot style per precinct. (Secs. 42.005, 42.009)
  - Must prepare a single set of precinct returns and check-in records for the consolidated precinct
- Precinct returns are prepared at individual polling locations. (Sec. 65.014)

- Example: If a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations

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Election Workers

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TX-SOS-24-0322-C-000362

Officers Who Perform Counting

- **Election Day Ballots**
  - A hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- **Early Voting in Person Ballots**
  - A hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- **Ballots by Mail**
  - A hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

- **NOTE:** Election Day polling locations must have a minimum of three workers. Although clerks may be replaced or additional workers may be brought in, the presiding judge must be available to continue performing their duties until all ballots are counted and precinct returns are prepared.

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TX-SOS-24-0322-C-000363

Procedures for Hand Counting

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TX-SOS-24-0322-C-000364

General Guidelines

- The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code.
- There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.
- Chapter 65 requires:
  - One “Caller” and other members of team act as “Talliers”
  - Caller will clearly announce the name of each candidate for whom a vote has been received.
  - Talliers will record the votes on their tally list as announced.
  - Three tally lists will be maintained
  - Team shall periodically compare tally lists to determine if there are discrepancies. If discrepancy exists, the ballots must be recounted and tally lists corrected.
  - Election Officers must sign off on the tally list they keep

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TX-SOS-24-0322-C-000365

Preparing Precinct Returns

- The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014).
- The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).
- Those precinct returns must state:
  - The total number of voters who voted at the polling place (as indicated by the poll list);
  - The total number of votes counted for each candidate; and
  - The total number of votes counted for and against each measure.
- The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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TX-SOS-24-0322-C-000366

Counting Time Frames

- Early Voting In Person Ballots/ Early Voting by Mail (EVBB)
  - May begin counting on election day
  - Counting must be completed no later than 24 hours after polls close
- Election Day Ballots
  - Counting may begin after the polls have been open for one hour and there are at least 10 ballots in a ballot box.
  - If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

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TX-SOS-24-0322-C-000367

Deadlines for Counting

- The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062).
- Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053).
- An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

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TX-SOS-24-0322-C-000368

Election Night Tabulation

- The general custodian prepares an unofficial tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)).
- The general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).
- For a Primary Election, the General Custodian of Election Records is the County Election Officer.
- There is nothing in Texas law that authorizes poll watchers to be present for the preparation of the unofficial tabulation.

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TX-SOS-24-0322-C-000369

Logistical Considerations

- Number of election precincts (election day polling places) required for the election
- Number of election workers and availability of workers required for the hand count
  - Minimum of three per location, plus additional workers if someone is sick/does not show up on Election Day.
- Locations used as polling places
  - Consider the length of time needed for the polling location and the space provided
- Necessary supplies for a hand count
  - Minimum of four boxes per location, tables and chairs, tally sheets, marking instruments and seals for ballot boxes
  - ADA Equipment!
- Length of time necessary for tallying votes

- **RECOMMENDATION:** Use a sample ballot from a past election to mark up a minimum of 100 ballots. Conduct a hand tally for those ballots to determine time needed. Look at turnout from past elections to make projections on time needed to count ballots.
  - **EXAMPLE**:
    - Estimate of 6 seconds per race for marking 20 contests = 2 minutes per ballot
    - If turnout is 300 voters, then it will take 10 hours to complete count.
  - Don't rely on our example!! Try it out with your own workers and ballots.

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TX-SOS-24-0322-C-000370

Questions?

elections@sos.texas.gov

TX-SOS-24-0322-C-000371

From: Christina Adkins
To: "Frank Phillips"
Subject: RE: CEO Advisory Group -- Hand Count Memo
Date: Friday, October 6, 2023 10:18:12 AM

The excitement of finally getting to release this document had me moving too fast!

From: Frank Phillips <Frank.Phillips@dentoncounty.gov>
Sent: Friday, October 6, 2023 10:17 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: RE: CEO Advisory Group -- Hand Count Memo

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There's no attachments
Frank

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Friday, October 6, 2023 10:13 AM
To: 'Bastrop - Kristin Miles (kristin.miles@co.bastrop.tx.us)' <kristin.miles@co.bastrop.tx.us>; 'Cameron - Remi Garza (remi.garza@co.cameron.tx.us)' <remi.garza@co.cameron.tx.us>; 'Bexar - Jacque Callanen (jcallanen@bexar.org)' <jcallanen@bexar.org>; 'Brazos - Trudy Hancock (thancock@brazoscountytx.gov)' <thancock@brazoscountytx.gov>; 'Brazoria - Joyce Hudman (joyceh@brazoria-county.com)' <joyceh@brazoria-county.com>; 'Brazoria - Lisa Mujica (Lisam@brazoria-county.com)' <Lisam@brazoria-county.com>; 'Collin - Bruce Sherbet (bsherbet@co.collin.tx.us)' <bsherbet@co.collin.tx.us>; Frank Phillips <Frank.Phillips@dentoncounty.gov>; 'Hays - Jennifer Anderson (elections@co.hays.tx.us)' <elections@co.hays.tx.us>; 'Houston - Cynthia Lum (clum@co.houston.tx.us)' <clum@co.houston.tx.us>; 'Lubbock - Roxzine Stinson (rstinson@lubbockcounty.gov)' <rstinson@lubbockcounty.gov>; 'Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov)' <Bridgette.Escobedo@traviscountytx.gov>; 'Midland - Carolyn Graves (cgraves@mcounty.com)' <cgraves@mcounty.com>; 'Chambers - Heather Hawthorne (hhawthorne@chamberstx.gov)' <hhawthorne@chamberstx.gov>; 'Harris - Neeharika Tumati (neeharika.tumati@cao.hctx.net)' <neeharika.tumati@cao.hctx.net>; 'Dallas - Michael J. Scarpello (michael.scarpello@dallascounty.org)' <michael.scarpello@dallascounty.org>; 'Guadalupe - Lisa Hayes (lisa.hayes@co.guadalupe.tx.us)' <lisa.hayes@co.guadalupe.tx.us>; 'Sherman - Laura Rogers (laurarogers@co.sherman.tx.us)' <laurarogers@co.sherman.tx.us>; 'Fannin - Tammy Biggar (tbiggar@fanninco.net)' <tbiggar@fanninco.net>; 'Obakozuwa, Rachelle (Elections)' <Rachelle.Obakozuwa@vote.hctx.net>; 'Tarrant - Troy Havard (tchavard@tarrantcountytx.gov)' <tchavard@tarrantcountytx.gov>; 'Midland - Rosa Olgin (rolgin@mcounty.com)' <rolgin@mcounty.com>; 'Hudspeth, Teneshia (CCO)' <Teneshia.Hudspeth@cco.hctx.net>; 'Winn, Michael (CCO)' <Michael.Winn@cco.hctx.net>
Cc: Kristi Hart <KHart@sos.texas.gov>; 'Nanette Forbes' <[redacted]>; 'Cary Roberts'

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<[redacted]>
Subject: CEO Advisory Group -- Hand Count Memo

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Hey everyone,

Attached is the memo our office has prepared on procedures related to hand counting. Please note that this is NOT an advisory and will not be posted on our website (at least for the time being). If you have any questions, comments, concerns, or suggestions on items we need to address, please email me directly with the suggestions.

If we think of additional items to include in the memo, we will update and re-release.

I've also included a copy of my presentation from last Friday's County Chair seminar.

Please feel free to provide this memo to anyone that asks about it.

Thanks,

Christina

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From: Christina Adkins
Sent: Friday, October 6, 2023 10:17 AM
To: 'Geoff Barr'; Ryan Jimenez
Subject: RE: Christina's Handcount PP
Attachments: Transparency and Accountability (CA).pdf; Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf

Geoff,

I've attached a copy of the presentation I gave last Friday for our County Chairs. I've also included a memo that we have prepared on hand counting procedures in Texas.

Please let us know if you have any additional questions or concerns.

Thanks,

Christina

From: Geoff Barr <Geoff.Barr@oag.texas.gov>
Sent: Thursday, October 5, 2023 3:48 PM
To: Ryan Jimenez <RJimenez@sos.texas.gov>
Cc: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Christina's Handcount PP

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Hi Ryan,

Were you ever able to get access to the hand count PP that you could send me? I'd like to study that.

Thanks!

Geoff Barr

Get Outlook for iOS

From: Geoff Barr
Sent: Monday, October 2, 2023 2:41:32 PM
To: rjimenez@sos.texas.gov <rjimenez@sos.texas.gov>
Subject: RE: Geoff Barr Contact

The menu options do not give an option of "Legal."

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From: Geoff Barr
Sent: Monday, October 2, 2023 2:33 PM
To: rjimenez@sos.texas.gov
Subject: Geoff Barr Contact

Geoff Barr
Assistant Attorney General
Office of the Texas Attorney General
(512) 475-2547

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Promoting Accounting and Transparency in your Primary Election



County Chair Election Law Seminar September 2023

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AZ-SOS-24-0322-C-000373

Topics

- Role of the County Chair
- Role of the County Executive Committee
- Candidate Filings
- Appointment of Poll Watchers
- Electronic Voting Systems
  - General Considerations
  - Logic and Accuracy Testing/Testing of Tabulation Equipment
  - Chain of Custody Paperwork
  - Central Counting Station Plan
  - Reconciliation Paperwork
  - Post Election Auditing – Partial Manual Count
- Hand Counting
  - Understanding the Legal Requirements
  - Election Workers
  - Polling Locations
  - Timelines for Counting
  - Practical Considerations

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Role of the County Chair

TX-SOS-24-0322-C-000378

County Chair

- Serves on County Election Commission (31.032)
- Serves on County Election Board (51.002)
- Provides list of judges for appointment by commissioners court (32.002)
- Provides list of potential election day clerks for general election for state and county officers (32.034)
- Provides list of early voting workers (85.009)
- Appoints judges for primary election (32.006)
- Appoints poll watchers for elections with party nominee on ballot (Not primary) (33.003)

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TX-SOS-24-0322-C-000379

County Executive Committee

- Supervises conduct of primary (172.111)
- Approves primary contracts/joint primary agreements (31.092)
- Approves judges in primary election (32.006)
- Determines consolidation of precincts in primary election (42.009)
- Nominates to fill vacancies under certain circumstances (202.006)
- Adopts voting system in primary election (123.001)
- Conducts ballot drawing for primary election, if requested to by primary committee (172.082)
- Sets time and place for precinct conventions (174.022)
- Appoints poll watchers for elections with party nominee on ballot (Not primary) if county chair does not make an authorized appointment (33.003)

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TX-SOS-24-0322-C-000380

Things to Consider

- Who are the stakeholders in your election?
  - Voters
  - Local Candidates
  - Statewide Candidates
  - Presidential Candidates
  - State Party
  - County Election Officials
  - SOS (Expending Primary Funds)
- How do you communicate outcomes of your decisions?
  - Newsletters
  - Information Posted on Website
  - Communications with Candidates

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TX-SOS-24-0322-C-000381

Candidate Filings

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Things to Consider

- Review applications in a timely fashion
- Enter information into the Candidate Filing System ASAP!
- Save copies of your correspondence when answering questions.
- Document your actions properly when making a decision on an application --- especially when it's a decision to reject an application.

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TX-SOS-24-0322-C-000383

Appointment of Poll Watchers

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TX-SOS-24-0322-C-000384

Things to Consider

- For Primary Elections
  - Party cannot appoint poll watchers!
  - Candidates can appoint poll watchers.
- For Elections in which Party Affiliation is on the Ballot (GESCO, Special Elections to Fill Vacancies in Legislature or Congress)
  - County Chair has appointment authority for poll watchers.
  - CEC can only step in if County Chair is not making appointments.
  - It's an either/or situation. Both can't make appointments.
- Include information in Training of Election/Judges and Clerks on how to work with Poll Watchers
  - Access to Chain of Custody Paperwork
  - Reviewing Seals and Locks
  - EVBB Access
  - CCS Access

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TX-SOS-24-0322-C-000385

Electronic Voting Systems

TX-SOS-24-0322-C-000386

Considerations

- In paper based systems, the ballot of record is the paper ballot
- Voter makes decisions on how their ballot counts
  - Adjudication occurs either on Ballot Marking Device and/or when depositing ballot in scanner
- Redundancy in Electronic Systems
  - Three records of vote: Paper ballot, Ballot Image, Cast Vote Record
- Access to Ballot Images and Cast Vote Records
  - Immediately after canvass
  - Actual Ballots are available on Day 61 after election day

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TX-SOS-24-0322-C-000387

Logic and Accuracy Testing/Testing of Tabulation Equipment

- Published Notice
- Public Test
- Hash Validations
- Test of Tabulation Equipment is happening a minimum of three times
- Representative Sample
- Review Outcome of Tests!

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TX-SOS-24-0322-C-000388

Chain of Custody

- Two Person Verifications
- Ensure that training includes filling out Chain of Custody Paperwork
- Sample Forms
- Review paperwork at Equipment Intake for Early Voting/Election Day
- Folder/Container for paperwork commonly reviewed by Poll Watchers
  - Chain of Custody Forms
  - Register of Ballots/Ballot and Seal Certificate
  - Transfer Logs
  - Zero Tapes

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TX-SOS-24-0322-C-000389

Central Counting Station Plan

- Review Plan with county prior to posting
- Consider utilizing the CCS Plan Template created by the SOS
- Review the CCS Handbook to ensure compliance
- Have a plan on poll watcher access
- Validate that Tabulation Test 2 / Test 3 occurs at the CCS
- Livestreaming requirements (county of 100,000 or more)

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TX-SOS-24-0322-C-000390

Reconciliation Paperwork

- Work with CCS Manager prior to Election Day to understand how the reconciliation paperwork is completed.
- Learn about the records that are used for official reconciliation paperwork
- Consider adding daily reconciliation paperwork to Early Voting
- Consider adding polling place reconciliation forms to Election Day

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TX-SOS-24-0322-C-000391

Post Election Auditing

- Partial Manual Count is required for all elections
  - Hand count of a certain percentage of polling locations for election day/early voting in person/early voting by mail
  - Purpose is to validate the accuracy of the electronic voting systems
  - Not open to the public, but candidates and/or their representatives can be present for the partial manual count.
  - Educate your candidates about the partial manual count
  - Publicize outcome of partial manual count
- Risk-Limiting Audits Pilot Program
  - Applies statewide beginning 2026

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TX-SOS-24-0322-C-000392

Hand-Counting

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TX-SOS-24-0322-C-000393

General Considerations

- Authorized by state law, but requires specific procedures
- For a Primary election, decision to hand count is made by the county executive committee (Sec. 123.001).
- Rules on how to hand count are dictated by Chapter 65 of the Texas Election Code.
- No central counting stations or centralized counting for hand counts.
- ADA equipment is still required.

- **NOTE:** Section 276.019 provides that a public official or election official may not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.

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TX-SOS-24-0322-C-000394

Polling Locations

TX-SOS-24-0322-C-000395

Requirements

- Election Precincts (polling locations) are based on voter registration precincts.
- No combining precincts in a primary election. (SB 924)
- No Countywide Polling Places (Vote Centers) for a hand counted election.
- Limited consolidation is permitted only if it doesn't create more than one ballot style per precinct. (Secs. 42.005, 42.009)
  - Must prepare a single set of precinct returns and check-in records for the consolidated precinct
- Precinct returns are prepared at individual polling locations. (Sec. 65.014)

- Example: If a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations

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Election Workers

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Officers Who Perform Counting

- **Election Day Ballots**
  - A hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- **Early Voting in Person Ballots**
  - A hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- **Ballots by Mail**
  - A hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

- **NOTE:** Election Day polling locations must have a minimum of three workers. Although clerks may be replaced or additional workers may be brought in, the presiding judge must be available to continue performing their duties until all ballots are counted and precinct returns are prepared.

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TX-SOS-24-0322-C-000398

Procedures for Hand Counting

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TX-SOS-24-0322-C-000399

General Guidelines

- The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code.
- There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.
- Chapter 65 requires:
  - One “Caller” and other members of team act as “Talliers”
  - Caller will clearly announce the name of each candidate for whom a vote has been received.
  - Talliers will record the votes on their tally list as announced.
  - Three tally lists will be maintained
  - Team shall periodically compare tally lists to determine if there are discrepancies. If discrepancy exists, the ballots must be recounted and tally lists corrected.
  - Election Officers must sign off on the tally list they keep

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TX-SOS-24-0322-C-000400

Preparing Precinct Returns

- The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014).
- The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).
- Those precinct returns must state:
  - The total number of voters who voted at the polling place (as indicated by the poll list);
  - The total number of votes counted for each candidate; and
  - The total number of votes counted for and against each measure.
- The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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TX-SOS-24-0322-C-000401

Counting Time Frames

- Early Voting In Person Ballots/ Early Voting by Mail (EVBB)
  - May begin counting on election day
  - Counting must be completed no later than 24 hours after polls close
- Election Day Ballots
  - Counting may begin after the polls have been open for one hour and there are at least 10 ballots in a ballot box.
  - If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

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TX-SOS-24-0322-C-000402

Deadlines for Counting

- The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062).
- Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053).
- An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

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Election Night Tabulation

- The general custodian prepares an unofficial tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)).
- The general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).
- For a Primary Election, the General Custodian of Election Records is the County Election Officer.
- There is nothing in Texas law that authorizes poll watchers to be present for the preparation of the unofficial tabulation.

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TX-SOS-24-0322-C-000404

Logistical Considerations

- Number of election precincts (election day polling places) required for the election
- Number of election workers and availability of workers required for the hand count
  - Minimum of three per location, plus additional workers if someone is sick/does not show up on Election Day.
- Locations used as polling places
  - Consider the length of time needed for the polling location and the space provided
- Necessary supplies for a hand count
  - Minimum of four boxes per location, tables and chairs, tally sheets, marking instruments and seals for ballot boxes
  - ADA Equipment!
- Length of time necessary for tallying votes

- **RECOMMENDATION:** Use a sample ballot from a past election to mark up a minimum of 100 ballots. Conduct a hand tally for those ballots to determine time needed. Look at turnout from past elections to make projections on time needed to count ballots.
  - **EXAMPLE**:
    - Estimate of 6 seconds per race for marking 20 contests = 2 minutes per ballot
    - If turnout is 300 voters, then it will take 10 hours to complete count.
  - Don't rely on our example!! Try it out with your own workers and ballots.

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Questions?

elections@sos.texas.gov

TX-SOS-24-0322-C-000406

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov
www.votetexas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

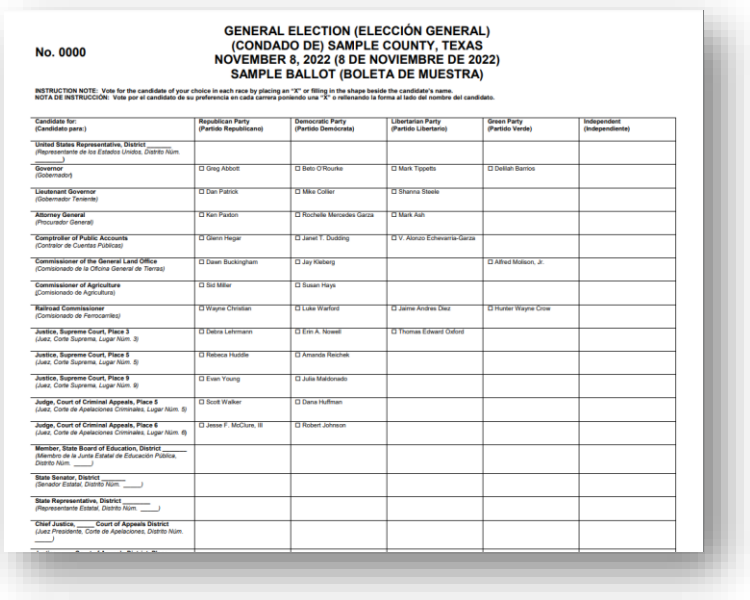
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District _____ (Representante de los Estados Unidos, Distrito Núm. _____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District _____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. _____)					
State Senator, District _____ (Senador Estatal, Distrito Núm. _____)					
State Representative, District _____ (Representante Estatal, Distrito Núm. _____)					
Chief Justice, _____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. _____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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From: Christina Adkins
Sent: Tuesday, October 3, 2023 1:57 PM
To: 'Michael Scarpello'
Cc: jennifer
Subject: RE: Election Advisory re: Hand Count in Primary Elections
Attachments: Transparency and Accountability (CA).pdf

Mike – Attached is the presentation from Friday. I'm hoping to get you something today or tomorrow.

Thanks,

Christina

From: Michael Scarpello <Michael.Scarpello@dallascounty.org>
Sent: Tuesday, October 3, 2023 11:27 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: jennifer <[redacted]
Subject: Election Advisory re: Hand Count in Primary Elections

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Christina, as we've discussed several times over the last month, Dallas County is anxious to obtain the Secretary of State's guidance regarding conducting a hand count during a Primary Election. Not having that information is significantly hampering our efforts to plan for the Primary with both the Democratic and Republican parties.

My understanding is that your office has completed its assessment and submitted it for approval to release it. I also know that some of that information was shared with Party Chairs last Friday.

I have two questions I'm hoping that you can answer.

1. Can you send me the PowerPoint that was shared with the party chairs last Friday?
2. Will your office be releasing an Election Advisory regarding hand counts, and when can we expect such a document to be released?

Thanks for your help.

Mike

Michael Scarpello
Dallas County Elections Administrator
1520 Round Table Drive
Dallas, TX 75247
(214)819-6335

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Promoting Accounting and Transparency in your Primary Election



County Chair Election Law Seminar September 2023

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TX-SOS-24-0312-C-000425

Topics

- Role of the County Chair
- Role of the County Executive Committee
- Candidate Filings
- Appointment of Poll Watchers
- Electronic Voting Systems
  - General Considerations
  - Logic and Accuracy Testing/Testing of Tabulation Equipment
  - Chain of Custody Paperwork
  - Central Counting Station Plan
  - Reconciliation Paperwork
  - Post Election Auditing – Partial Manual Count
- Hand Counting
  - Understanding the Legal Requirements
  - Election Workers
  - Polling Locations
  - Timelines for Counting
  - Practical Considerations

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Role of the County Chair

TX-SOS-24-0322-C-000427

County Chair

- Serves on County Election Commission (31.032)
- Serves on County Election Board (51.002)
- Provides list of judges for appointment by commissioners court (32.002)
- Provides list of potential election day clerks for general election for state and county officers (32.034)
- Provides list of early voting workers (85.009)
- Appoints judges for primary election (32.006)
- Appoints poll watchers for elections with party nominee on ballot (Not primary) (33.003)

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TX-SOS-24-0322-C-000428

County Executive Committee

- Supervises conduct of primary (172.111)
- Approves primary contracts/joint primary agreements (31.092)
- Approves judges in primary election (32.006)
- Determines consolidation of precincts in primary election (42.009)
- Nominates to fill vacancies under certain circumstances (202.006)
- Adopts voting system in primary election (123.001)
- Conducts ballot drawing for primary election, if requested to by primary committee (172.082)
- Sets time and place for precinct conventions (174.022)
- Appoints poll watchers for elections with party nominee on ballot (Not primary) if county chair does not make an authorized appointment (33.003)

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Things to Consider

- Who are the stakeholders in your election?
  - Voters
  - Local Candidates
  - Statewide Candidates
  - Presidential Candidates
  - State Party
  - County Election Officials
  - SOS (Expending Primary Funds)
- How do you communicate outcomes of your decisions?
  - Newsletters
  - Information Posted on Website
  - Communications with Candidates

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TX-SOS-24-0322-C-000430

Candidate Filings

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TX-SOS-24-0322-C-000431

Things to Consider

- Review applications in a timely fashion
- Enter information into the Candidate Filing System ASAP!
- Save copies of your correspondence when answering questions.
- Document your actions properly when making a decision on an application --- especially when it's a decision to reject an application.

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TX-SOS-24-0322-C-000432

Appointment of Poll Watchers

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Things to Consider

- For Primary Elections
  - Party cannot appoint poll watchers!
  - Candidates can appoint poll watchers.
- For Elections in which Party Affiliation is on the Ballot (GESCO, Special Elections to Fill Vacancies in Legislature or Congress)
  - County Chair has appointment authority for poll watchers.
  - CEC can only step in if County Chair is not making appointments.
  - It's an either/or situation. Both can't make appointments.
- Include information in Training of Election/Judges and Clerks on how to work with Poll Watchers
  - Access to Chain of Custody Paperwork
  - Reviewing Seals and Locks
  - EVBB Access
  - CCS Access

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TX-SOS-24-0322-C-000434

Electronic Voting Systems

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TX-SOS-24-0322-C-000435

Considerations

- In paper based systems, the ballot of record is the paper ballot
- Voter makes decisions on how their ballot counts
  - Adjudication occurs either on Ballot Marking Device and/or when depositing ballot in scanner
- Redundancy in Electronic Systems
  - Three records of vote: Paper ballot, Ballot Image, Cast Vote Record
- Access to Ballot Images and Cast Vote Records
  - Immediately after canvass
  - Actual Ballots are available on Day 61 after election day

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TX-SOS-24-0322-C-000436

Logic and Accuracy Testing/Testing of Tabulation Equipment

- Published Notice
- Public Test
- Hash Validations
- Test of Tabulation Equipment is happening a minimum of three times
- Representative Sample
- Review Outcome of Tests!

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TX-SOS-24-0322-C-000437

Chain of Custody

- Two Person Verifications
- Ensure that training includes filling out Chain of Custody Paperwork
- Sample Forms
- Review paperwork at Equipment Intake for Early Voting/Election Day
- Folder/Container for paperwork commonly reviewed by Poll Watchers
  - Chain of Custody Forms
  - Register of Ballots/Ballot and Seal Certificate
  - Transfer Logs
  - Zero Tapes

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TX-SOS-24-0322-C-000438

Central Counting Station Plan

- Review Plan with county prior to posting
- Consider utilizing the CCS Plan Template created by the SOS
- Review the CCS Handbook to ensure compliance
- Have a plan on poll watcher access
- Validate that Tabulation Test 2 / Test 3 occurs at the CCS
- Livestreaming requirements (county of 100,000 or more)

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Reconciliation Paperwork

- Work with CCS Manager prior to Election Day to understand how the reconciliation paperwork is completed.
- Learn about the records that are used for official reconciliation paperwork
- Consider adding daily reconciliation paperwork to Early Voting
- Consider adding polling place reconciliation forms to Election Day

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TX-SOS-24-0322-C-000440

Post Election Auditing

- Partial Manual Count is required for all elections
  - Hand count of a certain percentage of polling locations for election day/early voting in person/early voting by mail
  - Purpose is to validate the accuracy of the electronic voting systems
  - Not open to the public, but candidates and/or their representatives can be present for the partial manual count.
  - Educate your candidates about the partial manual count
  - Publicize outcome of partial manual count
- Risk-Limiting Audits Pilot Program
  - Applies statewide beginning 2026

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Hand-Counting

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TX-SOS-24-0322-C-000442

General Considerations

- Authorized by state law, but requires specific procedures
- For a Primary election, decision to hand count is made by the county executive committee (Sec. 123.001).
- Rules on how to hand count are dictated by Chapter 65 of the Texas Election Code.
- No central counting stations or centralized counting for hand counts.
- ADA equipment is still required.

- **NOTE:** Section 276.019 provides that a public official or election official may not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.

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Polling Locations

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TX-SOS-24-0322-C-000444

Requirements

- Election Precincts (polling locations) are based on voter registration precincts.
- No combining precincts in a primary election. (SB 924)
- No Countywide Polling Places (Vote Centers) for a hand counted election.
- Limited consolidation is permitted only if it doesn't create more than one ballot style per precinct. (Secs. 42.005, 42.009)
  - Must prepare a single set of precinct returns and check-in records for the consolidated precinct
- Precinct returns are prepared at individual polling locations. (Sec. 65.014)

- Example: If a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations

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TX-SOS-24-0322-C-000445

Election Workers

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Officers Who Perform Counting

- **Election Day Ballots**
  - A hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- **Early Voting in Person Ballots**
  - A hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- **Ballots by Mail**
  - A hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

- **NOTE:** Election Day polling locations must have a minimum of three workers. Although clerks may be replaced or additional workers may be brought in, the presiding judge must be available to continue performing their duties until all ballots are counted and precinct returns are prepared.

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Procedures for Hand Counting

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TX-SOS-24-0322-C-000448

General Guidelines

- The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code.
- There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.
- Chapter 65 requires:
  - One “Caller” and other members of team act as “Talliers”
  - Caller will clearly announce the name of each candidate for whom a vote has been received.
  - Talliers will record the votes on their tally list as announced.
  - Three tally lists will be maintained
  - Team shall periodically compare tally lists to determine if there are discrepancies. If discrepancy exists, the ballots must be recounted and tally lists corrected.
  - Election Officers must sign off on the tally list they keep

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TX-SOS-24-0322-C-000449

Preparing Precinct Returns

- The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014).
- The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).
- Those precinct returns must state:
  - The total number of voters who voted at the polling place (as indicated by the poll list);
  - The total number of votes counted for each candidate; and
  - The total number of votes counted for and against each measure.
- The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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TX-SOS-24-0322-C-000450

Counting Time Frames

- Early Voting In Person Ballots/ Early Voting by Mail (EVBB)
  - May begin counting on election day
  - Counting must be completed no later than 24 hours after polls close
- Election Day Ballots
  - Counting may begin after the polls have been open for one hour and there are at least 10 ballots in a ballot box.
  - If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

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TX-SOS-24-0322-C-000451

Deadlines for Counting

- The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062).
- Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053).
- An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

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TX-SOS-24-0322-C-000452

Election Night Tabulation

- The general custodian prepares an unofficial tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)).
- The general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).
- For a Primary Election, the General Custodian of Election Records is the County Election Officer.
- There is nothing in Texas law that authorizes poll watchers to be present for the preparation of the unofficial tabulation.

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TX-SOS-24-0322-C-000453

Logistical Considerations

- Number of election precincts (election day polling places) required for the election
- Number of election workers and availability of workers required for the hand count
  - Minimum of three per location, plus additional workers if someone is sick/does not show up on Election Day.
- Locations used as polling places
  - Consider the length of time needed for the polling location and the space provided
- Necessary supplies for a hand count
  - Minimum of four boxes per location, tables and chairs, tally sheets, marking instruments and seals for ballot boxes
  - ADA Equipment!
- Length of time necessary for tallying votes

- **RECOMMENDATION:** Use a sample ballot from a past election to mark up a minimum of 100 ballots. Conduct a hand tally for those ballots to determine time needed. Look at turnout from past elections to make projections on time needed to count ballots.
  - **EXAMPLE**:
    - Estimate of 6 seconds per race for marking 20 contests = 2 minutes per ballot
    - If turnout is 300 voters, then it will take 10 hours to complete count.
  - Don't rely on our example!! Try it out with your own workers and ballots.

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TX-SOS-24-0322-C-000454

Questions?

elections@sos.texas.gov

TX-SOS-24-0322-C-000455

From: Christina Adkins
To: "Michael Scarpello"
Cc: Malissa Kouba
Subject: RE: Follow-up Questions regarding Hand Counts During a Primary Election
Date: Thursday, October 5, 2023 10:42:16 AM
Attachments: image003.png

Mike – Thanks for the email. See my answers below. Please let me know if you have any follow up questions.

Thanks,

Christina

From: Michael Scarpello <Michael.Scarpello@dallascounty.org>
Sent: Wednesday, October 4, 2023 12:32 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Malissa Kouba <Malissa.Kouba@dallascounty.org>
Subject: Follow-up Questions regarding Hand Counts During a Primary Election

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Christina, thanks for providing further information about Primary Elections in our Advisory Group meeting this morning. I just have a few more questions about primaries that I'm hoping you can answer.

1. I think I have a basic understanding of the requirements for polling locations under the various options for conducting a Primary but I'm hoping that you can provide some more detailed information on this complex topic.

- For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.
- In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.
    - **Consolidating Precincts (Secs. 42.008, 42.009)**
        - The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election

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(Sec. 42.009).

- County election precincts cannot be consolidated in a general election for state and county officers.

- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.

- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.

- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.

- Precinct returns are prepared for the consolidated precinct as a single precinct.

- The consolidation of precincts is performed by the following authority, depending on the election:

    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).

    - The county executive committee, in a separate primary. (Sec. 42.009).

    - The county election officer, in a joint primary. (Sec. 172.126(b)).

- **Combining Precincts (Sec. 42.0051)**

    - County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).

    - The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).

    - Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

    - Voter check-in paperwork is completed separately for each

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individual precinct contained in the combined precinct.

- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.

- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

    - As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have a minimum of 100 polling locations. That number may increase based on the population requirements under Section 42.006.

- **Countywide Polling Places Are Not Permitted in a Hand Count:** Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

2. Can you elaborate on what ballot marking methods are allowed in a Primary Election?

- **Pre-Printed Ballots:** The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.
- **Ballot on Demand Systems:** The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).
- **Ballot Marking Devices:** The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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3. Regardless of how ballots are marked, can you provide further information about who determines the counting method in a Primary Election?
    - For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).

- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

4. I understand that regardless of what method a party chooses to count ballots, the County is still in charge of Early Voting. Can you elaborate on what are the roles of personnel for counting Early Voting ballots? Do those roles differ for counting Election Day ballots?

- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).
- **One other important thing to note:**
    - Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

5. Can you provide some more information on how are precinct returns prepared? On how official results are prepared?
    - **General Counting Timeframe**: The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.35).
    - **Preparing Precinct Returns**: The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).
        - The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to

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the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

- There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers that are counting ballots are not subject to potential criminal charges.

- **Here are certain specific rules related to the timing of hand-counting ballots**:
  - **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).
  - **Precinct Returns for Eday Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
      - The total number of voters who voted at the polling place (as indicated by the poll list);
      - The total number of votes counted for each candidate; and
      - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).
  - **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).
  - **Precinct Returns for EV Ballots**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
      - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
      - The total number of votes counted for each candidate; and
      - The total number of votes counted for and against each measure.

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- The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).
- The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

- **Delivery of Precinct Returns:** The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).
  - The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).
  - The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).
- **Preparation of Unofficial Returns:** On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).
  - For a **primary election**, the general custodian is the county clerk.

6. How are poll watchers and poll watcher access affected when ballots are counted by hand?
   - Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).
   - Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

7. Are there any other logistics considerations for conducting an election if a party chooses to hand-count its ballots?

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- An entity that is considering a hand count for an election should consider the following factors:
  - Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.
  - Number of election workers and availability of workers required for the hand count
    - Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.
  - Locations used as polling places
    - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.
  - Necessary supplies for a hand count
    - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
    - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
    - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

      EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

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- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

Thanks so much for your assistance as we try to figure out this important and complex issue.

Mike



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From: Christina Adkins
To: [redacted]
Cc: Sandra Parker
Subject: RE: Hand Count Guidance
Date: Monday, October 9, 2023 1:22:59 PM
Attachments: Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf

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Elizabeth and Sandra,

Thank you again for the great discussion on Chapter 65 requirements and other issues relating to hand counting. I've attached the guidance that my office has prepared and that we have released regarding hand counting. Please feel free to provide this document to whoever may be requesting it.

Also, the woman from Dallas County that was in our meeting – can you remind me her name? I realized that I didn't write it down in my notes.

Please let me know if you've thought of any other questions you may have for us on this or any other issue.

Thank you,

Christina

From: [redacted]
Sent: Thursday, September 28, 2023 11:41 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Sandra Parker <[redacted]
Subject: RE: Hand Count Guidance

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Excellent. I will be there.
Oct 17th at 10:30 is great.
Thanks so much,
Elizabeth

Sent with Proton Mail secure email.

------- Original Message -------
On Wednesday, September 27th, 2023 at 7:12 PM, Christina Adkins <CAdkins@sos.texas.gov>

wrote:

> We have same day registration for the seminar so you can still attend on Friday, if you would like.
>
> On the 17th, I can meet as early as 10:30 am. Let me know what time works best for you all.
>
> Thanks,
>
> Christina

From: [redacted]>
Sent: Monday, September 25, 2023 7:33 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Sandra Parker <[redacted]
Subject: Re: Hand Count Guidance

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Thanks Christina and Sandra for responding. We were out on a college visit. Yes, Oct 5th at 3 works great. For the calculator team meeting, understood that things may need to change. Can we set a time that is convenient for you on the 17th? That way if the trial conflicts we have a possibility of rescheduling on the 18th. They are keeping their schedule open so just let us know what time works for you.

I was too late in registering for the County Chair Law Seminar on Friday. Joseph Walter will be attending for Travis County and said he would pass along anything relating to hand counting. Do you know if I can register day of?

Thanks again,
Elizabeth.

Sent with Proton Mail secure email.

------- Original Message -------
On Friday, September 22nd, 2023 at 1:48 PM, Christina Adkins <CAdkins@sos.texas.gov> wrote:

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Thursday, October 5th works great. Can we plan on 3 pm?

Of course, as long as my schedule allows it, I'm happy to meet with the working group you mentioned. I'm on standby to testify in a trial that week and won't know for sure when that will actually be. But we can tentatively schedule something as long as everyone understands that I may have to make a last minute change for the trial.

Let me know if that works for you.

Christina

From: [redacted]
Sent: Thursday, September 21, 2023 1:17:38 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Sandra Parker [redacted]>
Subject: RE: Hand Count Guidance

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Hi Christina,
I completely understand the delay. Please excuse mine in responding. I was trying to figure out several schedules. We would like to proposed a meeting on Thursday Oct 5th (2pm or after if possible) with Sandra and me. I do plan on attending the Election Law Seminar so we could cover any questions on hand counting not covered there and efforts on supporting one voting period.

The group working on the calculator method is out of town for a couple of weeks but will be in Austin Oct 17 & 18 and would like to meet with you during that time. Do you have availability either of those days?

Regards,
Elizabeth

Elizabeth Baron
256-655-6630

.

Sent with Proton Mail secure email.

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------- Original Message -------
On Tuesday, September 19th, 2023 at 8:23 AM, Christina Adkins <CAdkins@sos.texas.gov> wrote:

Elizabeth,

Forgive me for not responding sooner – I've been consumed with audit activities lately.

I would love to meet with you all to discuss the issue of hand counting to make sure that those that are considering taking this route are well informed of the legal and practical considerations before they make any final decisions in this arena.

Next week, I'm out of town until Thursday and then on Friday we are having our Election Law Seminar for County Chairs that hold a primary. It's at the Renaissance hotel just like our summer seminar. At that seminar, I will be addressing accountability and transparency measures that currently exist regardless of what counting method a party chooses. I will also be addressing hand counting with the group so that I can provide some information and answer questions proactively on this matter. Are you planning on attending that seminar?

As for meeting times, would you have time the week of October 2nd? My schedule is relatively flexible that week from Tuesday – Friday so I can likely work around your schedules. Let me know what works for you all and we can set something up.

I look forward to working with you all on these issues going forward!

Thanks,

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Christina

From: [redacted]
[redacted]
Sent: Monday, September 18, 2023 9:34 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Sandra Parker [redacted]
Subject: Hand Count Guidance

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Christina,

Sandra Parker and I spoke with you at the SOS legislative update meeting about grassroots hand counting efforts and about pushing for a study of a single voting period. We reached out a few weeks ago and didn't hear back so trying again since mailboxes are often overflowing.

Grassroots efforts to move their party executive committees/counties to use hand counting have only increased since the RNC put out its resolution that included hand counting.

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I am seeing a lot of conflicting information on hand counts from election officials and grassroots. I'm also seeing a greater push in larger counties to move to Chap 65 hand counting which is concerning (at least to me). It would be helpful to gather some information from you that we can share with the various grassroot groups to make sure there is a common understanding.

I would like to set a time for a couple of us to discuss with you and/or appropriate members of your team

- Chap 65 (any funding impacts for parties, pitfalls etc)

- Use of video to record hand counting

- The calculator method and any obstacles you see with proposing related legislation or ways it could be modified to make it more acceptable

- Possible legislation on a study for one voting period

As some background, I am the chair for TexasFirst which serves as a information sharing forum between representatives from many grassroots groups working on election integrity in many counties around Texas. People from the group pull together to work on projects that they are interested in such as our election legislation team that worked with Sen. Hall and Rep. Toth to create bills and advocate for their passage. Another team is working on the calculator hand count method and some others are working on getting Chap 65 implemented. I don't have any control over what people chose to focus on but I can try to make sure they have the correct information.

Looking forward to discussing further,

Elizabeth Baron

256-655-6630

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Sent from Proton Mail for iOS

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The State of Texas

Elections Division
P.O. Box 12060
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Phone: 512-463-5650
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Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

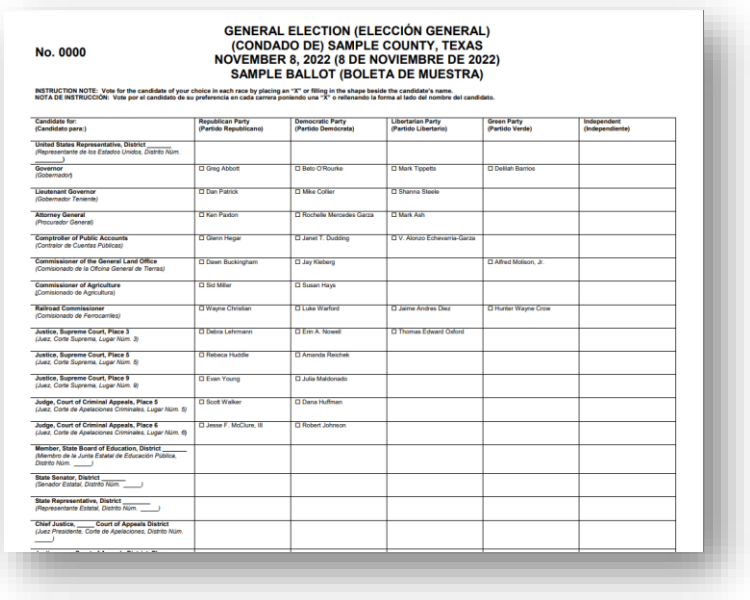
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District ____ (Representante de los Estados Unidos, Distrito Núm. ____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District ____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. ____)					
State Senator, District ____ (Senador Estatal, Distrito Núm. ____)					
State Representative, District ____ (Representante Estatal, Distrito Núm. ____)					
Chief Justice, ____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. ____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted]
Cc: Sandra Parker
Subject: Re: Hand Count Guidance
Date: Friday, September 22, 2023 1:48:38 PM

Thursday, October 5th works great. Can we plan on 3 pm?

Of course, as long as my schedule allows it, I'm happy to meet with the working group you mentioned. I'm on standby to testify in a trial that week and won't know for sure when that will actually be. But we can tentatively schedule something as long as everyone understands that I may have to make a last minute change for the trial.

Let me know if that works for you.

Christina

From: [redacted]
Sent: Thursday, September 21, 2023 1:17:38 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Sandra Parker [redacted]>
Subject: RE: Hand Count Guidance

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Hi Christina,
I completely understand the delay. Please excuse mine in responding. I was trying to figure out several schedules. We would like to proposed a meeting on Thursday Oct 5th (2pm or after if possible) with Sandra and me. I do plan on attending the Election Law Seminar so we could cover any questions on hand counting not covered there and efforts on supporting one voting period.

The group working on the calculator method is out of town for a couple of weeks but will be in Austin Oct 17 & 18 and would like to meet with you during that time. Do you have availability either of those days?

Regards,
Elizabeth

Elizabeth Baron
256-655-6630

.

Sent with Proton Mail secure email.

AMERICAN OVERSIGHT

------- Original Message -------
On Tuesday, September 19th, 2023 at 8:23 AM, Christina Adkins <CAdkins@sos.texas.gov> wrote:

Elizabeth,

Forgive me for not responding sooner – I've been consumed with audit activities lately.

I would love to meet with you all to discuss the issue of hand counting to make sure that those that are considering taking this route are well informed of the legal and practical considerations before they make any final decisions in this arena.

Next week, I'm out of town until Thursday and then on Friday we are having our Election Law Seminar for County Chairs that hold a primary. It's at the Renaissance hotel just like our summer seminar. At that seminar, I will be addressing accountability and transparency measures that currently exist regardless of what counting method a party chooses. I will also be addressing hand counting with the group so that I can provide some information and answer questions proactively on this matter. Are you planning on attending that seminar?

As for meeting times, would you have time the week of October 2nd? My schedule is relatively flexible that week from Tuesday – Friday so I can likely work around your schedules. Let me know what works for you all and we can set something up.

I look forward to working with you all on these issues going forward!

Thanks,

Christina

From: [redacted]
Sent: Monday, September 18, 2023 9:34 PM

AMERICAN OVERSIGHT

To: Christina Adkins <CAdkins@sos.texas.gov>; Sandra Parker [redacted]
Subject: Hand Count Guidance

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Christina,

Sandra Parker and I spoke with you at the SOS legislative update meeting about grassroots hand counting efforts and about pushing for a study of a single voting period. We reached out a few weeks ago and didn't hear back so trying again since mailboxes are often overflowing.

Grassroots efforts to move their party executive committees/counties to use hand counting have only increased since the RNC put out its resolution that included hand counting.

I am seeing a lot of conflicting information on hand counts from election officials and grassroots. I'm also seeing a greater push in larger counties to move to Chap 65 hand counting which is concerning (at least to me). It would be helpful to gather some information from you that we can share with the various grassroot groups to make sure there is a common understanding.

I would like to set a time for a couple of us to discuss with you and/or appropriate members of your team

- Chap 65 (any funding impacts for parties, pitfalls etc)

- Use of video to record hand counting

- The calculator method and any obstacles you see with proposing related legislation or ways it could be modified to make it more acceptable

AMERICAN OVERSIGHT

- Possible legislation on a study for one voting period

As some background, I am the chair for TexasFirst which serves as a information sharing forum between representatives from many grassroots groups working on election integrity in many counties around Texas. People from the group pull together to work on projects that they are interested in such as our election legislation team that worked with Sen. Hall and Rep. Toth to create bills and advocate for their passage. Another team is working on the calculator hand count method and some others are working on getting Chap 65 implemented. I don't have any control over what people chose to focus on but I can try to make sure they have the correct information.

Looking forward to discussing further,

Elizabeth Baron

256-655-6630

Sent from Proton Mail for iOS

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted]; Sandra Parker
Subject: RE: Hand Count Guidance
Date: Tuesday, September 19, 2023 8:23:51 AM

Elizabeth,

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I would love to meet with you all to discuss the issue of hand counting to make sure that those that are considering taking this route are well informed of the legal and practical considerations before they make any final decisions in this arena.

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I look forward to working with you all on these issues going forward!

Thanks,

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Sent: Monday, September 18, 2023 9:34 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Sandra Parker <[redacted]
Subject: Hand Count Guidance

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Looking forward to discussing further,
Elizabeth Baron
256-655-6630

Sent from Proton Mail for iOS

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted]
Cc: Sandra Parker
Subject: RE: Hand Count Guidance
Date: Wednesday, September 27, 2023 7:12:42 PM

We have same day registration for the seminar so you can still attend on Friday, if you would like.

On the 17th, I can meet as early as 10:30 am. Let me know what time works best for you all.

Thanks,

Christina

From: [redacted]
Sent: Monday, September 25, 2023 7:33 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Sandra Parker [redacted]
Subject: Re: Hand Count Guidance

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Thanks Christina and Sandra for responding. We were out on a college visit.
Yes, Oct 5th at 3 works great. For the calculator team meeting, understood that things may need to change. Can we set a time that is convenient for you on the 17th? That way if the trial conflicts we have a possibility of rescheduling on the 18th. They are keeping their schedule open so just let us know what time works for you.

I was too late in registering for the County Chair Law Seminar on Friday. Joseph Walter will be attending for Travis County and said he would pass along anything relating to hand counting. Do you know if I can register day of?

Thanks again,
Elizabeth.

Sent with Proton Mail secure email.

------- Original Message -------
On Friday, September 22nd, 2023 at 1:48 PM, Christina Adkins <CAdkins@sos.texas.gov> wrote:

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Looking forward to discussing further,

Elizabeth Baron

256-655-6630

Sent from Proton Mail for iOS

AMERICAN OVERSIGHT

From: Christina Adkins
To: Jennifer Hajdu
Subject: Re: Hand Count Guidance
Date: Wednesday, October 11, 2023 8:29:04 PM

Hi Jennifer — I'm just checking in with you to see how things are going. Let me know if you have any other questions or if you want to chat about these hand count issues or any other issues where we can be of assistance.

Thanks,

Christina

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Jennifer Hajdu [redacted]>
Sent: Friday, October 6, 2023 11:51:37 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Hand Count Guidance

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Thank you!

Jennifer

Jennifer Stoddard Hajdu
Dallas County Republican Party Chairman
Dallas County Republican Party
11617 N. Central Expressway, Suite 240
Dallas, TX 75243

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On Fri, Oct 6, 2023 at 10:19 AM Christina Adkins <CAdkins@sos.texas.gov> wrote:

> Jennifer,
>
> Please see the attached documents. Feel free to provide these to anyone that needs this information. If you have specific questions after reading the documentation, please don't hesitate to reach out to me.
>
> My cell phone is – 512-289-1468
>
> Thanks,
>
> **Christina Worrell Adkins**
>
> Director of Elections
>
> Office of the Texas Secretary of State
>
> 1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
> 1.800.252.VOTE (8683)
>
> elections@sos.texas.gov | www.sos.texas.gov
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> **For Voter Related Information, please visit:**
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consult with an attorney when your legal rights are involved.

From: Christina Adkins
To: "Jennifer Hall"
Subject: RE: Hand Count Memo
Date: Thursday, October 19, 2023 2:45:49 PM
Attachments: Secretary of State - Summary of Hand-Counting Requirements Procedures (Final).pdf
image001.png

From: Jennifer Hall [redacted]
Sent: Thursday, October 19, 2023 2:45 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Hand Count Memo

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Hi Christina,

I know the Hand Count Memo was attached. It doesn't appear to be now. Any chance someone could send that to me again?

Best regards,

Jen Hall
Republican Party of Texas
Executive Director
682-560-0358 (cell)

From: Jennifer Hall [redacted]
Sent: Friday, October 6, 2023 10:46 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Hand Count Memo

Thank you so much for putting together a hand count memo. I appreciate your commitment to

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making sure people understand how to do this so they don't end up in a mess if choose this path.

Jen

Get Outlook for Android

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Friday, October 6, 2023, 10:24 AM
To: Jennifer Hall [redacted]
Subject: Hand Count Memo

Jen,

Please see attached. And feel free to distribute this document to anyone asking for it. Let me know if you have any specific questions/concerns.

Thanks,

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov
www.votetexas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 6, 2023

Summary of Legal Requirements, Procedures, and Considerations Regarding Hand-Counting of Ballots in Texas Elections

This purpose of this document is to outline the legal requirements, procedures, and necessary considerations for conducting an election in which votes will be tabulated through a hand count.

All statutory references in this document are to the Texas Election Code ("the Code"), unless otherwise indicated.

Authority that Determines Counting Method

The authority responsible for adopting a voting system for an election will determine whether an electronic voting system will be used to tabulate the results or whether the results will be tabulated through a hand count. (Sec. 123.001).

- For the **general election for state and county officers,** an election ordered by the governor, or an election ordered by a county authority, the commissioners court is the authority responsible for adopting the voting system. (Sec. 123.001).
- For an **election ordered by a political subdivision other than a county**, the political subdivision's governing body is the authority responsible for adopting the voting system. (Sec. 123.001).
- For a **separate primary election**, each party's county executive committee is the authority responsible for adopting the voting system for that party's primary. (Sec. 123.001).
- For a **joint primary election**, the county election officer is the authority responsible for adopting the voting system for the joint primary. (Sec. 172.126(f)).

As a reminder, the county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091).

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Polling Location Requirements

For an election in which ballots are hand-counted, polling locations (election precincts) are based on voter registration precincts. On election day, precinct returns are prepared at each individual polling location. (Sec. 65.014). Therefore, polling locations shall be based on voter registration precincts.

In certain elections, precincts may be combined or consolidated according to the procedures outlined in Chapter 42 of the Election Code. Combining election precincts and consolidating election precincts are two distinct procedures that impact the manner in which precinct returns are prepared in different ways.

Consolidating Precincts (Secs. 42.008, 42.009)

- The consolidation of precincts is only available in a special election that requires the use of county election precincts, such as a constitutional amendment election or an election to fill a legislative or congressional vacancy (Sec. 42.008), or in a primary election (Sec. 42.009).
- County election precincts cannot be consolidated in a general election for state and county officers.
- The consolidated precinct is treated as a single precinct and is subject to the requirements applicable to a single precinct under Sections 42.005, 42.006, and 42.007 of the Code.
- In a primary election, under Section 42.005 of the Code, consolidation is only possible if the consolidated precinct does not contain territory from more than one commissioners precinct, justice precinct, congressional district, state representative district, state senatorial district, or State Board of Education district. In practice, this means that an entity may not have more than one "ballot style" per precinct.
- Voter check-in paperwork is completed for the consolidated precinct as a single precinct.
- Precinct returns are prepared for the consolidated precinct as a single precinct.
- The consolidation of precincts is performed by the following authority, depending on the election:
    - Commissioners court, on recommendation of the county election board, in a special election. (Sec. 42.008).
    - The party's county executive committee, in a separate primary. (Sec. 42.009).
    - The county election officer, in a joint primary. (Sec. 172.126(b)).

Combining Precincts (Sec. 42.0051)

- County election precincts may only be combined in a general election or a special election. It is not permissible to combine county election precincts in a primary election. (Sec. 42.0051(a-1)).
- The combining of precincts is only available in counties with a population of less than 1.2 million that do not participate in the countywide polling place program. (Sec. 42.0051(a)).
- Precincts may only be combined if the commissioners court cannot secure a suitable polling location for the precinct under Section 43.031 of the Code and the combined

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polling location adequately serves the voters of the combined precinct. (Sec. 42.0051(a-1)).

- Voter check-in paperwork is completed separately for each individual precinct contained in the combined precinct.
- Precinct returns are prepared separately for each individual precinct contained in the combined precinct.
- The combination of precincts is performed by the commissioners court, on recommendation of the county election board.

As an example, for the primary election, if a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations.

For more information on the rules related to consolidating and combining precincts, please see Texas Secretary of State Election Advisory No. 2023-11.

Countywide Polling Places Are Not Permitted in a Hand Count

Because precinct returns are prepared at each polling place, it is not permissible to utilize countywide polling places for hand-counted elections. In a primary election, the county may establish countywide polling places only if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agrees to the use of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places. (Sec. 43.007(a)(4)). Therefore, if one party is conducting a hand count for that party's primary election, both parties are required to conduct precinct-based voting. Neither party would be permitted to use countywide polling places for its individual primary election.

Requirements for Accessible Voting Equipment

State and federal law require the entity conducting the election to provide at least one unit of accessible voting system equipment at each election day polling location and each early voting location to allow voters with disabilities to independently mark a secret ballot. (Sec. 61.012).

Although the Election Code provides limited exemptions to this requirement for entities located in counties with a population less than 20,000, those exemptions are only available for elections in which there is no federal office on the ballot. (Sec. 61.013).

Ballot Arrangement Requirements for a Hand Count

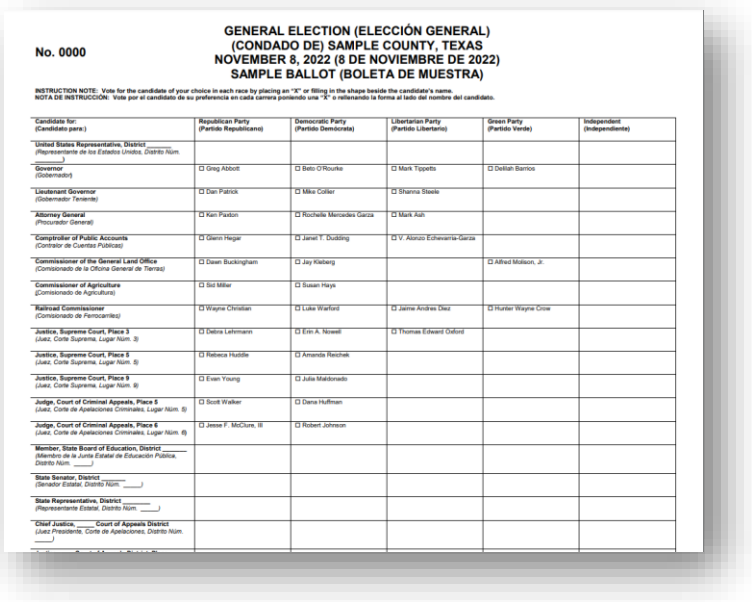
The Texas Election Code outlines the requirements for the format of a ballot in Chapter 52, Subchapter C of the Texas Election Code.

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Ballot Arrangement with Party Affiliation Required

For an election in which a candidate's name is to appear on the ballot as the nominee of a political party (general election for state and county officers and a special election for legislative or congressional vacancy), the ballot shall be arranged in vertical columns separated by parallel lines as provided by Section 52.065 of the Code. The party columns shall be arranged on the ballot in the following order, beginning on the left: columns of parties with nominees for statewide or district offices, followed by columns of parties without nominees for statewide or district offices. (Sec. 52.091(a)). Columns shall be arranged in descending order of the number of votes received statewide by each party's candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the Secretary of State. (Sec. 52.091(b)).

Below is the sample ballot for the November 8, 2022 General Election for State and County Officers. This is formatted in the manner required for a hand-count ballot with party affiliation requirements.



No. 0000

GENERAL ELECTION (ELECCIÓN GENERAL)
(CONDADO DE) SAMPLE COUNTY, TEXAS
NOVEMBER 8, 2022 (8 DE NOVIEMBRE DE 2022)
SAMPLE BALLOT (BOLETA DE MUESTRA)

INSTRUCTION NOTE: Vote for the candidate of your choice in each race by placing an "X" or filling in the shape beside the candidate's name.
NOTA DE INSTRUCCIÓN: Vote por el candidato de su preferencia en cada carrera poniendo una "X" o rellenando la forma al lado del nombre del candidato.

Candidate for: (Candidato para:)	Republican Party (Partido Republicano)	Democratic Party (Partido Demócrata)	Libertarian Party (Partido Libertario)	Green Party (Partido Verde)	Independent (Independiente)
United States Representative, District _____ (Representante de los Estados Unidos, Distrito Núm. _____)					
Governor (Gobernador)	☐ Greg Abbott	☐ Beto O'Rourke	☐ Mark Tippetts	☐ Delilah Barrios	
Lieutenant Governor (Gobernador Teniente)	☐ Dan Patrick	☐ Mike Collier	☐ Shanna Steele		
Attorney General (Procurador General)	☐ Ken Paxton	☐ Rochelle Mercedes Garza	☐ Mark Ash		
Comptroller of Public Accounts (Contralor de Cuentas Públicas)	☐ Glenn Hegar	☐ Janet T. Dudding	☐ V. Alonzo Echevarria-Garza		
Commissioner of the General Land Office (Comisionado de la Oficina General de Tierras)	☐ Dawn Buckingham	☐ Jay Kleberg		☐ Alfred Molison, Jr.	
Commissioner of Agriculture (Comisionado de Agricultura)	☐ Sid Miller	☐ Susan Hays			
Railroad Commissioner (Comisionado de Ferrocarriles)	☐ Wayne Christian	☐ Luke Warford	☐ Jaime Andres Diez	☐ Hunter Wayne Crow	
Justice, Supreme Court, Place 3 (Juez, Corte Suprema, Lugar Núm. 3)	☐ Debra Lehrmann	☐ Erin A. Nowell	☐ Thomas Edward Oxford		
Justice, Supreme Court, Place 5 (Juez, Corte Suprema, Lugar Núm. 5)	☐ Rebeca Huddle	☐ Amanda Reichek			
Justice, Supreme Court, Place 9 (Juez, Corte Suprema, Lugar Núm. 9)	☐ Evan Young	☐ Julia Maldonado			
Judge, Court of Criminal Appeals, Place 5 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 5)	☐ Scott Walker	☐ Dana Huffman			
Judge, Court of Criminal Appeals, Place 6 (Juez, Corte de Apelaciones Criminales, Lugar Núm. 6)	☐ Jesse F. McClure, III	☐ Robert Johnson			
Member, State Board of Education, District _____ (Miembro de la Junta Estatal de Educación Pública, Distrito Núm. _____)					
State Senator, District _____ (Senador Estatal, Distrito Núm. _____)					
State Representative, District _____ (Representante Estatal, Distrito Núm. _____)					
Chief Justice, _____ Court of Appeals District (Juez Presidente, Corte de Apelaciones, Distrito Núm. _____)					

Ballot Arrangement with No Party Affiliations on the Ballot (Primary Elections, Local Political Subdivisions)

For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by Section 52.066 of the Code. Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title. (Sec. 52.066(b)). If write-in votes are permitted by law in the election, a space underscored by a

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broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected. (Sec. 52.066(c)). If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (Sec. 52.066(d)).

Voting System Equipment

The Secretary of State may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines or ballot marking devices, to conform to the formatting requirements of the system. Ballot format modifications for ballot marking devices are approved during the certification process for electronic voting systems and may vary slightly from the requirements dictated above. (Sec. 52.075).

Ballot Marking Methods in a Hand Count

In a hand count, there are several ways that a ballot may be marked by a voter**.**

Pre-Printed Ballots

The entity conducting the election may choose to use pre-printed ballots that are marked by the voter with an indelible marking instrument. (Sec. 62.015). Each person who prints ballots or other election supplies for a primary election or general election must file a statement with the Secretary of State. (Sec. 51.013). A list of registered printers can be accessed on the Secretary of State's website. Vendors that wish to be identified on the Secretary of State's website may contact the SOS at elections@sos.texas.gov to complete the necessary paperwork.

Ballot on Demand Systems

The entity conducting an election may choose to use a ballot on demand system that allows the polling place worker to select the ballot style that corresponds with the voter's precinct and print the ballot from the device at the polling location. These ballots are then marked by the voter with an indelible marking instrument. (Sec. 62.015).

Ballot Marking Devices

The entity conducting the election may choose to use ballot marking devices for all ballots. In this scenario, the voter would insert blank ballot stock into the ballot marking device. The voter would make selections on the screen of the ballot marking device and the voter's choices would be printed on the ballot. These ballots would then be deposited into a ballot box for hand tallying at the appropriate time.

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Polling Place Requirements for Ballots in a Hand Count

At the polling location, election officers shall follow the procedures outlined in Chapter 62 related to setting up the polling location. These provisions include the following requirements:

- Examining ballot boxes prior to the start of voting (Sec. 62.007)
- Signing of ballots by presiding judge for election day (Sec. 62.008)
    - **NOTE**: For early voting, the early voting clerk's initials shall be placed on each ballot or the deputy early voting clerk shall stamp a facsimile of the initials on each ballot. (Sec. 85.0311).
- Disarranging ballots for voters' selections (Sec. 62.009)
- Placing indelible marking instruments in voting stations (Sec. 62.015)
- Providing voting booths that assure privacy for voters while marking their ballots. (Sec. 51.032)
    - **NOTE**: A voting booth may be used without prior approval from the Secretary of State if the booth complies with the requirements outlined in Section 51.032 of the Code.

Officers Who Perform Counting

In a hand count, the ballots are counted by one or more team(s) of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (Sec. 65.001).

- For **election day ballots**, a hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- For **early voting in person ballots**, the hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- For **ballots by mail,** the hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

Chapter 65 of the Texas Election Code provides that a member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. (Sec. 65.006). (Tallying procedures are described in further detail below.) Although additional clerks may be brought in to supplement or replace counting team members, there is no legal authority to replace the appointed presiding judge. Because the presiding judge must be present to resolve voter intent questions and sign the precinct returns, the presiding judge must be present throughout the entire counting process.

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Counting While the Polls are Open on Election Day

The Election Code does not provide specific space and distance limitations for the arrangement of the polling place when counting is occurring during voting hours. However, the Code contains general guidelines for the setup of the polling place and the availability of certain results information that impacts the options for setting up a polling place.

Counting activities should occur in a separate room in the polling place. It is important to physically separate the area in which the ballots are counted from the area in which voters are voting to prevent counting activities from interfering with voting activities and to prevent the release of results before the time the polls close. It is a Class A misdemeanor for an election officer, watcher, or other person serving at a polling place in an official capacity to reveal information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

If it is impossible to conduct counting activities in a separate room at the polling place, the counting should at least be conducted in a separate area that is out of the sight range or hearing range of the voters at that location. However, the voting stations and ballot boxes at the polling place must still remain within plain view of one or more election officers at the polling location, who must be able to continue processing voters while other election officers are conducting the counting process. The counting process should occur in a manner that does not interfere with voters in the polling place and which prevents the release of results before the time the polls close. Because the Election Code requires a member of the counting team to verbally announce the name of a candidate for whom a vote has been received or whether a vote has been received for or against a measure, the counting area must be situated in a manner that prevents a voter from seeing or hearing the activities of the counting team when the voter is located in the polling place. (Secs. 61.007, 62.004, 62.006, 65.005).

The ballots and ballot boxes in the polling place must remain in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified. If counting is occurring while the polls are open, at least one election officer must be able to monitor the ballots and ballot boxes in the counting area and in the voting area during that timeframe. (Sec. 61.005).

If it is not possible to organize the polling place in this manner, counting at that location should occur after the time that the polls have closed or the last voter has voted, whichever is later.

Time for Counting

The time for counting ballots is strictly controlled by the Texas Election Code. Election day ballots are counted on election day. (Sec. 65.002). In a primary election in which ballots are hand-counted, early voting in person ballots and early voting by mail ballots may not be counted until

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the polls open on election day. (Sec. 87.0241(b)). NOTE: In a county with a population of 100,000 or more where the county executive committee contracts with the county election officer to run the election, the early voting ballot board may only count ballots early if the county is using an electronic voting system. (Sec. 87.0241(c); 1 Tex. Admin. Code § 81.36).

The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062). Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

There is no legal authority to count ballots beyond the 24-hour deadline for delivering precinct returns. If counting has not been completed and precinct returns have not been delivered to the general custodian by 24 hours after the polls close, the authority conducting an election would need to seek a court order to extend the authorized time for counting ballots so that the election officers who are counting ballots are not subject to potential criminal charges.

Below are certain specific rules related to the timing of hand-counting ballots:

- **Election Day Ballots**: For election day ballots, the presiding judge of the polling place may direct the counting of ballots to occur at any time after the polls have been open for one hour. If counting at the election day polling location begins while the polls are open, the ballot box may not be opened for the purpose of counting those ballots unless there are at least 10 ballots in the box. (Sec. 65.002). If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

- **Early Voting In-Person Ballots and Ballots by Mail**: For early voting in person and ballot by mail, the early voting ballot board may begin counting once the polls open on election day. (Sec. 87.0241(b)(1)). On the direction of the presiding judge, the EVBB shall open the containers containing the early voting ballots that are to be counted, remove the contents from each container, and remove any ballots contained in ballot envelopes from their envelopes. The EVBB shall count the ballots and prepare the returns in the same manner as hand-counted ballots on election day. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Sec. 87.062).

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- For late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day, the EVBB must convene to count those ballots no later than the 9th day after election day (for most elections) or the 13th day after election day (for the general election for state and county officers). (Sec. 87.125).

Procedures for Hand-Counting

The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code. There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.

- **Tallying Procedures**
  - On each counting team, one member will act as a "caller," while the other members of each counting team will act as "talliers." The caller will clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The talliers will record the votes on the tally list as they are announced. (Sec. 65.005(a)).
  - Three tally lists will be maintained for each counting team. The counting team will periodically compare the tally lists to determine whether there are any discrepancies between them. If a discrepancy is discovered, then the ballots must be recounted and the necessary corrections must be made on the lists. (Sec. 65.005(b)).
  - After the completion of the count, each tallier will compute the total number of votes tallied on the member's list and enter the totals on the tally list. After verifying that the three tally lists are in agreement, each counting officer must sign the tally list that the officer has kept. (Sec. 65.005(c)).

- **Write-In Votes**: In an election where write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate will be tallied in the same manner as votes for a candidate whose name appears on the ballot. Unless the race is one in which open write-in voting is authorized, the write-in candidate's name must appear on the list of declared write-in candidates for votes to be counted for that candidate. (Secs. 65.008, 146.022, 146.051, 146.081).

- **Irregularly Marked Ballots – Resolving Voter Intent**: A voter's failure to mark the ballot in strict conformity with the Election Code does not invalidate the ballot. If the voter's ballot is irregularly marked, the ballot must be counted according to the voter's intent. (Sec. 65.009). The presiding judge is responsible for resolving any ambiguous questions of voter intent. (Sec. 65.009).
  - The Election Code provides that a voter's intent may be determined by:

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        - A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
        - An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
        - A line drawn through the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
        - A line drawn through the name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
        - A line drawn through a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
        - Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.
    - If the voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, that is treated as an overvote and none of the votes for that office may be counted on the voter's ballot. (Sec. 65.011).

Additional guidelines and examples for resolving voter intent questions can be found in the Secretary of State's Election Judges and Clerks Handbook.

Preparing Precinct Returns

The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014). The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).

- **Election Day Ballots**: On completion of the vote count, the presiding judge shall prepare the returns for the precinct.
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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- **Early Voting In-Person Ballots and Ballots by Mail**: On completion of the vote count, the presiding judge of the EVBB shall prepare the returns for each precinct. Early voting in-person ballots shall be tabulated and stored separately from ballots by mail and shall be separately reported on the returns. (Secs. 87.062, 87.1231).
    - Those precinct returns must state:
        - The total number of voters who voted at the polling place, if applicable (as indicated by the poll list);
        - The total number of votes counted for each candidate; and
        - The total number of votes counted for and against each measure.
    - The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Secs. 65.014, 87.062).
    - The EVBB shall prepare the returns in the same manner for late-arriving mail ballots, provisional ballots, and mail ballots that were corrected through the corrective action process after election day. Provisional ballots should be reported as election day or early voting in-person results, depending on the date on which the voter cast the provisional ballot. These returns shall be provided to the canvassing authority in the same manner as the other precinct returns. (Secs. 65.014, 87.062; 1 Tex. Admin. Code § 81.37).

Delivery of Precinct Returns to the General Custodian

The precinct returns and other precinct election records must be delivered to the appropriate authorities immediately after the precinct returns are completed. (Sec. 66.053(a)). This delivery must occur within two hours after the closing of the polls or the last voter has voted, whichever is later, or as soon as practicable after the two-hour deadline. (Sec. 68.032).

If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2:00 a.m. of the day after election day, the presiding judge must contact the general custodian of election records between midnight and 1:00 a.m. to inform the general custodian of the following information by telephone:

- The total number of voters who voted at the polling place as indicated by the poll list;
- The vote totals tallied for each candidate at the time of the notification;
- The vote totals tallied for and against each measure at the time of the notification; and
- The expected time of finishing the count. (Sec. 66.053(b)).

The precinct election records MUST be delivered no later than 24 hours after the polls close. (Sec. 66.053). An election officer commits a Class B misdemeanor if the officer fails to make the delivery of those records or if the officer fails to do so by the 24-hour deadline. (Sec. 66.054).

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The presiding judge must deliver the original precinct returns to the presiding officer of the local canvassing authority with the other records contained in Envelope #1. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the local canvassing authority before the canvass. (Sec. 66.051(a)).

The presiding judge must deliver a copy of the precinct returns to the general custodian of election records with the other records contained in Envelope #2. The presiding judge must also place a copy of the precinct returns in Ballot Box #3, which is delivered to the general custodian of election records with the other materials in that ballot box. (Sec. 66.051(b)).

The presiding judge will retain a copy of the precinct returns with the other records contained in Envelope #3. (Sec. 66.051(c)).

Election Night Tabulation and Reporting

On election night, the general custodian prepares an **unofficial** tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)). The official tabulation comes from the canvass that occurs after the election has concluded and all late-arriving mail ballots, provisional ballots, and corrected mail ballots have been processed. On election night, the general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).

The type of election dictates who serves as the general custodian of election records for that election:

- For an **election ordered by the governor or by a county authority**, the general custodian is the county clerk.
- For a **primary election**, the general custodian is the county clerk.
- For an **election ordered by a city authority**, the general custodian is the city secretary.
- For an **election ordered by an authority of a political subdivision other than a county or city,** the general custodian is the secretary of the political subdivision's governing body.

The general custodian prepares the unofficial tabulation from the precinct returns that are delivered to the general custodian on election night. Upon receipt of the precinct returns, the general custodian shall open the envelopes containing the returns and prepare a tabulation stating:

- The total number of votes received in each precinct for each candidate;
- The total number of votes received in each precinct for and against each measure;
- The sum of the precinct totals for each candidate; and
- The sum of the precinct totals for and against each measure. (Sec. 66.056(a)).

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Rosters and Voting History Submission

The early voting clerk for the general election for state and county officers and for a primary election shall submit to the Secretary of State, for posting on the Secretary of State's website, the roster containing the name, precinct, and voter registration number of the voters who voted on election day. This roster shall be posted not later than 11:00 a.m. on the day after the election. (Sec. 87.121(k)).

In a hand count, if the counting of ballots at a polling location extends into the next morning after election day, the early voting clerk may be unable to comply with the above requirement as precinct returns and the accompanying records (including the signature roster and poll list) are not to be delivered until the counting is finished and precinct returns have been completed.

Poll Watchers

Poll watchers are entitled to observe the activities of the counting team in the polling place and the early voting ballot board. At the polling place, poll watchers should be allowed to move freely between the voting area and the counting area. (Sec. 33.056). However, if the watcher is present at the polling place when ballots are counted, the watcher may not leave until the counting is complete. (Sec. 33.052).

Poll watchers do not have poll watching capabilities when the general custodian of election records is creating the unofficial tabulation of results on election night. This is not a defined area in which poll watchers may be present; nor is there a presiding judge present who can receive the certificate of appointment from a poll watcher.

It is a Class A misdemeanor for a watcher to reveal any information about the results of the election before the polls close or the last voter has voted, whichever is later. (Sec. 61.007).

Logistical Considerations for Hand-Counting Elections

An entity that is considering a hand count for an election should consider the following factors:

- Number of election precincts (election day polling places) required for the election
    - For the general election for state and county officers and the primary election, this figure can be determined by looking at the number of county voter registration precincts.

- Number of election workers and availability of workers required for the hand count

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- Each election day polling location must have a minimum of three election workers. The presiding judge and election clerks who are appointed for each polling location are the only persons authorized to tally election ballots at that polling location. Although election workers may be replaced or additional workers may be brought in, it is imperative that workers understand the time commitment involved in a hand tally. The presiding judge, in particular, must be available to continue performing duties as a presiding judge until the counting of ballots has been completed at the election day polling location. This will generally result in the presiding judge working in excess of 12-14 hours on election day.

- Locations used as polling places
  - Every election precinct must have a polling place. When securing voting locations, the authority that controls the building must be informed of the time commitment required for use of that building during a hand count. If counting is conducted after the time the polls close, the locations may be needed overnight and into the next day depending on the length of the ballot for the given election. The authority conducting the election may need to secure additional rooms or space within each polling location for the hand count, if counting is to occur while the polls are open.

- Necessary supplies for a hand count
  - Each election day polling place will need four ballot boxes, tables and chairs for the counting team(s), and an adequate number of tally sheets, marking instruments, and seals for ballot boxes. (Sec. 51.031, 51.033, 51.034).
  - For early voting, only one box per location is necessary but the box must be equipped with two locks, each with a different key. (Sec. 85.032). The early voting ballot board will need ballot boxes and storage cases for the storage of accepted and rejected ballots. (Sec. 87.062).
  - ADA-accessible voting system equipment must be provided in each election day or early voting polling place.

    EXAMPLE: A county that has 100 election day polling locations will require a minimum of 400 ballot boxes for election day.

- Length of time necessary for tallying votes
  - It is necessary to estimate the amount of time required to conduct a hand count to accurately determine the number of workers needed and the expected number of hours that each individual will work. These calculations will help the entity in determining the expected personnel costs associated with an election.
  - The SOS recommends that an entity considering a hand-count look to a recent similar election to calculate these figures and provide a proper estimate. When calculating an estimate, the entity should also consider the length of the ballot and the voter turnout from the most recent similar election.

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Frequently Asked Questions

Q: Can we appoint election workers specifically to conduct the hand count?

A: In general, anyone who will be performing the hand count will need to be appointed as a presiding judge, alternate judge, or member of the EVBB (for ballots by mail or early voting in person ballots), or as an election judge or clerk for the election day precinct in which the count will be performed (for election day ballots). (Secs. 65.001, 87.061).

With regard to election day workers, the presiding judge of the polling place shall designate the working hours and duties of the clerks serving at the polling place, and the judge may assign the clerks to work for different lengths of time or to begin work at different hours. (Sec. 32.072).

However, the presiding judge and clerks who are on duty at the polling place at the time of any hand count of ballots before the polls close must remain on duty without leaving the polling place while the polls are open. The presiding judge may allow temporary absences for meals or must permit meals to be brought or delivered to those workers at the polling place. In general, when the presiding judge is assigning duties, setting working hours, or authorizing temporary absences, the judge must treat all workers uniformly. (Sec. 32.073).

Q: Can we replace members of the counting teams after counting has begun?

A: Yes, but specific procedures must be followed when a member of the counting team is replaced after counting has begun. A member of the counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. After any discrepancy between the tally lists is resolved, the officer who is being replaced must certify the accuracy of the tally list kept by that officer, as of the time of the replacement, by signing the tally list. (Sec. 65.006).

Q: Can poll watchers participate in counting activities?

A: There is no legal authority for a poll watcher to participate in the tallying and counting of votes. Additionally, poll watchers are only permitted to observe the election process; they should not be used to verify that votes are tallied and read correctly.

Q: Can student election clerks participate in hand-counting activities?

A: A person may be appointed as a student election clerk if the person: is at least 16 years of age; has the consent of the student's principal (or parent or legal guardian, if the student is home-schooled); is a U.S. citizen; and has completed any training required by the entity holding the election. In general, nothing in the Election Code prohibits a student election clerk from serving as a member of a counting team, as the student is generally authorized to perform the duties

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that an election clerk would normally perform at the polling place. For precinct-based counties, the maximum number of student election clerks who may be appointed at each polling place is two. (Sec. 32.0511).

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From: Christina Adkins
Sent: Friday, October 6, 2023 10:16 AM
To: Elections-Attorneys; Election Trainers; ELEC Management
Subject: RE: Hand Count Memo
Attachments: Transparency and Accountability (CA).pdf

Here is a PDF of the presentation from last Friday as well.

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Friday, October 6, 2023 10:10 AM
To: Elections-Attorneys <Elections-Attorneys@sos.texas.gov>; Election Trainers <ElecTrainers@sos.texas.gov>; ELEC Management <ELECMGM@sos.texas.gov>
Subject: Hand Count Memo

Attached is the memo we have prepared on hand counting. Please feel free to provide to individual requestors as appropriate.

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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Promoting Accounting and Transparency in your Primary Election

County Chair Election Law Seminar September 2023

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TEX-SOS-24-0312-C-000520

Topics

- Role of the County Chair
- Role of the County Executive Committee
- Candidate Filings
- Appointment of Poll Watchers
- Electronic Voting Systems
  - General Considerations
  - Logic and Accuracy Testing/Testing of Tabulation Equipment
  - Chain of Custody Paperwork
  - Central Counting Station Plan
  - Reconciliation Paperwork
  - Post Election Auditing – Partial Manual Count
- Hand Counting
  - Understanding the Legal Requirements
  - Election Workers
  - Polling Locations
  - Timelines for Counting
  - Practical Considerations

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Role of the County Chair

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TX-SOS-24-0322-C-000522

County Chair

- Serves on County Election Commission (31.032)
- Serves on County Election Board (51.002)
- Provides list of judges for appointment by commissioners court (32.002)
- Provides list of potential election day clerks for general election for state and county officers (32.034)
- Provides list of early voting workers (85.009)
- Appoints judges for primary election (32.006)
- Appoints poll watchers for elections with party nominee on ballot (Not primary) (33.003)

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TX-SOS-24-0322-C-000523

County Executive Committee

- Supervises conduct of primary (172.111)
- Approves primary contracts/joint primary agreements (31.092)
- Approves judges in primary election (32.006)
- Determines consolidation of precincts in primary election (42.009)
- Nominates to fill vacancies under certain circumstances (202.006)
- Adopts voting system in primary election (123.001)
- Conducts ballot drawing for primary election, if requested to by primary committee (172.082)
- Sets time and place for precinct conventions (174.022)
- Appoints poll watchers for elections with party nominee on ballot (Not primary) if county chair does not make an authorized appointment (33.003)

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Things to Consider

- Who are the stakeholders in your election?
  - Voters
  - Local Candidates
  - Statewide Candidates
  - Presidential Candidates
  - State Party
  - County Election Officials
  - SOS (Expending Primary Funds)
- How do you communicate outcomes of your decisions?
  - Newsletters
  - Information Posted on Website
  - Communications with Candidates

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TX-SOS-24-0322-C-000525

Candidate Filings

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Things to Consider

- Review applications in a timely fashion
- Enter information into the Candidate Filing System ASAP!
- Save copies of your correspondence when answering questions.
- Document your actions properly when making a decision on an application --- especially when it's a decision to reject an application.

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TX-SOS-24-0322-C-000527

Appointment of Poll Watchers

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TX-SOS-24-0322-C-000528

Things to Consider

- For Primary Elections
  - Party cannot appoint poll watchers!
  - Candidates can appoint poll watchers.
- For Elections in which Party Affiliation is on the Ballot (GESCO, Special Elections to Fill Vacancies in Legislature or Congress)
  - County Chair has appointment authority for poll watchers.
  - CEC can only step in if County Chair is not making appointments.
  - It's an either/or situation. Both can't make appointments.
- Include information in Training of Election/Judges and Clerks on how to work with Poll Watchers
  - Access to Chain of Custody Paperwork
  - Reviewing Seals and Locks
  - EVBB Access
  - CCS Access

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TX-SOS-24-0322-C-000529

Electronic Voting Systems

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TX-SOS-24-0322-C-000530

Considerations

- In paper based systems, the ballot of record is the paper ballot
- Voter makes decisions on how their ballot counts
  - Adjudication occurs either on Ballot Marking Device and/or when depositing ballot in scanner
- Redundancy in Electronic Systems
  - Three records of vote: Paper ballot, Ballot Image, Cast Vote Record
- Access to Ballot Images and Cast Vote Records
  - Immediately after canvass
  - Actual Ballots are available on Day 61 after election day

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TX-SOS-24-0322-C-000531

Logic and Accuracy Testing/Testing of Tabulation Equipment

- Published Notice
- Public Test
- Hash Validations
- Test of Tabulation Equipment is happening a minimum of three times
- Representative Sample
- Review Outcome of Tests!

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TX-SOS-24-0322-C-000532

Chain of Custody

- Two Person Verifications
- Ensure that training includes filling out Chain of Custody Paperwork
- Sample Forms
- Review paperwork at Equipment Intake for Early Voting/Election Day
- Folder/Container for paperwork commonly reviewed by Poll Watchers
  - Chain of Custody Forms
  - Register of Ballots/Ballot and Seal Certificate
  - Transfer Logs
  - Zero Tapes

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TX-SOS-24-0322-C-000533

Central Counting Station Plan

- Review Plan with county prior to posting
- Consider utilizing the CCS Plan Template created by the SOS
- Review the CCS Handbook to ensure compliance
- Have a plan on poll watcher access
- Validate that Tabulation Test 2 / Test 3 occurs at the CCS
- Livestreaming requirements (county of 100,000 or more)

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TX-SOS-24-0322-C-000534

Reconciliation Paperwork

- Work with CCS Manager prior to Election Day to understand how the reconciliation paperwork is completed.
- Learn about the records that are used for official reconciliation paperwork
- Consider adding daily reconciliation paperwork to Early Voting
- Consider adding polling place reconciliation forms to Election Day

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TX-SOS-24-0322-C-000535

Post Election Auditing

- Partial Manual Count is required for all elections
  - Hand count of a certain percentage of polling locations for election day/early voting in person/early voting by mail
  - Purpose is to validate the accuracy of the electronic voting systems
  - Not open to the public, but candidates and/or their representatives can be present for the partial manual count.
  - Educate your candidates about the partial manual count
  - Publicize outcome of partial manual count
- Risk-Limiting Audits Pilot Program
  - Applies statewide beginning 2026

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TX-SOS-24-0322-C-000536

Hand-Counting

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TX-SOS-24-0322-C-000537

General Considerations

- Authorized by state law, but requires specific procedures
- For a Primary election, decision to hand count is made by the county executive committee (Sec. 123.001).
- Rules on how to hand count are dictated by Chapter 65 of the Texas Election Code.
- No central counting stations or centralized counting for hand counts.
- ADA equipment is still required.

- **NOTE:** Section 276.019 provides that a public official or election official may not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.

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TX-SOS-24-0322-C-000538

Polling Locations

TX-SOS-24-0322-C-000539

Requirements

- Election Precincts (polling locations) are based on voter registration precincts.
- No combining precincts in a primary election. (SB 924)
- No Countywide Polling Places (Vote Centers) for a hand counted election.
- Limited consolidation is permitted only if it doesn't create more than one ballot style per precinct. (Secs. 42.005, 42.009)
  - Must prepare a single set of precinct returns and check-in records for the consolidated precinct
- Precinct returns are prepared at individual polling locations. (Sec. 65.014)

- Example: If a county had 100 voter registration precincts which resulted in 100 unique ballot styles, the county would be required to have 100 polling locations

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Election Workers

TX-SOS-24-0322-C-000541

Officers Who Perform Counting

- **Election Day Ballots**
  - A hand count of ballots is performed by the presiding judge, alternate judge, and clerks at each of the election day polling locations. (Sec. 65.001).
- **Early Voting in Person Ballots**
  - A hand count is performed by the presiding judge, alternate judge, and members of the early voting ballot board (EVBB). (Sec. 87.061).
- **Ballots by Mail**
  - A hand count is performed by the presiding judge, alternate judge, and members of the EVBB. (Sec. 87.061).

- **NOTE:** Election Day polling locations must have a minimum of three workers. Although clerks may be replaced or additional workers may be brought in, the presiding judge must be available to continue performing their duties until all ballots are counted and precinct returns are prepared.

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TX-SOS-24-0322-C-000542

Procedures for Hand Counting

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TX-SOS-24-0322-C-000543

General Guidelines

- The procedures for hand-counting are dictated by Chapter 65 of the Texas Election Code.
- There is no legal authority to hand-count ballots using a method that is inconsistent with, or different from, the procedures prescribed by the Texas Election Code.
- Chapter 65 requires:
  - One “Caller” and other members of team act as “Talliers”
  - Caller will clearly announce the name of each candidate for whom a vote has been received.
  - Talliers will record the votes on their tally list as announced.
  - Three tally lists will be maintained
  - Team shall periodically compare tally lists to determine if there are discrepancies. If discrepancy exists, the ballots must be recounted and tally lists corrected.
  - Election Officers must sign off on the tally list they keep

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TX-SOS-24-0322-C-000544

Preparing Precinct Returns

- The presiding judge of the election day polling location is responsible for preparing precinct returns for that precinct. (Sec. 65.014).
- The presiding judge of the early voting ballot board is responsible for preparing precinct returns for early voting in person and early voting by mail. (Sec. 87.062).
- Those precinct returns must state:
  - The total number of voters who voted at the polling place (as indicated by the poll list);
  - The total number of votes counted for each candidate; and
  - The total number of votes counted for and against each measure.
- The returns must be prepared as an original and three copies. On completing the returns, the presiding judge shall sign the original and the copies of the returns to certify their accuracy. (Sec. 65.014).

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TX-SOS-24-0322-C-000545

Counting Time Frames

- Early Voting In Person Ballots/ Early Voting by Mail (EVBB)
  - May begin counting on election day
  - Counting must be completed no later than 24 hours after polls close
- Election Day Ballots
  - Counting may begin after the polls have been open for one hour and there are at least 10 ballots in a ballot box.
  - If counting begins while the polls are open, two ballot boxes shall be used on a rotating basis. When one ballot box is delivered to the counting teams at the polling place, the other box must be made immediately available for the deposit of voted ballots by voters. Before the ballot box is positioned for the receipt of marked ballots, an election officer must examine it, remove its contents, and lock the box. (Sec. 65.003).

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TX-SOS-24-0322-C-000546

Deadlines for Counting

- The counting of ballots shall be conducted continuously until all ballots are counted. (Secs. 65.002, 87.062).
- Upon completion of counting, the presiding judge shall prepare the precinct returns. The precinct returns MUST be delivered to the general custodian of election records no later than 24 hours after the polls close. (Sec. 66.053).
- An election officer commits a Class B misdemeanor if the officer fails to make the delivery of the precinct returns to the general custodian or if the officer fails to make the delivery by the prescribed 24-hour deadline. (Secs. 66.054, 87.062(b)).

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Election Night Tabulation

- The general custodian prepares an unofficial tabulation that contains vote totals of all votes cast during early voting in person, early voting by mail, and election day ballots. (Sec. 66.056(a)).
- The general custodian shall periodically make a public announcement of the current state of the tabulation. (Sec. 66.056(b)).
- For a Primary Election, the General Custodian of Election Records is the County Election Officer.
- There is nothing in Texas law that authorizes poll watchers to be present for the preparation of the unofficial tabulation.

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TX-SOS-24-0322-C-000548

Logistical Considerations

- Number of election precincts (election day polling places) required for the election
- Number of election workers and availability of workers required for the hand count
  - Minimum of three per location, plus additional workers if someone is sick/does not show up on Election Day.
- Locations used as polling places
  - Consider the length of time needed for the polling location and the space provided
- Necessary supplies for a hand count
  - Minimum of four boxes per location, tables and chairs, tally sheets, marking instruments and seals for ballot boxes
  - ADA Equipment!
- Length of time necessary for tallying votes

- **RECOMMENDATION:** Use a sample ballot from a past election to mark up a minimum of 100 ballots. Conduct a hand tally for those ballots to determine time needed. Look at turnout from past elections to make projections on time needed to count ballots.
  - **EXAMPLE**:
    - Estimate of 6 seconds per race for marking 20 contests = 2 minutes per ballot
    - If turnout is 300 voters, then it will take 10 hours to complete count.
  - Don't rely on our example!! Try it out with your own workers and ballots.

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TX-SOS-24-0322-C-000549

Questions?

elections@sos.texas.gov

TX-SOS-24-0322-C-000550

From: Christina Adkins
To: [redacted]
Cc: "Chairman McManus"; "Jennifer Hall"; Jeff Clay
Subject: Re: hand count run-off
Date: Monday, March 11, 2024 5:21:07 PM

Hi Melinda,

I'd be happy to visit with you all about your runoff plans. Would you have time tomorrow? My schedule is pretty open tomorrow or Wednesday afternoon.

Talk to you soon,

Christina

From: [redacted]>
Sent: Monday, March 11, 2024 3:47 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: 'Chairman McManus' [redacted]; 'Jennifer Hall' [redacted]; Jeff Clay [redacted]
Subject: hand count run-off

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

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Christina:

Bexar is heading towards a run-off for CD 23; highly contested (Tony Gonzales and Brandon Herrera). We're researching the possibility of hand counting the ballots, which would be for Bexar only. The Party is on board.

We've been training teams on the Chapter 65 hand count and we've also altered the process making it as close to error proof as possible, which we'd like to share with you.

At your earliest convenience, can you please schedule a zoom with us to discuss some details so we know our options going forward.

Thank you in advance for meeting with us.
Melinda Roberts

AMERICAN OVERSIGHT

210-685-5465

AMERICAN OVERSIGHT

From: Christina Adkins
To: Melinda
Cc: "Chairman McManus"; "Jennifer Hall"; Jeff Clay
Subject: Re: hand count run-off
Date: Monday, March 11, 2024 5:32:26 PM

Is 9:30 ok?

From: Melinda [redacted]
Sent: Monday, March 11, 2024 5:29:48 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: 'Chairman McManus' [redacted]; 'Jennifer Hall' [redacted]>; Jeff Clay [redacted]>
Subject: Re: hand count run-off

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Tomorrow is great, just tell us when.
Melinda

Sent from my T-Mobile 5G Device
Get Outlook for Android

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Monday, March 11, 2024 5:21:06 PM
To: [redacted]
Cc: 'Chairman McManus' [redacted]>; 'Jennifer Hall' [redacted]; Jeff Clay [redacted]
Subject: Re: hand count run-off

Hi Melinda,

I'd be happy to visit with you all about your runoff plans. Would you have time tomorrow? My schedule is pretty open tomorrow or Wednesday afternoon.

Talk to you soon,

Christina

From: [redacted]
Sent: Monday, March 11, 2024 3:47 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: 'Chairman McManus' [redacted]>; 'Jennifer Hall' [redacted]>; Jeff Clay [redacted]

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Subject: hand count run-off

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At your earliest convenience, can you please schedule a zoom with us to discuss some details so we know our options going forward.

Thank you in advance for meeting with us.
Melinda Roberts
210-685-5465

AMERICAN OVERSIGHT

From: Christina Adkins
To: Joyce LeBombard; Dorothy Marchand
Subject: Re: Meeting tomorrow
Date: Monday, March 25, 2024 5:25:46 PM

The address is correct. When you come into the building, check in with the security guard and we will have someone come get you! If you need anything, please call my cell phone -- 512-289-1468.

Looking forward to seeing you all tomorrow!

Christina

From: Joyce LeBombard [redacted]>
Sent: Monday, March 25, 2024 4:43:48 PM
To: Dorothy Marchand [redacted]
Cc: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Meeting tomorrow

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

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I'll try to be at the office by 10:30 to walk over to Christina's office.

Joyce LeBombard (she/her)
President, League of Women Voters of Texas
[redacted] | 512-585-4090 (c)
Schedule a meeting with me: https://calendly.com/joycelebombard
LWVTexas.org & VOTE411.org

Empowering voters. Defending democracy.

On Mon, Mar 25, 2024 at 10:48 AM Dorothy Marchand <[redacted] wrote:

> Hi Christina,
>
> I want to confirm our meeting tomorrow at 11:00 a.m. at your office and that the address is 1019 Brazos Street.

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In addition to a general update on elections, the topics we'd like to cover include the election website review, how the League can support the Elections Office, the hand counting of ballots and ballot review requests. We look forward to discussing these and other important topics with Kristi and you.

Thanks!

Dorothy

Dorothy Marchand
VP, Voter Education
LWV Texas

AMERICAN OVERSIGHT

From: Christina Adkins
Sent: Tuesday, October 17, 2023 12:28 PM
To: Alicia Pierce; Adam Bitter
Subject: Re: message from Erin Pardeiro Travis County

I just got to San Antonio. I can call her in a few minutes.

From: Alicia Pierce <APierce@sos.texas.gov>
Sent: Tuesday, October 17, 2023 12:25:57 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Adam Bitter <ABitter@sos.texas.gov>
Subject: message from Erin Pardeiro Travis County

Christina,

Erin Pardeiro from Travis County GOP called because it sounds like there might be a vote on considering hand counting this evening. She specifically has questions about hand counting early voting. I know you are busy today. Is there someone else I can refer her to?

Her phone number is 512-423-1412.

Alicia Phillips Pierce
Assistant Secretary of State for Communications
Office of the Secretary of State
512-463-6116



AMERICAN OVERSIGHT

From: Christina Adkins
To: "Wendy Underhill"; Katie King
Subject: RE: NCSL holding an elections meeting in Austin (a precon for our Forecast "24 meeting)
Date: Wednesday, March 27, 2024 3:07:50 PM
Attachments: image001.png
image002.png
image003.png
image004.png
image005.png
image006.png

Thank you! Our folks that conducted the hand count in Travis County had recording devices on all of their hand tallies and had extremely detailed logs on their documents. It's a wealth of information that they had expressed interest in so I want to try to connect them.

Thanks!! You all are the best!!

Christina

From: Wendy Underhill [redacted]
Sent: Wednesday, March 27, 2024 2:52 PM
To: Katie King [redacted]>; Christina Adkins <CAdkins@sos.texas.gov>
Subject: RE: NCSL holding an elections meeting in Austin (a precon for our Forecast '24 meeting)

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Hi Christina! I hope you're doing well.

Here is a story and brief interview with Gretchen Macht, done at the Austin meeting.
https://www.ncsl.org/state-legislatures-news/details/elections-qas-for-lawmakers-how-can-states-improve-in-person-voting

Wendy

From: Katie King [redacted]
Sent: Wednesday, March 27, 2024 1:37 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Wendy Underhill [redacted]
Subject: Re: NCSL holding an elections meeting in Austin (a precon for our Forecast '24 meeting)

Hi Christina,

They are Gretchen Macht ([redacted] and Nicholas Bernardo [redacted]).

Best,
Katie

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Wednesday, March 27, 2024 1:07 PM
To: Wendy Underhill [redacted]
Cc: Katie King [redacted]
Subject: [EXTERNAL] RE: NCSL holding an elections meeting in Austin (a precon for our Forecast '24 meeting)

Wendy and Katie,

Hope you all are doing ok. I'm trying to track down the contact information for the folks form the University of Rhode Island that presented at this conference. Would you be able to help me with this?

Thanks,

Christina

From: Wendy Underhill [redacted]>
Sent: Wednesday, October 11, 2023 5:43 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Katie King [redacted]
Subject: RE: NCSL holding an elections meeting in Austin (a precon for our Forecast '24 meeting)

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Great news! Katie will be back in touch with you and Kristi.

I will call on you, Christina, as I figure out more.

AMERICAN OVERSIGHT

Thank you!

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Wednesday, October 11, 2023 3:39 PM
To: Wendy Underhill <[redacted]>
Cc: Katie King [redacted]>
Subject: [EXTERNAL] Re: NCSL holding an elections meeting in Austin (a precon for our Forecast '24 meeting)

Wendy,

Thank you so much for the invitation! I would love to attend. If it's not to much trouble, it would be great if my deputy director, Kristi Hart, could also attend as well.

If there is anything else that you need from me or my office to support your event, please do not hesitate to ask. As you know, I'm a huge fan of NCSL. You all do fantastic work and have been quite helpful to my office on many occasions.

I look forward to seeing you all in December!

Thanks,

Christina

From: Wendy Underhill <[redacted]>
Sent: Wednesday, October 11, 2023 4:09:16 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Katie King [redacted]
Subject: NCSL holding an elections meeting in Austin (a precon for our Forecast '24 meeting)

AMERICAN OVERSIGHT

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Hi Christina.

I hope you are doing well.

I'm writing to let you know that NCSL is hosting an elections-focused meeting in Austin that might be of interest. It's called "Answering Lawmakers' Elections Questions" and it will kick off with a dinner on Saturday, Dec. 2, and run through Sunday, Dec. 3. I've attached the draft agenda; it is a precon for NCSL's Forecast '24 that takes place Dec. 4 -6. All events will be at the Austin Marriott Downtown.

We have a number of researchers and practitioners coming to Austin to answer frequently asked questions such as, "What could make in-person voting even better?" and "Given federal law, how can we maintain clean voter rolls?" We'll also make plenty of space for people to get their in-the-moment questions answered.

The audience will be from around the nation—not Texas specific--and I expect 20 – 25 legislators, plus an equal number of legislative staff and others in the field.

We'd be delighted if you can join us; we will likely invite another couple of state election directors to attend, but I don't want to invite others until we know what states the legislators will be coming from.

We plan to invite all the members of your House and Senate committees, but we can't do that until we get permission. Surely we'll have a few Texans with us—in which case it will be good if you can come for all or part of this event.

If you have another person or two from your office who might be interested in the Sunday sessions, please let us know. And I do realize this is a Sunday, which makes it tricky. I didn't have choice on the day.

Thanks, and warm wishes!

AMERICAN OVERSIGHT

Wendy Underhill

National Conference of State Legislatures

Director, Elections & Redistricting

Office: 303.856.1379 | Cell: 303-802-6673





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AMERICAN OVERSIGHT

From: GeneralCounsel
Sent: Monday, December 11, 2023 11:56 AM
To: 'Debbie Lindstrom'
Cc: GeneralCounsel
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708
Attachments: 12.11.23 Documents.zip

Good morning,

As a follow up to our December 4 email, please see the attached zipped folder containing additional documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain email addresses of the general public. An email address of a member of the public is confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold an email address of a member of the public without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

The responsive information also includes certain computer information, such as file names, network file locations and addresses, usernames, passwords, and other computer programming information, that is not subject to the Public Information Act because it "has no other significance than its use as a tool for the maintenance, manipulation, or protection of public property." Open Records Decision No. 581 at 7 (1990); *accord* OR2023-07522 at 2-3 (file names, links, usernames, web addresses, and passwords); OR2022-35050 at 2 (network file locations); OR2022-32589 at 2 (usernames, passwords, and other programming information). Accordingly, this information has been redacted from the attached production.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on January 9, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, December 4, 2023 10:43 AM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please find attached a courtesy copy of OR2023-40492 regarding this request for information under Chapter 552 of the Texas Government Code. The Office of the Attorney General has determined that we may, or must, withhold certain information responsive to this request pursuant to the Public Information Act.

AMERICAN OVERSIGHT

As stated below, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on December 11, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, November 20, 2023 12:00 PM
To: 'Debbie Lindstrom' <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

As a follow up to our October 23rd email, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on December 11, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, October 23, 2023 8:47 AM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

As a follow up to our September 25 email, please see the attached zipped folder containing documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal and non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on November 20, 2023. *See* Tex. Gov't Code § 552.221(d).

AMERICAN OVERSIGHT

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, September 25, 2023 3:37 PM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

Please see the attached letters, and zipped folder containing documents, in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal and non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

As stated in the attached letter, we require more time to continue reviewing our records and produce additional responsive information. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on October 23, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, September 18, 2023 10:16 AM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams

AMERICAN OVERSIGHT

Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Thursday, September 14, 2023 3:51 PM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

Please find the "Packing Slip" receipt attached for your payment. We are continuing to process your request in accordance with Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, September 1, 2023 1:22 PM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Ms. Lindstrom,

Thank you for speaking with me today. This email acknowledges that I received your payment information today via phone and we will continue processing your request in accordance with Chapter 552 of the Texas Government Code.

As I mentioned, I will email you a copy of the payment receipt within the next few business days.

Sincerely,

Adam Bitter

Adam Bitter
General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom [redacted]
Sent: Thursday, August 31, 2023 9:03 AM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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I am available today until 3 PM for payment information on this Public Information request.

My number is 469-387-5560

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 [redacted]

CITIZENS DEFENDING FREEDOM

From: Debbie Lindstrom <[redacted]
Sent: 29 August 2023 05:23
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

I am open all day today. Please call at your convenience.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

AMERICAN OVERSIGHT

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 25 August 2023 16:32
To: Debbie Lindstrom [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Ms. Lindstrom,

This email acknowledges receipt of your acceptance of the estimated costs for your request under the Public Information Act. Someone from our Office will call you early next week for payment information. If you have a preference for the time of the call, please let us know.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, August 25, 2023 8:56 AM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning, Ms. Lindstrom,

I can call at whatever time is convenient for you today until 4:30 p.m.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: Debbie Lindstrom [redacted]
Sent: Thursday, August 24, 2023 2:51 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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Good afternoon,

Thank you for your response. I accept the charge of $322.20 and prefer to pay by card over the phone.

1. I prefer email for correspondence and for the itemized statement. My email is [redacted]
2. I will accept the estimated charges of $322.20
3. Here is my phone number for someone from your office to get credit card information: 469-387-5560. I am requesting an electronic invoice for the charges.

Please let me know what time you will be calling so that I can be available to give you the credit card information or if you need anything further from me on this request.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 14 August 2023 11:28
To: Debbie Lindstrom [redacted]

AMERICAN OVERSIGHT

Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom [redacted]
Sent: Friday, July 28, 2023 7:35 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Cc: Elections Internet <Elections@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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Mr. Bitter and Ms. Williams,

Here is my response for clarification for PIR 23-0708 (attached).

1. With respect to Item 1, the specific date range is 2016-current.
2. I am seeking both categories of information.
3. I am seeking both final versions and draft versions.
4. I am seeking both.
5. I am seeking both categories of communications.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

AMERICAN OVERSIGHT

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 24 July 2023 09:59
To: Debbie Lindstrom [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

> You don't often get email from generalcounsel@sos.texas.gov. Learn why this is important

Good morning,

Please see the attached letter in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom [redacted]>
Sent: Monday, July 10, 2023 10:55 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Public Information Request: Early Voting Results

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Please consider this email an open records request pursuant to Chapter 552 of the Texas Government Code.

1. I am requesting all documents related to the secretary preparing detailed and comprehensive written directives and instructions related to and based on Texas Election Code 31.003 and the Election Laws outside the code for printing of Early Voting Results Tapes

AMERICAN OVERSIGHT

2. I am requesting all documents related to the secretary's procedures necessary to implement the tabulation of unofficial results such as early voting results tapes.

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 [redacted]

CITIZENS DEFENDING FREEDOM

External Message - Please be cautious when opening links or attachments in this email

External Message - Please be cautious when opening links or attachments in this email

External Message - Please be cautious when opening links or attachments in this email

AMERICAN OVERSIGHT

From: Callanen, Jacque <jcallanen@bexar.org>
Sent: Wednesday, June 7, 2023 10:25 AM
To: Christina Adkins
Subject: Bexar CCS plan
Attachments: Central Count Plan RO.docx

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Here ya go – count on us – if needed
Jacque

Jacque Callanen |Elections Administrator
Bexar County Elections Department
1103 S. Frio | San Antonio, TX 78207
O: 210-335-8683
jcallanen@bexar.org| www.bexar.org

AMERICAN OVERSIGHT

Bexar County Central Counting Station Plan

The Central Counting Station is established by the authority adopting the voting system for the Election. For a county ordered election this would be the Bexar County Commissioner's Court. The rules for the Central Counting Station can be found in Chapter 127 of the Texas Election Code.

1. Participants
    a. Central Count Manager: Elections Administrator, Jacque Callanen
        i. Is in charge of the overall administration of the CCS, and supervisor of personnel.
    b. Presiding Judge for Central Count: Rose Marie DeHoyos
        i. Is responsible for maintaining order and has the same authority as a precinct presiding judge.
        ii. Is responsible for determining voter intent for ballot.
        iii. Must sign off on precinct returns.
    c. Tabulation Supervisor: Technical Support Manager, James Huerta
        i. Is in charge of operation of the tabulating equipment
    d. Assistant to Tabulation Supervisor: Jorge Fernandez
        i. Is the assistant to the Tabulation Supervisor
    e. Counting Station Clerks: Technical Support Specialists
    f. ES&S site support
    g. Sheriff Deputies
2. Equipment
    a. The tabulation computers, server, equipment, and software are on a secure independent network, and are locked in a secure room only accessible by key cards.
    b. All equipment/media has been serialized with a unique barcode, and is tracked throughout the election
    c. Election Ware Tabulation Software, ES&S
        i. Certified System is on its own independent network
        ii. Election Night Reporting System
        iii. RSS Laptops is linked to the Election Night Reporting system through a secure Bexar County Network with a secure VPN provided by ES&S
    d. 4 DS450's and DS850 – Central count tabulators for the mail ballots
    e. Express Vote - touch screen unit that prints the voters marked ballot
    f. DS200 – Precinct Tabulator that records the Express Vote ballots
    g. Express Touch - Touch Screen curbside unit
    h. USB Flash Drives – contains the ballot definition and election results
3. Programming
    a. The Central Counting Station staff will perform the Programming, with assistance from ES&S.
    b. A unique Qualification Code (EQC) and passwords are created for each election.
    c. The Central Counting Station Staff will proof the programming.
    d. All the Entities will sign off on the paper ballots and screen shots
    e. The Tabulation Supervisor and Assistant to Tabulation Supervisor will load the programming on to the Sever.
4. Testing
    a. Testing is performed by the Central Counting Station Staff.

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   b. A Public L&A Test is performed, this is the first test on May 3, 2023 at 3:00 pm.
5. Resetting the Election Ware Software
   a. After the testing is completed, backed up and locked away; the Tabulation Supervisor and Assistant to Tabulation Supervisor will:
      i. Zero out the results database,
      ii. Import the final number of voters by precinct,
      iii. Print and export a Zero Report for the website.
6. Prepare and inventory the equipment for Early Voting and Election Day, keeping a chain of custody.
   a. Burn the USB Flash Drives
      i. Express Vote USB Flash Drives
      ii. DS200 USB Flash Drive – one for each Vote Center and Early Vote Site
      iii. Express Touch USB Flash Drive – one for each unit for Vote Center and Early Vote Site
      iv. Qualification USB Flash Drives – burn one and make as many copies as necessary
   b. Load the election on to the equipment
      i. Load the DS200
         1. Load and open the election
         2. Run test ballots through
         3. Close the unit and print a results tape
         4. Put the results through Election Ware RSS laptop
         5. Reset the DS200
      ii. Load the Express Vote
         1. Load and Open the Express Votes
         2. Print a test ballot
      iii. Load and open the Express Touch
   c. Seal the USB Flash Drives and ballot box
   d. Inventory the equipment, USB Flash Drives, and seals for each site
7. Backup the Election
   a. A back up of the Certified System is made
      i. A copy is transferred to the Election Night Reporting System
      ii. A Copy is taking offsite to the EOC
8. Oaths
   a. Oaths are required for all election officers appointed under Chapter 127 for the Central Counting Station and the Regional Sending Sites.
   b. The Central Counting Station Manager will administer the oaths.
9. Tabulation
   a. Mail Ballots
      i. Assignment:
         1. The Central Count Manager and Tabulation Supervisor will oversee, verify tabulation and are the resolution team.
         2. The Assistant to Tabulation Supervisor will verify the equipment is working properly and counting procedures are followed.

AMERICAN OVERSIGHT

3. Counting Station Clerks will process the ballot though the DS450s and DS850
4. ES&S site support resolves any equipment malfunction.

ii. Test deck is processed before tabulation is to begin, this is the second test. The test deck results must match on all of the DS450's and the DS850
iii. The test is compared to previous test results from the first public test.
iv. The DS450's and DS850 are reset and a Zero Report is printed.
v. Ballots and transmittal forms are received from the Early Ballot Board (EBB).
vi. The ballot transmittal form contains the number of accepted mail ballots that will be counted.
vii. The EBB will secure the ballots for delivery to the Central Counting Station.
viii. Ballots are processed through the DS450s and DS850

1. Write-ins are placed in the box on top of the tabulator
    a. The CCS Judge is in charge of counting the write-ins.
2. Any anomalies get placed in a resolution box
    a. Resolution team will look over ballots
        i. Over Vote and Blank Ballots will be determined as to voter intent.
        ii. Black and white dots will used to for corrections, to preserve the original vote, and so the tabulator can read the ballots.
        iii. Any remakes will be made, if the ballot is unreadable.
    b. Resolved ballots will be placed back in queue to be tabulated.
3. Scanned ballots are placed in cardboard boxes labeled with the name and date of the Election, box number, and tabulator number.
4. At the end of each box the count is saved.
5. A count is taken at every save.
6. Overnight a back-up is saved to a USB Flash Drive, and a count is taken from each tabulator.
7. After all ballots are tabulated:
    a. The Central Count Manager and Tabulation Supervisor will verify the count of each tabulator and make sure they match up to the transmittal forms.
    b. The Tabulation Supervisor and Assistant to Tabulation Supervisor will save a USB Flash Drive from each tabulator.
    c. The USB Flash Drives are accumulated into the Absentee Results into the Certified System.

b. Early Vote

i. Early Voting site:

1. At the end of each night
    a. A count of each DS200 and Express Touch are recorded and is matched up with the number of voter signatures and in Vote Safe.

AMERICAN OVERSIGHT

b. The Early Voting Presiding Judge will call the office with the count of each DS200 and Express Touch, and the count is recorded in the office.

2. At the end of Early Voting each DS200 and Express Touch is closed and the USB Flash Drives are pulled. The USB Flash Drive contains the cast vote record.
3. The USB Flash Drives are placed in the purple bag that is sealed.

ii. Warehouse:

1. The Early Voting Site Presiding Judge brings the Purple Bag, and supplies to the warehouse.
2. The Purple Bag is inspected by the Assistant to Tabulation Supervisor, to make sure that it is sealed and all USB Flash Drives are accounted for.
3. The Purple bags is transported to the Tabulation Room.

iii. Central Counting Station

1. At the end of Early Voting:
   a. The purple bag is opened by the Tabulation Supervisor and Assistant to Tabulation Supervisor
   b. Each USB Flash Drive is verified that the corresponding DS200 and Touch has been closed and the results data is there.
   c. All DS200 and Touch serial numbers are compared to the master list.
   d. All flash cards are secured back in their corresponding Purple Bag and locked in the Tabulation Storage Room.
2. Election Day:
   a. A Zero Report is run and printed from Election Ware Certified System
   b. The Counting Station Manager and Tabulation Supervisor open the Purple Bags to tabulation/accumulation the Early Voting USB Flash Drives.
      i. The Counting Station Manager will place the USB Flash Drive in to the Certified System and read in the results.
      ii. The Tabulation Supervisor will verify the site and USB Flash Drive serial numbers against the master list.
   c. After all USB Flash Drives have been accounted for and collected in to Certified System the CSM will accumulate the Early Voting results.
   d. The CSM will accumulate the mail ballot USB Flash Drive at this time.
   e. Early Voting results are verified for total number of votes by the Counting Station Manager and Tabulation Supervisor.
   f. At 7 pm the Early Voting results are printed and exported to a USB Flash Drive, and sent over to the Webmaster to be posted to the web site.

c. Election Night - Regional Sending Sites (RSS)

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i. There are up to 6 Regional Sending Sites (RSS) locations that will assist 40 to 60 Election Day (ED) sites. The RSS location will process the Election Day Judges. The RSS location is an extension of the Central Counting Station, and the RSS Staff reports the Central Counting Station.

ii. Participants:

1. RSS Manager
    a. Responsible for all aspects of the Sub Central Counting Station.
    b. Manages RSS Personnel and work flow for each work station.
    c. Monitors and controls all incoming traffic into the Sub Central Counting Station.
    d. Responsible for communicating with the Main Central Counting Station any issues, discrepancies or problems that arise for further instructions before proceeding.
    e. Responsible for reporting accurate and timely result totals to the Main Central Counting Station.
2. Auditor – 2
    a. Makes sure zero tape, results tapes and USB Flash Drives are accounted for
    b. Responsible for auditing zero tapes and results
    c. Makes sure total number of signatures match the total number of votes
    d. Notifies RSS Manager of any issues or problems that arise during the audit process
3. Greeter
    a. Scans RSS Bar Code into RSS Web Application to let the Central Counting Station knows that the site has arrived
    b. Does initial check of all necessary paperwork and supplies needed for processing
    c. Notifies RSS Manager of any issues or problems that arise after initial check
4. Transmission Clerk
    a. Makes sure successful connection of laptop to Main Central Count Station
    b. Transmits the USB Flash Drives to Main Central Count Station
    c. Verifies successful transmission of results to Main Central Count Station
    d. Notifies RSS Manager of any issues or problems that arise during process
5. Reporting Clerk
    a. Enters Result Tape totals by precinct for each site onto RSS Web Portal in timely manner
    b. Responsible for organizing RSS Folder with complete paperwork for storage/transport to Main Central Count Station
6. Warehouse Clerk

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a. Responsible for collecting all necessary supplies, paperwork, and equipment
b. Organizes all collected supplies and prepares them for transport
c. Loads all location material, supplies and equipment at the end of the night onto truck for transport to Main Central Count Station

7. Election Day (ED) Judges
8. Sheriff Deputy
    a. Makes sure location is secure and is to remain visible at all times
    b. Directs traffic as needed to ensure safety of Election Day Judges and staff reporting to location
    c. Escorts truck with all supplies and equipment back to the Main Central Counting Station. Ensuring a chain of custody of the equipment and voting records.

iii. Procedures

1. The Election Day Judges will close down their sites
    a. Verify their signatures against the number that voted on the DS200 and Express Touch.
    b. Closed their DS200 and Express Touch, and print 2 summary results tapes for each unit.
    c. Sign the zero and results tapes.
    d. They will pull the seal and the USB Flash Drives out of the DS200 and Express Touch
    e. Seal up the USB Flash Drives, zero tape and results tape inside of the Purple bag.
    f. Complete their Ballot and Seal certificate.
    g. They will proceed to the RSS location.
2. RSS Meeting at Central Counting Station at 4 pm Election Day.
    a. Give instructions and Equipment to the RSS Mangers.
    b. Administer Oaths to the RSS Manager.
3. Set up
    a. RSS Manager and Transmission Clerk needs to start prepping and setting up their stations at 5 pm.
    b. The Transmission Clerk needs to set up the laptops with the RSS Election Ware software, login in with a secure password, and connect to the Server at 6 pm.
    c. The rest of the staff arrives by 6 pm to set up their stations.
    d. The Sheriff Deputy arrives by 6pm.
    e. The RSS Manager will administer the Oaths the RSS Staff.
4. Processing Election Day Judges
    a. Station #1: Check-in
        i. The Greeter will greet the Election Day (ED) Judge and scan the barcode on the clear RRS Folder. This lets us

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know time and which sites have made it to the RSS location.

ii. The Greeter will make sure the ED Judge has all the necessary items and that the paper work is filled out and placed in the Clear RSS Folder.
    1. If not they will help the ED Judge organize the Clear RSS Folder, and have them complete the paper work correctly.

b. Station #2: Equipment, Supplies and Hardware
    i. The Warehouse Clerk will collect the following:
        1. Green Provisional Bag
        2. Yellow Envelope #4
        3. Cell phone with charger
        4. Keys to the cart or facility
        5. Completed Statement of Compensation (Payroll) and Oaths.
        6. Canvas Bag:
            a. Folder #3
            b. Brown Canceled Mail Ballots
            c. Statement of Residence Cards
            d. Gray Spoiled Ballots Envelope
            e. Any other completed forms
        7. The Warehouse Clerk will also take any kits or laptops that are brought to the RSS site.

c. Station #3: Auditing, Checks and Balances
    i. The Auditors will use the Regional Site Audit Log to check the following:
        1. Clear RSS Folder has the following items inside:
            a. Sealed Purple Bag with
                i. Zero and Results Tape from the DS200
                ii. USB USB Flash Drives from the DS200
                iii. Zero and Results Tape from the Express Touch.
                iv. USB USB Flash Drives from the Express Touch
                v. Access Card (Express Touch Card)
            b. Ballot and Seal Certificate Form
            c. Zero Tape Affidavit
        2. Verify that the Total Public Count on the Results Tapes matches Ballot and Seal Certificate Total,

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and also match the totals against the Total Number of Signatures.
3. Note the Public Count on the Audit Log.
4. Write the Site # on the top of the Zero and Results Tape.
5. Note the Provisional Count on the Audit Log.
6. Note the Write-in Count on the Audit Log.
7. Sign the Audit log if complete.

ii. If any of these items are missing or the audit has discrepancies, the RSS Manager must call the Central Counting Station for further instructions.
iii. If the Audit Log is accurate and complete; the Auditor will:
1. Sign the Ballot and Seal Certificate.
2. Place Audit Log and all the paper work back in the Clear Plastic RSS Folder.
3. Send the USB Flash Drives, and the Clear RSS Folder to Transmission Clerk to transmit the results.
iv. The ED Judge will have a seat until the results are transmitted.

d. Station #4: Transmit the Election Results
i. The Results from each ED site are transmitted from the USB Flash Drives
ii. Verify the site number, and that it is 100% transmitted before pulling out the USB Flash Drives and moving on to the next ED site.
iii. If the results were transmitted successfully, the Transmission Clerk will give the ED Judge the pink copy of the Ballot and Seal Certificate, and release them.
iv. Pack up the USB Flash Drives in the Purple Bag
v. Hand off the Clear RSS Folder to the Reporting Clerk.

e. Station #5: Reporting
i. The Reporting Clerk will take the Results Tapes and record the total public count from each tape on to the website; this will be used to verify the count at the end of the night at the Central Counting Station.
ii. The Reporting Clerk will organize all the paper work and place the Clear RSS Folder inside the banker's box in site order.

5. At the end of the night, everything is packed up and put on the truck to be taken to the Elections Warehouse. The Sheriff Deputy will follow the truck down.

d. Election Night - Central Counting Station

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i. Participants:
    1. Presiding Judge
        a. Is responsible for maintaining order and has the same authority as a precinct presiding judge.
        b. Is responsible for determining voter intent for ballot.
        c. Must sign off on precinct returns.
        d. Will monitor the Poll watcher and Media.
    2. Central Counting Station Manager
        a. Is in charge of the overall administration of the CCS, and supervisor of personnel.
        b. Will monitor the results coming in, and print the reports.
    3. Tabulation Supervisor
        a. Is in charge of operation of the tabulating equipment.
        b. Is in charge of getting reports out to the webmaster
        c. Will communicate with the RSS locations.
        d. Will monitor the precinct and sites that are in, and those that are still out.
        e. Will verify the count of voters matches the count of actual votes
    4. Assistant to Tabulation Supervisor
        a. Will make sure the equipment it up and running.
        b. Will monitor the RSS connections.
        c. Will communicate with the RSS locations.
    5. Counting Station Clerks
        a. Will monitor the Election Day Sites as the close.
        b. Alert the Central Counting Station of any issues out in the field.
        c. Keeps in contact with the technical support staff in the field.
    6. Poll watchers
        a. May stand or sit conveniently to observe the activity in the CCS.
    7. Media
        a. May stay in the Early Voting room and observe through the window.
    8. Sheriff
        a. A Sheriff Deputy is required by law when tabulation is in process.

ii. Closing of the Election Day Sites
    1. The Counting Station Clerks will be monitoring the ED Site as they close.
    2. The techs in the field will inform the CCS of any equipment that had issues closing. They will inform the Central Counting Station of all the issues that need to be resolved, before that ED Site's data can be transmitted.
    3. ES&S onsite support, along with one of the Central Counting Station Team, will take care of any equipment problems and retrieve the votes.

iii. Start up the Election Night Reporting Equipment
    1. Turn on and login to the Election Night Reporting System.

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2. Make sure that the Election Night Reporting system has been updated with the Early Voting results, and that it matches the Certified System.
3. Turn on the fire wall and link to the secure network.
4. The RSS Sites will connect to the secure network and login.
5. The Assistant to Tabulation Supervisor will monitor the connections.
6. The Election Reporting System will be monitored by the Central Counting Station Manager and the Tabulation Supervisor
7. The Central Counting Station Manager will verify to make sure Election Day is still Zero; Early Vote has already been processed and posted at 7 pm.
8. The Central Counting Station Manager will start the accumulation process in the Election Night Reporting System and monitor the progress throughout the night.
9. The Tabulation Supervisor will monitor and record which sites have come in.
10. The Tabulation Supervisor will monitor the percentage of votes and the sites left uncounted.
11. On a separate computer system, the Tabulation Supervisor will also monitor the website, RSS location check-ins, and total number of voters by site.

iv. Processing the votes

1. Throughout the night the data is transmitted from the RSS locations to the Election Night Reporting System server.
2. The Election Night Reporting System will accumulate the results, if there is data present, it processes the sites data and adds those votes in to the database. The audit log will record what time each site came in and the number of votes.
3. The Central Count team will be in constant contact with the RSS locations.
    a. To make sure that all sites are transmitted accurately.
    b. If there were any discrepancies between votes and signatures, we will not transmit until it is explained.
    c. Convey any tabulation items left at the polling location. We need to coordinate with the location to retrieve those items.

v. Reporting Election Day Results

1. Periodically the Central Count Manger will stop the accumulation process to print the results at that point. The CCM will also export a report for the website.
2. Update the Secretary of State Election Night Reporting website (if needed).
3. After the reports are printed the CCM will start the accumulation process again.

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4. The Tabulation Supervisor will copy the web results to a USB Flash Drive, and will send it to the web master using the separate computer system.
5. Then the web master will update the County's website.

vi. Audit votes vs. signatures for each site
1. The Tabulation Supervisor will export a precinct report from the Election Night Reporting System and compare it with the web by precinct data, making sure that all votes were transmitted.
2. Once the by precinct totals have been audited, we can post the 100 percent on the website. This is considered the unofficial results.

vii. A backup of the entire system is conducted and a copy is taken off site.
viii. Shut down and lock the computers.

e. Presiding Judge prepares and signs the Election Reconciliation Report.
1. Central Count Manager will arrange for the report to be uploaded to the Election Department website

f. Post-Election Night process
i. Print and export the results and by precinct reports for each entity.
ii. The Early Ballot Board reconvenes to process the late mail and provisional ballots.
iii. Tabulate the late mail and provisional ballots.
iv. Print the Canvas reports for each entity.
v. Send the ASCII files to the Secretary of State and the Legislative Council.
vi. Conduct the third and final test of the tabulators.
vii. Presiding Judge prepares the final Reconciliation Report for posting
viii. Backup all data to CD
ix. Package and seal all testing, ballots, reports, and data for the required retention period.

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From: Cynthia Brehm <chairman@bexargop.org>
Sent: Wednesday, February 26, 2020 3:54 PM
To: Callanen, Jacque; Christina Adkins
Cc: [redacted]; 'Billie Zimmerman'
Subject: Bexar Couty Control Plan
Attachments: Central Count Plan_Orginal_Annotated with Tex. Elec. Code.docx

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Please review the attached Control Plan, with our comments marked in red.

Thank you.

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Bexar County Central Counting Station Plan

The Central Counting Station is established by the authority adopting the voting system for the Election. For a county ordered election this would be the Bexar County Commissioner's Court. The rules for the Central Counting Station can be found in Chapter 127 of the Texas Election Code.

1. Participants
    a. Central Count Manager: Elections Administrator, Jacque Callanen
        i. Is in charge of the overall administration of the CCS, and supervisor of personnel.
    b. Presiding Judge for Central Count: Jacque Callanen (inconsistent with Tex. Elec. Code 172.126(c) and 127.005(b)) – has to be the Democratic appointee since it is a primary
        i. Is responsible for maintaining order and has the same authority as a precinct presiding judge.
        ii. Is responsible for determining voter intent for ballot.
        iii. Must sign off on precinct returns.

    Missing the assignment of the Republican Alternate Presiding Judges (Shonebarger and Zimmerman) pursuant to Tex. Elec. Code 127.005(e) and (f)

    c. Tabulation Supervisor: Database Coordinator, John Fisher
        i. Is in charge of operation of the tabulating equipment
    d. Assistant to Tabulation Supervisor: Database Coordinator, James Huerta
        i. Is the assistant to the Tabulation Supervisor
    e. Counting Station Clerks: Technical Support Specialist IV: Michael Gonzalez, John Cruz, Kenneth Hamilton
    f. ES&S site support (was provision in the Tex. Elec. Code permits this?)
    g. Sheriff Deputies
2. Equipment
    a. The tabulation computers, server, equipment, and software are on a secure independent network, and are locked in a secure room only accessible by key cards.
    b. All equipment/media has been serialized with a unique barcode, and is tracked throughout the election
    c. Election WareTabulation Software, ES&S
        i. Certified System is on its own independent network
        ii. Election Night Reporting System
        iii. RSS Laptops is linked to the Election Night Reporting system through a secure Bexar County Network with a secure VPN provided by ES&S (this is inconsistent with Tex. Elec. Code 129.054)
    d. 2 DS450's and DS850 – Central count tabulators for the mail ballots
    e. Express Vote - touch screen unit that prints the voters marked ballot
    f. DS200 – Precinct Tabulator that records the Express Vote ballots
    g. Express Touch - Touch Screen curbside unit
    h. USB Flash Drives – contains the ballot definition and election results

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3. Programming
    a. The Central Counting Station staff will perform the Programming, with assistance from ES&S. (inconsistent with Tex. Elec. Code 127.121, it allows only "a programmer" not multiple ones)
    b. A unique Qualification Code (EQC) and passwords are created for each election.
    c. The Central Counting Station Staff will proof the programming.
    d. All the Entities will sign off on the paper ballots and screen shots
    e. The Tabulation Supervisor and Assistant to Tabulation Supervisor will load the programming on to the Sever.
4. Testing
    a. Testing is performed by the Central Counting Station Staff.
    b. A Public L&A Test is performed, this is the first test on Feb.28, 2020 at 9:00 am.
5. Resetting the Election Ware Software
    a. After the testing is completed, backed up and locked away the Tabulation Supervisor and Assistant to Tabulation Supervisor will:
        i. Zero out the results database,
        ii. Import the final number of voters by precinct,
        iii. Print and export a Zero Report for the website.
6. Prepare and inventory the equipment for Early Voting and Election Day, keeping a chain of custody.
    a. Burn the USB Flash Drives
        i. Express Vote USB Flash Drives
            1. Burn 1 for County Wide Vote Centers, make a copy for each unit
        ii. DS200 USB Flash Drive – one for each Vote Center and Early Vote Site
        iii. Express Touch USB Flash Drive – one for each Vote Center and Early Vote Site
        iv. Qualification USB Flash Drives – burn one and make as many copies as necessary
    b. Load the election on to the equipment
        i. Load the DS200
            1. Load and open the election
            2. Run test ballots through
            3. Close the unit and print a results tape
            4. Put the results through Election Ware RSS laptop
            5. Reset the DS200
        ii. Load the Express Vote
            1. Load and Open the express votes
            2. Print a test ballot
        iii. Load and open the Express Touch
    c. Seal the USB Flash Drives and ballot box
    d. Inventory the equipment, USB Flash Drives, and seals for each site
7. Backup the Election
    a. A back up of the Certified System is made
        i. A copy is transferred to the Election Night Reporting System
        ii. A Copy is taking offsite to the EOC
8. Oaths

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a. Oaths are required for all election officers appointed under Chapter 127 for the Central Counting Station and the Regional Sending Sites.
b. The Central Counting Station Manager will administer the oaths.

9. Tabulation
    a. Mail Ballots
        i. Assignment:
            1. The Central Count Manager and Tabulation Supervisor will oversee, verify tabulation and are the resolution team.
            2. The Assistant to Tabulation Supervisor will verify the equipment is working properly and counting procedures are followed.
            3. Counting Station Clerks will process the ballot though the DS450's and DS850
            4. ES&S site support resolves any equipment malfunction.
        ii. Test deck is processed through before tabulation is to begin, this is the second test. The test deck results must match on both DS450's and DS850
        iii. The test is compared to previous test results from the first public test.
        iv. The DS450's and DS850 are reset and a Zero Report is printed.
        v. Ballots and transmittal forms are received from the Early Ballot Board (EBB).
        vi. The ballot transmittal form contains the number of accepted mail ballots that will be counted.
        vii. The EBB will secure the ballots for delivery to the Central Counting Station.
        viii. Ballots are processed through the DS450's and DS850
            1. Write-in's are placed in the box on top of the tabulator
                a. The CCS Judge is in charge of counting the write-ins.
            2. Any anomalies get placed in a resolution box
                a. Resolution team will look over ballots
                    i. Over Vote and Blank Ballots will be determined as to voter intent.
                    ii. Black and white dots will used to for corrections, to preserve the original vote, and so the tabulator can read the ballots.
                    iii. Any remakes will be made, if the ballot is unreadable. b. Resolved ballots will be placed back in queue to be tabulated.
            3. Scanned ballots are placed in cardboard boxes labeled with the name and date of the Election, box number, and tabulator number.
            4. At the end of each box the count is saved.
            5. A count is taken at every save.
            6. Overnight a back-up is saved to a USB Flash Drive, and a count is taken from each tabulator.
            7. After all ballots are tabulated:
                a. The Central Count Manager and Tabulation Supervisor will verify the count of each tabulator and make sure they match up to the transmittal forms.

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b. The Tabulation Supervisor and Assistant to Tabulation Supervisor will save a USB Flash Drive from each tabulator.
c. The USB Flash Drives are given to the Central Count Manager for accumulation into the Absentee Results into the Certified System.

b. Early Vote
   i. Early Voting site:
      1. At the end of each night
         a. A count of each DS200 and Express Touch are recorded and is matched up with the number of voter signatures and in Vote Safe.
         b. The Early Voting Presiding Judge will call the office with the count of each DS200 and Express Touch, and the count is recorded in the office.
      2. At the end of Early Voting each DS200 and Express Touch is closed and the USB Flash Drives are pulled. The USB Flash Drive contains the cast vote record.
      3. The flash cards, zero tape and results tape are placed in the purple bag that is sealed.
   ii. Warehouse:
      1. The Early Voting Site Presiding Judge brings the Purple Bag, and supplies to the warehouse.
      2. The Purple Bag is inspected by the Assistant to Tabulation Supervisor, to make sure that it is sealed and all USB Flash Drives are accounted for.
      3. The Purple bags is transported to the Tabulation Room.
   iii. Central Counting Station
      1. At the end of Early Voting:
         a. The purple bag is opened by the Tabulation Supervisor and Assistant to Tabulation Supervisor – (this is inconsistent with Tex. Elec. Code 87.101, Tex. Admin. Code 81.34(a))
         b. Each USB Flash Drive is verified that the corresponding DS200 and Touch has been closed and the results data is there.
         c. All DS200 and Touch serial numbers are compared to the master list.
         d. All flash cards are secured back in their corresponding Purple Bag and locked in the Tabulation Storage Room. (this is inconsistent with Tex. Admin. Code 81.34)
      2. Election Day:
         a. A Zero Report is run and printed from Election Ware Certified System
         b. The Counting Station Manager and Tabulation Supervisor open the Purple Bags to tabulation/accumulation the Early Voting USB Flash Drives.

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i. The Counting Station Manager will place the USB Flash Drive in to the Certified System and read in the results. (this is inconsistent with Tex. Elec. Code 127.003(d) and 127.127)
ii. The Tabulation Supervisor will verify the site and USB Flash Drive serial numbers against the master list.

c. After all USB Flash Drives have been accounted for and collected in to Certified System the CSM will accumulate the Early Voting results.
d. The CSM will accumulate the mail ballot USB Flash Drive at this time.
e. Early Voting results are verified for total number of votes by the Counting Station Manager and Tabulation Supervisor.
f. At 7 pm the Early Voting results are printed and exported to a USB Flash Drive, and sent over to the Webmaster to be posted to the web site.

c. Election Night - Regional Sending Sites (RSS)
i. There are up to 6 Regional Sending Sites (RSS) locations that will assist 40 to 60 Election Day (ED) sites. The RSS location will process the Election Day Judges. The RSS location is an extension of the Central Counting Station, and the RSS Staff reports the Central Counting Station.
ii. Participants:
1. RSS Manager
a. Responsible for all aspects of the Sub Central Counting Station.
b. Manages RSS Personnel and work flow for each work station.
c. Monitors and controls all incoming traffic into the Sub Central Counting Station.
d. Responsible for communicating with the Main Central Counting Station any issues, discrepancies or problems that arise for further instructions before proceeding.
e. Responsible for reporting accurate and timely result totals to the Main Central Counting Station.
2. Auditor – 2
a. Makes sure zero tape, results tapes and USB Flash Drives are accounted for
b. Responsible for auditing zero tapes and results
c. Makes sure total number of signatures match the total number of votes
d. Notifies RSS Manager of any issues or problems that arise during the audit process
3. Greeter
a. Scans RSS Bar Code into RSS Web Application to let the Central Counting Station knows that the site has arrived

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b. Does initial check of all necessary paperwork and supplies needed for processing
c. Notifies RSS Manager of any issues or problems that arise after initial check

4. Transmission Clerk
    a. Makes sure successful connection of laptop to Main Central Count Station
    b. Transmits the USB Flash Drives to Main Central Count Station
    c. Verifies successful transmission of results to Main Central Count Station
    d. Notifies RSS Manager of any issues or problems that arise during process
5. Reporting Clerk
    a. Enters Result Tape totals by precinct for each site onto RSS Web Portal in timely manner
    b. Responsible for organizing RSS Folder with complete paperwork for storage/transport to Main Central Count Station
6. Warehouse Clerk
    a. Responsible for collecting all necessary supplies, paperwork, and equipment
    b. Organizes all collected supplies and prepares them for transport
    c. Loads all location material, supplies and equipment at the end of the night onto truck for transport to Main Central Count Station
7. Election Day (ED) Judges
8. Sheriff Deputy
    a. Makes sure location is secure and is to remain visible at all times
    b. Directs traffic as needed to ensure safety of Election Day Judges and staff reporting to location
    c. Escorts truck with all supplies and equipment back to the Main Central Counting Station. Insuring a chain of custody of the equipment.

iii. Procedures

1. The Election Day Judges will close down their sites
    a. Verify their signatures against the number that voted on the DS200 and Express Touch.
    b. Closed their DS200 and Express Touch, and print 2 summary results tapes.
    c. Sign the zero and results tapes.
    d. They will pull the seal and the USB Flash Drives out of the DS200 and Express Touch
    e. Seal up the USB Flash Drives, zero tape and results tape inside of the Purple bag.

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f. Fill out their Ballot and Seal certificate.
g. They will proceed to the RSS location.

2. RSS Meeting at Central Counting Station at 4 pm Election Day.
    a. Give instructions and Equipment to the RSS Mangers.
    b. Administer Oaths to the RSS Manager.
3. Set up
    a. RSS Manager and Transmission Clerk needs to start prepping and setting up their stations at 5 pm.
    b. The Transmission Clerk needs to set up the laptops with the RSS Election Ware software, login in with a secure password, and connect to the Server at 6 pm.
    c. The rest of the staff arrives at 6 pm to set up their stations.
    d. The Sheriff Deputy needs to be there at 6pm.
    e. The RSS Manager will administer the Oaths the RSS Staff.
4. Processing Election Day Judges
    a. Station #1: Check-in
        i. The Greeter will greet the Election Day (ED) Judge and scan the barcode on the clear RRS Folder. This lets us know time and which sites have made it to the RSS location.
        ii. The Greeter will make sure the ED Judge has all the necessary items and that the paper work is filled out and placed in the Clear RSS Folder.
            1. If not they will help the ED Judge organize the Clear RSS Folder, and have them fill out the paper work correctly.
    b. Station #2: Equipment, Supplies and Hardware
        i. The Warehouse Clerk will collect the following:
            1. Green Provisional Bag
            2. Yellow Envelope #4
            3. Cell phone with charger
            4. Keys to the cart or facility
            5. Completed Statement of Compensation (Payroll) and Oaths.
            6. Canvas Bag:
                a. Folder #3
                b. Brown Canceled Mail Ballots
                c. Statement of Residence Cards
                d. Gray Spoiled Ballots Envelope
                e. Any other completed forms
            7. The Warehouse Clerk will also take any kits or laptops that are bro ught to the RSS site.
    c. Station #3: Auditing, Checks and Balances

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i. The Auditors will use the Regional Site Audit Log to check the following:
    1. Clear RSS Folder has the following items inside:
        a. Sealed Purple Bag with
            i. Zero and Results Tape from the DS200
            ii. USB USB Flash Drive from the DS200
            iii. Zero and Results Tape from the Express Touch.
            iv. USB USB Flash Drive from the Express Touch
            v. Access Card (Express Touch Card)
        b. Ballot and Seal Certificate Form
        c. Zero Tape Affidavit
    2. Verify that the Total Public Count on the Results Tapes matches Ballot and Seal Certificate Total, and also match the totals against the Total Number of Signatures.
    3. Note the Public Count on the Audit Log.
    4. Write the Site # on the top of the Zero and Results Tape.
    5. Note the Provisional Count on the Audit Log.
    6. Note the Write-in Count on the Audit Log.
    7. Sign the Audit log if complete.

ii. If any of these items are missing or the audit has discrepancies, the RSS Manager must call the Central Counting Station for further instructions.

iii. If the Audit Log is accurate and complete; the Auditor will:
    1. Sign the Ballot and Seal Certificate.
    2. Place Audit Log and all the paper work back in the Clear Plastic RSS Folder.
    3. Send the USB Flash Drives, and the Clear RSS Folder to Transmission Clerk to transmit the results.

iv. The ED Judge will have a seat until the results are transmitted.

d. Station #4: Transmit the Election Results
    i. The Results from each ED site are transmitted from the USB Flash Drives

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ii. Verify the site number, and that it is 100% transmitted before pulling out the USB Flash Drives and moving on to the next ED site.
iii. If the results were transmitted successfully, the Transmission Clerk will give the ED Judge the pink copy of the Ballot and Seal Certificate, and release them.
iv. Pack up the USB Flash Drives in the Purple Bag
v. Hand off the Clear RSS Folder to the Reporting Clerk.

e. Station #5: Reporting
i. The Reporting Clerk will take the Results Tapes and record the total public count from each tape on to the website; this will be used to verify the count at the end of the night at the Central Counting Station.
ii. The Reporting Clerk will organize all the paper work and place the Clear RSS Folder inside the banker's box in site order.

5. At the end of the night, everything is packed up and put on to the truck to be taken to the Elections Warehouse. The Sheriff Deputy will follow the truck down.

d. Election Night - Central Counting Station
i. Participants:
1. Presiding Judge
a. Is responsible for maintaining order and has the same authority as a precinct presiding judge.
b. Is responsible for determining voter intent for ballot.
c. Must sign off on precinct returns.
d. Will monitor the Poll watcher and Media.

Plan is missing the roles of Alternate Presiding Judge pursuant to Tex. Elec. Code 127.005(e) and (f)

2. Central Counting Station Manager
a. Is in charge of the overall administration of the CCS, and supervisor of personnel.
b. Will monitor the results coming in, and print the reports.
3. Tabulation Supervisor
a. Is in charge of operation of the tabulating equipment.
b. Is in charge of getting reports out to the webmaster
c. Will communicate with the RSS locations.
d. Will monitor the precinct and sites that are in, and those that are still out.
e. Will verify the count of voters matches the count of actual votes
4. Assistant to Tabulation Supervisor
a. Will make sure the equipment it up and running.

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b. Will monitor the RSS connections.
c. Will communicate with the RSS locations.

5. Counting Station Clerks
   a. Will monitor the Election Day Sites as the close.
   b. Alert the Central Counting Station of any issues out in the field.
   c. Keeps in contact with the technical support staff in the field.
6. Poll watchers
   a. May stay in the Early Voting room and observe through the window. (inconsistent with Tex. Elec. Code 33.056 and 33.061)
7. Media
   a. May stay in the Early Voting room and observe through the window.
8. Sheriff
   a. A Sheriff Deputy is required by law when tabulation is in process.

ii. Closing of the Election Day Sites
1. The Counting Station Clerks will be monitoring the ED Site as they close.
2. The techs in the field will inform the CSC's of any equipment that had issues closing. They will inform the Central Counting Station of all the issues that need to be resolved, before that ED Site's data can be transmitted.
3. ES&S onsite support, along with one of the Central Counting Station Team, will take care of any equipment problems and retrieve the votes.

iii. Start up the Election Night Reporting Equipment
1. Turn on and login to the Election Night Reporting System.
2. Make sure that the Election Night Reporting system has been updated with the Early Voting results, and that it matches the Certified System.
3. Turn on the fire wall and link to the secure network.
4. The RSS Sites will connect to the secure network and login.
5. The Assistant to Tabulation Supervisor will monitor the connections.
6. The Election Reporting System will be monitored by the Central Counting Station Manager and the Tabulation Supervisor
7. The Central Counting Station Manager will verify to make sure Election Day is still Zero; Early Vote has already been processed and posted at 7 pm.
8. The Central Counting Station Manager will start the accumulation process in the Election Night Reporting System and monitor the progress throughout the night.
9. The Tabulation Supervisor will monitor and record which sites have come in.
10. The Tabulation Supervisor will monitor the percentage of votes and the sites left uncounted.

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11. On a separate computer system, the Tabulation Supervisor will also monitor the website, RSS location check-ins, and total number of voters by site.

iv. Processing the votes
    1. Throughout the night the data is transmitted from the RSS locations to the Election Night Reporting System server.
    2. The Election Night Reporting System will accumulate the results, if there is data present, it process the sites data and add those votes in to the database. The audit log will record what time each site came in and the number of votes.
    3. The Central Count team will be in constant contact with the RSS locations.
        a. To make sure that all sites are transmitted accurately.
        b. If there were any discrepancies between votes and signatures, we will not transmit until it is explained.
        c. Convey any tabulation items left at the polling location. We need to coordinate with the location to retrieve those items.

v. Reporting Election Day Results
    1. Periodically the Central Count Manger will stop the accumulation process to print the results at that point. The CCM will also export a report for the website.
    2. Update the Secretary of State Election Night Reporting website.
    3. After the reports are printed the CCM will start the accumulation process again.
    4. The Tabulation Supervisor will copy the web results to a USB Flash Drive, and will send it to the web master using the separate computer system.
    5. Then the web master will update the County's website.

vi. Audit votes vs. signatures for each site
    1. The Tabulation Supervisor will export a precinct report from the Election Night Reporting System and compare it with the web by precinct data. To make sure that all votes were transmitted.
    2. Once the by precinct totals have been audited, we can post the 100 percent on the website. This is considered the unofficial results.

vii. A backup of the entire system is conducted and a copy is taken off site.

viii. Shut down and lock the computers.

ix. Entering USB Flash Drives into the Certified System

x.

e. Post-Election Night process
    i. Print and export the results and by precinct reports for each entity.
    ii. The Early Ballot Board reconvenes to process the late mail and provisional ballots.
    iii. Tabulate the late mail and provisional ballots.
    iv. Print the Canvas reports.

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v. Send the ASCII files to the Secretary of State and the Legislative Council. vi. Conduct the third and final test of the tabulators.
vi. Backup all data to CD
vii. Package and seal all testing, ballots, reports, and data for the required retention period.

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000597

From: Cindy Dishman [redacted]
Sent: Friday, October 21, 2022 11:53 AM
To: Christina Adkins
Subject: clarification please

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Hi Christina,
I spoke with you on October 6th. Elizabeth was in Beaumont and she was helping answer my questions and finally put me in touch with you. We both figured out that I had too many questions to ask and you told me to submit them to the elections @sos... email address. I did that and got most of my questions answered but one that you and I discussed had to do with Early voting results tape it was not addressed/answered in the email.
This is to verify our phone conversation on Thursday October 6, 2022. You agreed that it is best to print early voting results tapes before the early voting memory sticks are inserted into the central accumulator. Is that correct?
Cindy Dishman
Jefferson County

AMERICAN OVERSIGHT

From: Laura Pressley <[redacted]
Sent: Friday, April 22, 2022 9:33 AM
To: Keith Ingram
Cc: Adam Bitter; Lesley.French@oag.texas.gov; Brent.Webster@oag.texas.gov; Roger Borgelt
Subject: Demand letter for lawful interpretation of Texas Election Code and Advisory for May elections
Attachments: Demand to SoS_Pressley_Final.pdf

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Dear Mr. Ingram,

Please see the attached demand letter for lawful interpretation of the Texas Election Code and Advisory for our May elections.

It is my expectation, as a candidate for the Florence ISD Trustee Place 6 and Williamson County Precinct Chair of Precinct 310, that all laws, rules, procedures, and advisories, related to elections are uniformly interpreted, applied, and communicated to county election officers.

Copying my attorney, Roger Borgelt and the Texas Secretary of State General Counsel, Adam Bitter, the Texas Attorney General's Chief of Staff, Lesley French, and the Texas Attorney General First Assistant Attorney General, Brent Webster.

Regards,
Laura

Laura Pressley, Ph.D.
512-762-3825

AMERICAN OVERSIGHT

ROGER B. BORGELT, ATTORNEY AT LAW
BORGELT LAW

614 S. CAPITAL OF TEXAS HIGHWAY
SUITE A
AUSTIN, TEXAS 78746
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ROGER B. BORGELT
PRINCIPAL

WRITER'S PHONE & EMAIL:
TELEPHONE: (512) 600-3467
DIRECT DIAL: (512) 870-7533
roger@borgeltlaw.com

April 21, 2022

Texas Secretary of State
Elections Division Legal Director
Mr. Keith Ingram
1019 Brazos Street
Austin, TX 78701

VIA ELECTRONIC MAIL AND REGULAR MAIL

Re: Demand letter for lawful interpretation of Texas Election Code and Advisory

Dear Mr. Ingram,

For the upcoming May 7 and 24, 2022 elections, my client, Dr. Laura Pressley, is a candidate for the Florence ISD Trustee Place 6 and for the Williamson County Precinct Chair in Precinct 310, respectively.

As the Director of Elections within the Texas Secretary of State, you have enforcement authority to ensure that your office and staff prepare and promulgate election advisories consistent with, relating to, and based on the Texas Election Code and other election laws outside the Code. Tex. Elec. Code § 31.003. Historically, your office has created and promulgated, altered, modified, waived and/or suspended election standards, practices, or procedures mandated by law or rule, which is the reason for this letter.

Please consider this a formal demand letter for the following Texas Election Code sections and Election Advisory to be uniformly interpreted, applied, and communicated to county election officers for the May 7 and the May 24, 2022 elections in which Dr. Pressley is a candidate.

With this demand letter, Dr. Pressley seeks to prevent election violations noted below which, if not addressed, could prevent her from obtaining election records guaranteed by Texas law to detect or punish any potential election fraud that may occur in her election.

1. Pursuant to Tex. Elec. Code §§ 31.003 and 276.019, cease unlawfully altering, modifying, waiving and/or suspending Tex. Elec. Code § 52.062 related to consecutive numbering of ballots and rescind Texas Secretary of State Election Advisory 2019-23 Section 13(b).[1]

2. Pursuant to Tex. Elec. Code § 276.019, cease unlawfully altering, modifying, waiving and/or suspending Tex. Elec. Code §§ 51.006, 51.007, and 51.008 related to the documentation election

[1] Tex. Sec. of State Election Advisory 2019-23 Section 13(b) creates an unlawful alternative method for counties to number ballots randomly, rather than consecutively as mandated by Tex. Elec. Code 52.062..

AMERICAN OVERSIGHT

judges receive related to ballot serial numbers by rescinding Texas Secretary of State Election Advisory 2019-23 Section 13(b).[2]

3. Pursuant to Tex. Elec. Code § 276.019, cease providing waivers for counties to ignore Tex. Sec. of State Election Advisory 2019-23 Section 6(5)b regarding the printing of early voting results tapes at the central counting stations.

4. Pursuant to Tex. Elec. Code §§ 31.003 and 68.011, prepare and distribute detailed and comprehensive written directives and instructions relating to the printing of early voting results tapes including but not limited to requirements to securely print the tapes from the original voting systems and to not connect early voting electronic media to any other computer system prior to the printing of the early voting results tapes.

To ensure transparency and integrity of our elections in Texas, it is my expectation, and no doubt the expectation of all Texas voters and candidates, that all election laws, election advisories, rules and penal codes are interpreted and communicated uniformly, consistent with the laws of Texas. Thank you for your attention to these issues.

Respectfully submitted,



Roger B. Borgelt
State Bar No. 02667960
BORGELT LAW
614 S. Capital of Texas Hwy.
Austin, TX 78746
Office: 512.600.3467
Mobile: 512.870.7533
Roger@BorgeltLaw.com

Cc:
Texas Secretary of State, General Counsel, Adam Bitter, ABitter@sos.texas.gov
Texas Attorney General Chief of Staff, Lesley French, Lesley.French@oag.texas.gov
First Assistant Attorney General, Brent Webster, Brent.Webster@oag.texas.gov

[2] Tex. Sec. of State Election Advisory 2019-23 Section 13(b)4 creates an unlawful alternative method for counties to number ballots randomly and permits an "exception of notating the serial number of the ballot ranges."

AMERICAN OVERSIGHT

From: Cindy Dishman <[redacted]
Sent: Tuesday, January 4, 2022 5:47 PM
To: Christina Adkins
Subject: Do we print EV results tape

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Christina,
I inquired with the SOS about about how to print a results tape in our county (Jefferson) because we have Countywide polling place and use the Hart eSlate. The SOS sent me a copy of a letter that was sent to our County Clerk that stated the Zero tape was now to be printed at each polling place before early voting begins and the Results tape is to be printed at each polling place at the close on election day.
I wondered about **early voting results tape**. All I could find was this:

1. **Closing the Polls on the Last Day of Early Voting:** Verify and document that the numbers on the public counter match the number of voters documented on the early voting by personal appearance roster at the close of polls on the previous day and be sure to:
    a. Look for evidence of tampering and document the time this was done.
    b. **DO NOT PRINT THE RESULTS TAPE** (tape will be printed later at the central counting station); and
    c. Lock and secure the voting equipment and other election material from any physical access to prepare for transport.

Is the early voting results tape printed at the central counting station on the last day of early voting? Please advise. I have a meeting with our County Clerk on Thursday morning and I need clarification. I am lining up Poll Watchers and I need this information for them.
Thank you,
Cindy Dishman
Cindy Dishman

AMERICAN OVERSIGHT

From: Mike Slaton [redacted] >
Sent: Friday, October 28, 2022 3:13 PM
To: John Scott; Keith Ingram
Cc: 'Bob Hall'; 'Senator Bryan Hughes'
Subject: Election Advisory Regarding when Early Voting Flash Drives will be Printed for November 8th General Election

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Secretary Scott & Mr. Ingram

Will you please consider issuing an emergency Election Advisory, stating that Early Voting (EV) results tapes will be printed off the Early Voting DS200's at Central Counting, as soon as possible after Early Voting closes on Friday night, November 4, 2022. This could be Friday November 4th or at the latest Saturday November 5th. To further clarify, No Results would be revealed at the time of the printing, but an audit trail will be created so as to protect the integrity of the Early Voting results. It is possible to print the tapes, sign them and then store them in the Central Count safe without the signers knowing what the results actually are.

Your Consideration regarding this matter will be appreciated and is respectfully requested.

Best regards,

Mike Slaton
Dallas County Alternate Judge Central Count

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

AMERICAN OVERSIGHT

From: Heidi Martinez
Sent: Wednesday, September 7, 2022 10:08 PM
To: 'CGraves@mcounty.com'
Cc: Elections Internet
Subject: Election Night Reporting Program (EI Response)

Thank you for your inquiry.

The advisory referenced below, 2022-16, deals with cancellation of elections. As addressed in Advisory 2019-23, a secondary copy of the results generated by each device may be placed on a duplicate media and connected to a transmission device that is not directly connected to the voting system. That transmission device can then transmit those unofficial results via a secure connection to another device set up for receiving those transmissions. Those unofficial results can be taken from the receiving device to be aggregated on a system that is not connected to the system that performs the official tabulation, and those unofficial results can be used for purposes of ENR.

No voting system can be connected to any exterior communications network, including a connection to the internet. This means that no thumb drive that is connected to the voting system can be connected to an exterior communications network, including a connection to the internet.

We hope this information will be helpful to you.

Heidi Martinez
Managing Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.state.tx.us/elections

For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Carolyn Graves <CGraves@mcounty.com>
Sent: Thursday, September 1, 2022 4:28 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Election Night Reporting Program

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I am looking at purchasing an ENR program by Scytl. But after reading Advisory 2022-16, Section 7 #5, Transmitting Unofficial Results for ENR purposes, I am needing clarification. Do I need to transfer the election results from the original thumb drive from the DS200 to another thumb drive to post results?

Thank you
Carolyn

Carolyn Graves
Election Administrator
Midland County
2110 North A St. Rm. 103
Midland, TX 79705
432-688-4890 Main
432-688-4891 Direct
432-688-4912 Fax
cgraves@mcounty.com

AMERICAN OVERSIGHT

From: [redacted]
Sent: Tuesday, September 21, 2021 7:42 PM
To: Christina Adkins; GeneralCounsel; Adam Bitter
Subject: Follow Up from Meeting - Watcher Obstruction Examples for Training Materials

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Dear Christina and Adam,

Thank you both for the discussion on election integrity issues around Texas. As promised, see below for a list of major obstructions that election watchers around Texas have experienced and reported. For each category, the items are ordered by highest priority first.

Central Counting Stations

- Watcher not allowed entry into central counting station when central accumulator is being operated
- Watcher not able to view printing of early voting results tapes
- Watchers not able to sit near the election activities are occurring
- Watchers not permitted to view all election records: election results reports, checklists, notes, tapes, serial numbers of equipment or media, etc.
- Watchers not allowed to get close enough to the central accumulator to observe error messages and responses from workers
- Watchers not permitted to view and record seal numbers for electronic equipment, media, and ballot boxes
- Watcher not permitted to monitor transfer of ballot boxes to central counting station through final storage
- Watchers not permitted to go to bathroom prior to votes being counted
- Watchers not allowed to view activities occurring on county computers in the central counting station
- Watchers not able to view activities occurring on vendor computers in the central counting station

Polling Locations

- Watchers not permitted to view and observe ballots before ballots are handed to voters
- Watchers not permitted to observe printing of Zero Tapes immediately prior to polls opening for early voting and election day
- Watchers not permitted to observe printing of Results Tapes when polls close on election day
- Watcher not permitted to observe and record seal numbers on equipment, media, and ballot boxes
- Watchers not permitted to site while observing election activities

Recounts

- Watchers not permitted to observe retrieval, handling and sorting of ballots for recount
- Watchers not permitted to observe and record seals of ballot boxes prior to opening for recount
- Watcher not permitted to view front and back of ballots at recount
- Watcher not permitted to sit while observing recount activities

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Can you please confirm receipt?

Regards,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
512-762-3825
"Give diligence to make your calling and election sure: for if ye do these things, ye shall never fall"
- 2Peter 1:10

AMERICAN OVERSIGHT

From: Keith Ingram
Sent: Monday, August 29, 2022 4:10 PM
To: Adam Bitter; Sam Taylor; Joe Esparza
Subject: Fw: Time Sensitive - Correct Interpretation of Specific Election Laws Intended to Detect Fraud
Attachments: Nov 2022 Issues to Tex. Sec. of State_2_with Attachment A.pdf

FYI

From: True Texas Elections SPAC <tte-spac@use.startmail.com>
Sent: Monday, August 29, 2022 3:31 PM
To: Keith Ingram <KIngram@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Secretary <Secretary@sos.texas.gov>; Joe Esparza <JEsparza@sos.texas.gov>; Kim Bergmann <KBergmann@sos.texas.gov>; GeneralCounsel <GeneralCounsel@sos.texas.gov>; Adam Bitter <ABitter@sos.texas.gov>; Lesley.French@oag.texas.gov <Lesley.French@oag.texas.gov>; Brent.Webster@oag.texas.gov <Brent.Webster@oag.texas.gov>; bob.hall@senate.texas.gov <bob.hall@senate.texas.gov>; Bryan.Hughes@senate.texas.gov <Bryan.Hughes@senate.texas.gov>; donna.campbell@senate.texas.gov <donna.campbell@senate.texas.gov>; brian.birdwell@senate.texas.gov <brian.birdwell@senate.texas.gov>; Judith.Zaffirini@Senate.Texas.gov <Judith.Zaffirini@Senate.Texas.gov>; Paul.Bettencourt@Senate.Texas.Gov <Paul.Bettencourt@Senate.Texas.Gov>; Lois.Kolkhorst@Senate.Texas.Gov <Lois.Kolkhorst@Senate.Texas.Gov>; Eddie.Lucio@Senate.Texas.gov <Eddie.Lucio@Senate.Texas.gov>; Charles.Schwertner@Senate.Texas.gov <Charles.Schwertner@Senate.Texas.gov>; Drew.Tedford@Senate.Texas.Gov <Drew.Tedford@Senate.Texas.Gov>; cac@oag.state.tx.us <cac@oag.state.tx.us>
Subject: Time Sensitive - Correct Interpretation of Specific Election Laws Intended to Detect Fraud

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Dear Mr. Ingram and Mrs. Adkins,

Please see the attached letter related to requests by True Texas Elections SPAC for the Texas Secretary of State Election Division's to correctly interpret and communicate specific election standards, practices, and procedures mandated by law to detect election fraud.

Transparency of our elections is paramount. It is our expectation, and no doubt the expectation of Texas voters and candidates, that all election laws and election advisories are interpreted correctly and communicated uniformly to election officials, consistent with the laws of Texas.

Thank you for your attention to these issues. We are requesting a written response within five business days.

Regards,
Laura Pressley, Ph.D.

True Texas Elections SPAC

AMERICAN OVERSIGHT

Laura Pressley, Ph.D., Treasurer

AMERICAN OVERSIGHT

August 29, 2022

Dr. Laura Pressley, Ph.D.
Treasurer, True Texas Elections Specific-Purpose Political Action Committee
101 Oak Street, #248
Copperas Cove, TX 76522

Texas Secretary of State Elections Legal Division
Mr. Keith Ingram, Director of Elections
Mrs. Christina Adkins, Legal Director
1019 Brazos St.
Austin, TX

Regarding: Maintaining uniformity in application and interpretation of Texas Election Code

Dear Mr. Ingram and Mrs. Adkins,

For the upcoming November 2022 elections, as the appointing authority for True Texas Elections PAC, I am requesting that specific election standards, practices, and procedures mandated by law or rule to detect fraud be uniformly interpreted by your office. In addition, I am requesting clarifications on conflicting directives relating to and based on the Texas Election Code and laws outside the Code related to watchers' rights and duties for the November 2022 election.

Please consider this a formal request pursuant to Tex. Elec. Code 31.004 for your office to provide accurate advice and clear directives on specific election code sections for the November 2022 elections that will subsequently impact True Texas Elections' appointed watchers and their rights and duties at the locations they will be serving around the state.

1. Ballot Numbering

Currently because of Texas Secretary of State Election Advisory 2019-23 Section 13, election officials are operating under your interpretation that hybrid and ballot on demand voting systems from ES&S and Hart InterCivic that use paper ballots at the polls have the *option* to have consecutively numbered ballots. That is an incorrect interpretation of the Texas Election Code (TEC) and needs to be corrected. No *option* for consecutive numbering of ballots is provided under the Election Code – consecutive numbering of ballots is *mandatory*.

We request that you ensure election authorities have accurate interpretations of the following provisions related to mandatory consecutive ballot numbering requirements:

- Texas Constitution Article 6 Section 4 – Legislature shall provided for numbering of ballots.
- TEC § 52.062 – Ballots shall be numbered *consecutively* starting at "1."
- TEC §§ 51.006, 51.007, 51.008 – Election officials must distribute and deliver election supplies that document the *range of ballot serial numbers* distributed to election judges at polls.
- TEC §§ 62.007, 62.009 – Election officials at the polls must examine for properly numbered ballots and disarrange ballots for voters' selection.

Your office's accurate interpretation of the laws above related to consecutive ballot numbering will ensure our election watchers will not be obstructed from inspecting pre-numbered ballots

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TX-SOS-24-0322-C-000610

with consecutive numbering and other records at the polls related to these documents and official election records.

2. Printing Early Voting Results Tapes at Central Counting Station

Because of the Texas Secretary of Election Advisory 2019-23 Section 6(5)b lacks detailed directives for securely printing early voting results tapes at the central counting station, election authorities are inconsistently tabulating/printing and in some cases refusing to tabulate/print unofficial results for early voting.

We request that the Texas Secretary of State's Election Division provide election authorities with comprehensive written details and directives for tabulation of unofficial early voting results, the early voting results tapes:

- TEC § 68.011 – Secretary of State shall prescribe procedures for the implementation of tabulation of unofficial results (such as early voting results tapes).
- Texas Election Advisory 2019-23 Section 6(5)b lacks comprehensive written directives for the secure tabulation and printing of unofficial results for early voting at the central counting station, the early voting results tapes.

There are no uniform and comprehensive directives for when and how early voting results tapes shall be printed securely at the central counting station. By providing written instructions to county officials, your office will ensure these early voting results tapes records are printed securely and uniformly around the state so that our election watchers will not be obstructed from inspecting these records at the central counting station.

3. Watchers Rights to Inspect Records and Take Notes

Recent election training by the Texas Secretary of State on August 1, 2022[1], instructed county officials to significantly limit watchers' access to documents, limit the time they would have inspecting those documents, and limit their ability to take written notes while on duty at central counting station and other locations the watchers are serving.

We request that you ensure the Texas Secretary of State's Election Division provides accurate interpretation of these Election Code Sections:

- TEC §33.056(c) – Watchers are entitled to inspect returns and records "prepared" by election officers at the location they are serving. This statute does not specify *time limits* for watchers to view records at the location they are serving. The Sec. of State has incorrectly advised counties on two issues related to this statute.
    - At the August 1, training, the Secretary incorrectly advised officials that the watcher must be present when the record is generated by the official at the location or they cannot inspect it (see page 22 of Attachment A). This is a change from decades of practice for which watchers at early voting locations and central counting stations have been permitted to view zero tapes, ballot registers, seal number documents, signature combination forms, results tapes, etc. even if those records were prepared at the locations prior to the watchers' arrival. This is very important because early voting polls and the central counting station operate over days and prior to election day.
    - The Secretary of State incorrectly advises that watchers are to submit open records requests for records that were prepared prior to the watcher beginning their service at a location (see page 22 of Attachment A)Again, this goes against years of precedence and is not consistent with the Election Code.

[1] Attachment A, Texas Secretary of State Poll Watcher Training provided on August 1, 2022 to county officials, pp. 1,19, 22 and 33 related to limiting watchers abilities to review documents and take notes.

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000611

- TEC §33.056(d) – Election officers may not prohibit watchers from taking written notes while on duty. This statute provides no constraints on *how* watchers take written notes or how long they can inspect the records while they are serving.
    - On August 1, the Sec. of State incorrectly advised election officials that watchers may not be permitted to input their notes onto written pre-prepared spreadsheets (see page 33 of Attachment A).
    - Also, on August 1, the Sec. of State erroneously advised election officials that watchers are only entitled to a "facial review" of documents prepared at the location they are serving (see page 33 of Attachment A). There is no statute limiting the time watchers are entitled to inspect records while they are serving at a location, nor is "facial review" a defined or established term, either in the Election Code, the Administrative Code, or in any Secretary of State advisories.

Because of the confusion the Secretary's August training caused officials and appointing authorities and watchers, we need specific directives from your office to county officials that watchers are entitled to a) have ample time to inspect records at the location they are serving, b) take written notes (utilizing any reasonable method preferred by the watcher) related to zero and results tapes printed at the location they are serving, and c) inspect prior records prepared by election officials at the location they are serving. Written comprehensive directives on these specific subjects will ensure transparency and protect election officials and ensure watchers will not be obstructed from inspecting records and taking notes.

In conclusion, transparency and integrity of our elections in Texas is paramount. It is our expectation, and no doubt the expectation of Texas voters and candidates, that all election laws and election advisories are interpreted and communicated uniformly to election officials, consistent with the laws of Texas.

Thank you for your attention to these issues. We are requesting a written response within five business days.

Regards,

Dr. Laura Pressley, Ph.D.
Treasurer and Appointing Authority for Watchers, True Texas Elections SPAC

Cc:
Texas Secretary of State, John B. Scott
Texas Deputy Secretary of State, Jose A. Esparza
Texas Secretary of State, General Counsel, Adam Bitter
Texas Attorney General Ken Paxton
Texas Attorney General Chief of Staff, Leslie French
Texas Attorney General, First Assistant, Brent Webster
Texas State Senators Bryan Hughes
Texas State Senator Bob Hall
Texas State Senator Donna Campbell
Texas State Senator Brian Birdwell
Texas State Senator Judith Zaffirini
Texas State Senator Paul Bettencourt
Texas State Senator Lois Kolkhorst
Texas State Senator Eddie Lucio
Texas State Senator Charles Schwertner

AMERICAN OVERSIGHT



Poll Watchers

Texas Secretary of State – Elections Division

AMERICAN OVERSIGHT

RECOMMENDATIONS

Public Information

- Most election records are public information.
  - Exception: The Roster of Voters with Defective Carrier Envelopes is not eligible for public inspection **until after** the voter has returned the corrected carrier envelope, canceled their mail ballot, or appeared in person to correct any necessary defects.
- Make sure you print time-stamped reports from your tabulation devices on election night.
- Be proactive in sharing documents!
  - Watchers are allowed to inspect the returns and other records prepared by election officials at the time central count is convened.
    - If a record has been generated during a previous meeting of the CCS, the watcher does not have the authority to stop the current CCS and ask for older records.
    - If a watcher wants to inspect older records, they are permitted to do so under the Public Information Act.
      - The watcher should present the information request in writing.

AMERICAN OVERSIGHT

TX-SOS-24-0322-C-000613-PR

Inspecting vs. Auditing

- While poll watchers have the authority to inspect certain documents, there are differences between inspecting and auditing.
- Inspecting: Observing the election and writing reports. Giving documents a "facial review."
- Auditing: Taking a deeper dive of documents, comparing to code and/or creating spreadsheets **onsite**. May require a public information request.

AMERICAN OVERSIGHT

From: Elections Internet
Sent: Wednesday, October 26, 2016 4:06 PM
To: Ashley Fischer
Subject: FW: Voting Recount in a disputed election?

From: Newell Rambo [mailto:n[redacted]
Sent: Wednesday, October 26, 2016 4:01 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Voting Recount in a disputed election?

What does Texas Director of Elections, Keith Ingram propose to do when there's a need for a recount of a disputed election if his following proposals were implemented? (Note: Without "Backup" of logs, result tapes or ballot images how can a legitimate recount be performed?)

- Eliminate printing of paper audit logs that poll watchers are entitled to monitor at main tabulation computers.
- Eliminate printing of Early Voting Results tapes.
- Eliminate printing of ballot images for recounts.

Please reply???

NEWELL V. RAMBO, AIA/RID
RAMBO ARCHITECT
14415 TIERRA GRANDE DRIVE
NEEDVILLE, TEXAS 77461
(979) 793-7100

AMERICAN OVERSIGHT

From: John Scott
Sent: Friday, September 9, 2022 2:52 PM
To: Adam Bitter
Subject: Fwd: Appeal
Attachments: Scott appeal (2) (1).docx

Get Outlook for iOS

From: Bob Hall <senatorbobhall@gmail.com>
Sent: Friday, September 9, 2022 12:53 PM
To: John Scott <JScott@sos.texas.gov>
Subject: Appeal

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AMERICAN OVERSIGHT

John Scott
Texas Secretary of State

Dear Secretary Scott:

I am sure you are well aware of my request for your office to amend Election Advisory 2019-23, among other administrative changes, to include a requirement for the printing of results tapes of voting machines before they are moved at the end of early voting. That advisory currently uses your authority under Section 122.001(c) of the Texas Election Code to issue the advice ***not to print*** the tapes at the end of early voting. However, the statute is silent on the issue of printing or not printing tapes at the end of early voting. It is obviously up to your discretion to direct the tapes to be printed, not printed, or to remain silent on the issue.

Trust in the election process is critical for a free society. The perceived threat of fraud or incompetence undermines the trust in our elections. Any process that can serve as a verifiable trail of the results of the election increases confidence at the results.

We ask a different question, based on a different section of code than the Writ of Mandamus that was taken to the Texas Supreme Court. The Writ of Mandamus asked "*Whether sections 61.002(c) and 81.002 of the Code require election officials to print early-voting result tapes immediately upon the close of early voting… .*"

Our entirely different question is:

> Does the Secretary of State (SoS) have the authority under Section ***122.001(c) of the Election Code*** to require procedures that will make elections more secure such as requiring the early voting results tapes be printed at each polling location immediately following the close of early voting and before the machines or memory cards are transferred to the central counting station?

Our question does not hinge on the intent (or lack of intent) on the part of the Legislature, but on the authority the SoS has been given to "prescribe additional standards for voting machines consistent with this title. A more accurate interpretation of "*legislative intent*" is that the law is silent, just as it is on many advisory directives. To cover those important issues unknown at the time or overlooked by the legislature, this flexibility is exactly why the legislature gave the SOS section 122.001(c). The standards may apply to particular kinds of voting systems, to particular elements comprising a voting system, ***including operation procedures***, or to voting systems generally***.***" This question was not contemplated in the Writ of Mandamus.

Some people may mistakenly be concerned that the change in an election advisory this close to the election could be a substantive change that would require going through the rulemaking and comment period process. In fact, the advisories in question are a mechanism used by the SoS to provide, in their words, "an explanation of various voting systems provisions in the TEC and Texas Administrative Code and to prescribe additional procedures for voting systems in accordance with Section 122.001(c) of the TEC…" They are not subject to the rulemaking requirement.

Historically, the two advisories with directions not to print the tapes were issued in mid to late October - less than a month before November elections. Election Advisory No. 2019-23 was issued October 23, 2019 and Election Advisory No. 2018- 34 was issued October 18, 2018. This is a timely issue, and ample time remains to make the change.

In the Writ of Mandamus, denied by the Texas Supreme Court, the State argued that the petition should be denied because:

1. The requestors did not diligently or adequately seek relief and failed to establish standing, and
2. It was based on an incorrect view of the law - a different section of law than Section 122.001(c).

Some would argue that the Court's decision in that case would dictate that you do not have the authority to change the advisory. They would be mistaken.

DRAFT

AMERICAN OVERSIGHT

The State points out in its arguments that Section 61.002 specifies the printing of tapes at the beginning of both early and election day voting but specifies printing at the end of only election day voting. They argue that the legislature knows how to differentiate and could have included the printing at the end of early voting if that was their intention.

You may know, the original version of the amendment did, in fact, treat early voting the same as election day voting. It passed unanimously on the Senate floor. We have been unable to determine who provided the document that changed the language to the language that was passed, but know that it happened just prior to the Committee Substitute version that came out of the 87th(1). Some may blame the change on intent, but the legislators I have spoken with were surprised to hear that the printing at the end of early voting was not in the final bill. It was oversight, not intent that allowed what we currently have.

The State also argued that "once locked for use in an election, the early voting ballot box may not be unlocked except as provided by this subtitle," and that the early voting electronic system ballots must be delivered unopened to the central counting stations, and that the tabulation at the same time of all votes at the central counting station.

First, printing of tapes is not an opening of the ballot box. It is an administerial security step to ensure the integrity of the election process. It is a step in the processing of votes, not of counting them. If anyone were to disclose the results of the tape, it would be a criminal act. However, it would be the revelation, not the printing that was illegal.

As we noted in our previous Attorney General correspondence, the arguments being used to prevent tape printing at the precinct level are moot when you consider that they already currently have a process in place for counties over 100,000 to print tapes and process votes prior to the closing of the polls on election day. If they follow their arguments to a logical conclusion, that process violates the same things our proposal would. Will this current process stop immediately? I seriously doubt it.

In light of the collapsing confidence in the accuracy of election outcomes, nationally and in Texas, it is incumbent that we do everything possible to improve public confidence in elections. These simple changes, that can be easily made, will greatly improve the accuracy, accountability, and transparency that Texans deserve. Please ignore those opposing increased security and do the right thing for the Texas people.

Thank you for your careful consideration of this request.

DRAFT

AMERICAN OVERSIGHT

From: John Scott
Sent: Friday, September 9, 2022 2:53 PM
To: Adam Bitter
Subject: Fwd: Draft Ltr to DSoS
Attachments: Scott appeal (2) (1).docx

Get Outlook for iOS

From: Bob Hall <senatorbobhall@gmail.com>
Sent: Friday, September 9, 2022 1:41 PM
To: John Scott <JScott@sos.texas.gov>
Subject: Draft Ltr to DSoS

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AMERICAN OVERSIGHT

John Scott
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DRAFT

AMERICAN OVERSIGHT

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Thank you for your careful consideration of this request.

DRAFT

AMERICAN OVERSIGHT

From: John Scott
Sent: Friday, September 9, 2022 10:38 AM
To: Adam Bitter
Subject: Fwd: Scott appeal (2) (1).docx
Attachments: Scott appeal (2) (1).docx

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From: Bob Hall <senatorbobhall@gmail.com>
Sent: Friday, September 9, 2022 10:31 AM
To: John Scott <JScott@sos.texas.gov>
Subject: Fwd: Scott appeal (2) (1).docx

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AMERICAN OVERSIGHT

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DRAFT

AMERICAN OVERSIGHT

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Thank you for your careful consideration of this request.

DRAFT

AMERICAN OVERSIGHT

From: John Scott
Sent: Friday, September 9, 2022 2:52 PM
To: Adam Bitter
Subject: Fwd: SoS
Attachments: Instructions to SoS.docx

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From: Bob Hall <senatorbobhall@gmail.com>
Sent: Friday, September 9, 2022 12:51 PM
To: John Scott <JScott@sos.texas.gov>
Subject: Fwd: SoS

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Begin forwarded message:

From: Bob Hall <SenatorBobHall@gmail.com>
Subject: SoS
Date: September 2, 2022 at 10:21:20 AM CDT
To: Kathi Seay <kathi.seay@gmail.com>

AMERICAN OVERSIGHT

The SoS should amend Election Advisory No. 2019-23 to require every county to following the following procedures in printing Zero Tapes, Tally Tapes and cast vote verification.

1. **Zero Tape Must Be Printed**
    1. Must be Printed only at polling location immediately before poll opens on first day of early voting
    2. Printed Zero Tape Must be Signed by:
        1. Precinct Judge, 2. Precinct Deputy Judge, 3. Up to 3 Poll Watchers From Each of the Two Major Parties

2. **Tally (Results) Tape Must Be Printed**
    1. Must be printed at the polling location immediately after the poll closes on last day of early voting before the machine is moved or the memory card is removed from the machine.
    2. Printed Tally (Result) Tape Must be Signed by:
        1. Precinct Judge 2. Precinct Deputy Judge 3. Up to 3 Poll Watchers From Each of the Two Major Parties

        2. **County Canvas Prerequisite** - Before final county level canvas is official, the precinct must verify to the county that the county precinct Tally (Result) Tape numbers matches the precinct number for each ballot item in the precinct.

        3. **State Canvas Prerequisite** - Before final state level canvas is official, the county must verify to the state that the precinct Tally (Result) Tape numbers match the State number for each ballot item in each precinct.

    3. **Paper Poll Books** - Only Print Paper Poll Books printed 30 days before the first day of Early Voting begins may be used to verify eligibility

While there are multiple statutory authorizations and years of precedence for the SoS authority to do this the following are more than sufficient.

Knowing that every provision could not be covered by statute, the Texas Election Code (TEC) gives the Secretary of State broad rule-making authority to administer elections.

· TEC, Sec. 122.001© The secretary of state may prescribe additional standards for voting systems consistent with this title. The standards may apply to particular kinds of voting systems, to particular elements comprising a voting system, including operation procedures, or to voting systems generally.

· Sec 31.003 states, *"The secretary of state shall obtain and maintain uniformity in the application, operation, and* ***interpretation of this code and of the election laws outside this code."***

· Sec. 31.004(a) of the Code states that, *"The Secretary of State shall assist and advise all election authorities with regard to the application, operation, and* ***interpretation of this code and of the election laws outside of this code."***

This clearly states that the Secretary of State administers election law in this state and has the authority to make rules pursuant to this uniform administration, per Sections 31.003 and 31.004 of the Code.

AMERICAN OVERSIGHT

Nothing in the Code precludes the printing of early voting results tapes at each early voting precinct as a measure of election security.

AMERICAN OVERSIGHT

From: Christina Adkins
Sent: Friday, October 28, 2022 6:34 AM
To: Adam Bitter
Subject: Fwd: Violation of Election Code - Write-in Candidates For Governor, Zero Tape, and Results Tapes

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From: [redacted]>
Sent: Friday, October 28, 2022 4:25 AM
To: Keith Ingram <KIngram@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Lanora.Pettit@oag.texas.gov <Lanora.Pettit@oag.texas.gov>
Subject: Violation of Election Code - Write-in Candidates For Governor, Zero Tape, and Results Tapes

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Hello Keith and Christina,

Early voting election watchers around the state have noticed official declared write-in candidates names are not separately listed on the Zero tapes and will not subsequently be listed Results Tapes. These issues are consistent around the state in violation of Tex. Elec. Code Section 61.002(a) and (c) which requires each candidate's name and thir resulting votes to be documented on the tapes. We received confirmation in multiple key counties, Dallas, Williamson, Harris, and Hays. This is very serious because unofficially tabulated results will not be recorded on the early voting results tapes for the each of the write-in candidates separately. Votes cast early for these write-in candidates will not be unofficially tabulated and documented pursuant to Section 61.002. **How can this be corrected for Election Day results tapes?**

It has been raised in Dallas and Williamson Counties the write-in candidate ballots will be electronically sorted and virtually counted on a computer *instead of* being manually separated, sorted and counted consistent with TAC Rule 81.52 and TEC Sections 127.069 and 127.127. This is a concern given watchers will not be able to view and monitor the sorting programs used to electronically extract the write-in ballots. Counties must comply with the Election Code regarding the manual requirements. **What are your plans to correct these illegalities?**

We have seen disparate treatment of election watchers as they attempt to inspect the early voting zero tapes at the polls. Watchers are being obstructed because election officers are operating under the impression watchers cannot inspect tapes if they were not present *when* the tapes were printed at the polls and many workers are attempting to obstruct watchers from inspecting zero tapes. This is a violation of TEC 33.056(c). **Can**

AMERICAN OVERSIGHT

you send an email to election officials clarifying that watchers are entitled to inspect zero tapes at the polls even if the watcher was not present when the tape was generated?

Most concerning is that several large counties (Harris, Collin, etc.) have a history of printing early voting results tapes at the central counting station *before* election day. Those scenarios preclude the watcher from concurrently inspecting the tapes in the present moment they are printed because of Section 61.007. **Will you email election officials that watchers are entitled to inspect the early voting results tapes printed at the central counting station if the tapes are printed prior to election day?**

These issues need resolving as soon as possible because these violations impede watchers from detecting election fraud.
Please respond by noon on Oct. 28th.

Thank you,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
313-720-5471
"Give diligence to make your calling and election sure: for if ye do these things, ye shall never fall"
- 2Peter 1:10

AMERICAN OVERSIGHT

From: [redacted]
Sent: Monday, March 7, 2022 2:47 PM
To: Christina Adkins; Adam Bitter; GeneralCounsel
Cc: Bryan.Hughes@senate.texas.gov; bob.hall@senate.Texas.gov; Sen. Jane Nelson; Dave Nelson; Drew.Tedford@Senate.Texas.Gov; Andrew.Murr@House.Texas.Gov; Valoree Swanson; Jacey Jetton
Subject: Inconsistent Interpretation of Early Voting Results Tapes Printing at Central Counting Stations in Texas

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Dear Christina and Adam,

Hope you are both doing well. We have received reports from election watchers that Election Advisory 2019-23 is not being interpreted consistently by your office, county to county.

It appears that Tex. Elec. Code 68.011 mandates that the Texas Sec. of State shall prescribe procedures for the tabulation of unofficial election results, for which early voting results tapes are one example of unofficial results. Therefore, it also appears that Elec. Advisory 2019-23 Section 6(5)b related to printing of early voting results tapes is mandatory pursuant to the Section 68.011 and seems to be required to be completed at the central counting station. Tex. Elec. Code 276.019 states no election official can waive mandatory provisions.

Watchers in Dallas, Denton, Jefferson County, Tarrant, Galveston, and Hays counties need help in this regard. The election officials in those counties have refused to print the early voting results tapes at the central counting station.

Can you please contact the presiding judges and election administrators in those counties, in writing, and inform them to consistently comply with 2019-23 Section 6(5)b at central count?

Regards,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
512-762-3825
"Give diligence to make your calling and election sure: for if ye do these things, ye shall never fall"
- 2Peter 1:10

AMERICAN OVERSIGHT

From: [redacted]
Sent: Monday, March 7, 2022 4:07 PM
To: Christina Adkins; Adam Bitter; GeneralCounsel
Cc: Bryan.Hughes@senate.texas.gov; bob.hall@senate.Texas.gov; Sen. Jane Nelson; Dave Nelson; Drew.Tedford@Senate.Texas.Gov; Andrew.Murr@House.Texas.Gov; Valoree Swanson; Jacey Jetton; Donna Campbell; TexasSD11@gmail.com
Subject: Inconsistent Interpretation of Election Advisory 2019-23 - Early Voting Results Tapes Printing

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Dear Christina and Adam,

We have received additional reports that Texas Secretary of State's office is providing inconsistent legal advice to counties that Tex. Elec. Advisory 2019-23 Section 6(5)b, related to printing of early voting results tapes at the central counting station, ***"is only a best practice suggestion."***

Advisory 2019-23 actually states its purpose: "The purpose of this advisory is to provide an explanation of various voting systems provisions in the Texas Election Code and Texas Administrative Code and ***to prescribe additional procedures*** for voting systems in accordance with Section 122.001(c) of the Texas Election Code."

Please help our counties by ensuring consistent interpretations that the advisory's purpose is ***to prescribe additional procedures***. It says nothing about best practices.

We need your office to not suspend, waive or change the procedures you have prescribed in Advisory 2019-23.
Adding Senator Campbell.

Regards,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
512-762-3825
"Give diligence to make your calling and election sure: for if ye do these things, ye shall never fall"
- 2Peter 1:10

AMERICAN OVERSIGHT

From: Elections Internet
Sent: Tuesday, September 21, 2021 1:29 PM
To: Elections Internet
Subject: MASS EMAIL (CC/EA/VR-1033) REMINDER -- Moving to Paper Based Systems Webinar
Attachments: Moving to Paper Based Systems (CP).pdf

Dear Election Officials,

As a reminder, we have a webinar scheduled this afternoon on Moving to Paper Based Systems. I've attached a PDF of the PowerPoint presentation for your review. Here is the log-in information for the webinar:

9/21/21	2:00	Moving to Paper Based Systems	Chuck Pinney, Christina Adkins	[redacted]

Please let us know if you have any questions or concerns,

Thank you,

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
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AMERICAN OVERSIGHT

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Elections Internet
Sent: Friday, September 17, 2021 4:49 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: MASS EMAIL (CC/EA/VR-1033) Elections Division Upcoming Events

Texas Secretary of State

Upcoming Events

September 20 – 24, 2021

Webinars

Date	Time	Topics	Presenters	Attendee Link
9/21/21	2:00	Moving to Paper Based Systems	Chuck Pinney, Christina Adkins	[redacted]
9/23/21	9:00	DPS Web Portal	Lillian Eder, Kristi Hart	[redacted]

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20th Biennial Election Law Seminar for County Chairs

Date	Time	Topics	Presenters	Attendee Link
9/24/21	9:00	**Session One:** Welcome & 2021 Legislative Update	Deputy Joe Esparza, Keith Ingram	[redacted]
	10:30	**Session Two:** Primary Finance - Statutes and Administrative Rules	Dan Glotzer	[redacted]
	1:00	**Session Three:** Primary Finance - Working with the Secretary of State's Office	Dan Glotzer, Mary Eliasen, Clay Wilson	[redacted]
	2:30	**Session Four:** Conducting Elections	Chuck Pinney, Christina Adkins, Kristi Hart	[redacted]

Important Reminders

- **Recordings** of the following **Legal Webinars** are available for viewing**:** Address Confidentiality and Duties of the Early Voting Clerks

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Mark your Calendars

- **Post-Election Audits Webinar** - Tuesday, September 28 at 2:00 pm
- **County Data Entry Webina**r - Thursday, September 30 at 9:00 am

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TEXAS SECRETARY OF STATE

Moving to Paper-Based Systems

September 2021

TEXAS SECRETARY OF STATE

Outline

- General Overview of Paper-Based vs. DRE Systems
- Legal Requirements Specific to Paper-Based Systems
- Counting Your Ballots
- Election Audits and Testing Procedures
- Records Management and Retention
- How Do Paper-Based Systems Improve Transparency?

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General Overview of Paper-Based vs DRE Systems

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Overview

- Paper-Based Systems
  - The voter marks their ballot using an electronic interface, which then prints out a paper record
  - The paper record is the official record of the vote
- Direct Recorded Electronic (DRE) Systems
  - The voter marks their ballot using an electronic interface, and the voter's ballot is stored electronically on the device itself
  - The electronic record is the official record of the vote

(Secs. 121.003, 129.003)

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Key Differences

- Paper-Based Systems
  - Paper record is official record
    - This means that you have physical records that must be properly managed and retained
  - Multiple methods of counting (precinct scanner, central scanner, hand count)
  - Legal requirements applicable to paper ballots apply to the paper record
- Direct Recorded Electronic (DRE) Systems
  - Electronic record is official record
  - Can only be counted electronically (except in certain manual recounts)
  - Specific legal requirements applicable to DRE ballots

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Paper-Based Systems Currently Certified in Texas

- Hart
  - Ballot Markers
    - Verity Duo
    - Verity Touch Writer
  - Precinct Scanners
    - Verity Scan
    - eScan (Legacy)
  - Central Scanners
    - Verity Central
- ES&S
  - Ballot Markers
    - ExpressVote
    - Automark (Legacy)
  - Precinct Scanners
    - DS200
    - M100 (Legacy)
  - Central Scanners
    - DS450
    - DS850
    - M650 (Legacy)

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SB 598 – Transition Dates

- SB 598
  - Requires the use of paper-based systems for all elections occurring after September 1, 2026.
  - After September 1, 2026, DREs may not be used in a Texas election except for use in curbside voting.

(Sec. 129.003)

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Grant Funding

- Various grant programs exist to help with funding the acquisition of paper-based systems:
  - HAVA (Election Security Grant)
  - SB 598
- For more information on the current grant programs and your eligibility for those programs, please contact our EFM Team

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Acquiring New Voting Systems

- Approval by SOS
  - Before you execute a contract to purchase or lease a new voting system, you must receive written approval for the contract from SOS
    - This is important – executing an unapproved contract is a Class B misdemeanor
  - Send a copy of the proposed contract to Elections@sos.texas.gov
    - Must identify the equipment you are purchasing, and the voting system you are acquiring (including the version number of the system)
- Adoption Action
  - Once you have acquired the system, your commissioners court must adopt it for use in your elections
  - Adoption action must include the following:
    - Name of Vendor
    - Name of Voting System (including the version number)
    - Type of Equipment
    - What part of the election process the equipment will be used for (early voting in person/by mail, election day, provisional ballots),
    - What elections it will be used for (all elections or just certain elections)
- Advisory 2019-15: Considerations for Obtaining a New Voting System

(Secs. 123.001, 123.035)

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Legal Requirements Specific to Paper-Based Systems

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Legal Requirements for Paper-Based Systems

- Paper-based systems produce paper records, and those paper records are subject to many of the same legal requirements that apply to paper ballots
  - Except as needed to meet the formatting requirements of the system under Texas Election Code 52.075
- Those paper records must be numbered, must be signed or initialed, and must be retained in locked ballot boxes

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Ballot Numbering

- Pre-Numbering
  - A jurisdiction can meet the ballot numbering requirement by pre-numbering the blank ballot stock before the election
  - Must track the ballot numbers that are generated and the range of numbers that are issued to each specific polling place.
- Software Numbering
  - A jurisdiction can also meet the ballot numbering requirements if the voting system has a software method for numbering those paper ballots
    - Note: Both vendors who are currently certified in Texas have a software method for numbering those ballots
  - The system must generate a random and unique ballot number that is not identifiable to a specific voter, and must generate a report that shows which ballot numbers were issued at each polling place
- For more guidance on ballot numbering procedures, please review Section 13 of our Electronic Voting System Procedures Advisory (No. 2019-23)

(Secs. 51.006, 51.007, 51.008, 52.075, 122.001(c), 124.062)

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Ballot Signature / Initials

- Paper ballots used with an electronic voting system must have the following on the back of each ballot:
  - For election day ballots, the presiding judge's signature, or
  - For early voting ballots and ballots by mail, the early voting clerk's initials
- The signature can be placed on the blank ballot stock before it is distributed to voters or before the ballot stock is inserted into the printer tray for the ballot marking device

(Secs. 62.008, 85.0311)

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Ballot Boxes

- Paper ballots that are used with electronic voting systems are subject to the same ballot box requirements as hand-marked paper ballots
- Must be stored in a locked, sealed ballot box
  - For early voting ballots, the ballot box must have two locks with keys retained by different individuals
  - The key (or keys) must be delivered to specific individuals outlined in Texas Election Code 66.060 and 85.032
- This requirement involves some logistical considerations
  - You will need to ensure that you have enough ballot boxes to store your ballots in the original ballot boxes for the initial 60 day period after election day
    - After that 60 day period, they may be transferred to another secure container for the remainder of the 22 month preservation period
  - You will also need to ensure that you have enough storage space to store those records for the duration of the preservation period

(Secs. 62.006, 66.021, 66.058, 66.060, 85.032)

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Counting Your Ballots

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Methods of Counting Ballots

- There are three basic methods of counting paper ballots used in an electronic voting system:
  - Hand counting
  - Precinct scanners
  - Central scanners
- You will need to decide what your method of counting will be for each phase of the voting process
  - Early voting by personal appearance, early voting by mail, election day
  - There is some flexibility in using different methods of counting for different phases of the process (i.e. precinct scanners for in-person voting and central scanners for early voting by mail)
    - However, you cannot use multiple methods of counting for ballots cast in a single phase of the process (for example, you can't use both hand-counting and precinct counters for election day)
  - If you use different methods for different phases of the process, make sure you have a plan for accumulating your results together

(Secs. 123.001, 123.005, 123.006)

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Precinct Scanners

- Precinct scanners are generally designed to be deployed at polling places and early voting locations
  - Scans one ballot at a time
  - Rests on top of a ballot box where the ballots are automatically deposited after being scanned
  - Results are generated by reading the media from the scanner into the EMS system at CCS or by generating a results tape at the polling place
- You can use precinct scanners at a central location
  - Can be used at the EVBB or CCS
  - More feasible for smaller entities than large entities
    - Precinct scanners only scan one ballot at a time, so if you have a lot of ballots to count at a central location, then this method can take a long time

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Central Scanners

- Central Scanners are used at a central location like the CCS
  - Capable of scanning a large number of ballots in a short timeframe
  - Results are generated by reading the media from the central scanner into the EMS system at CCS or by printing a results report from the device
  - May be a useful option for larger entities with a large number of ballots

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Hand Counted Ballots

- Paper-based systems generate paper records, so an entity does have the option of hand counting those paper ballots that are generated by the system
- A hand count of paper ballots is performed according to the hand counting rules outlined in Chapter 65 of the Election Code
  - Conducted at the election day polling place or at the EVBB
    - Cannot conduct a hand count at CCS except in very specific circumstances
  - Same procedures as a hand count of hand-marked paper ballots
  - The Election Judges and Clerks Handbook outlines these procedures in additional detail

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Election Audits and Testing Procedures

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Types of Election Audits and Testing

- Voting systems require several tests and audits before and after the election, including:
  - Acceptance Testing
  - L&A Testing / Tabulation Testing
  - Partial Manual Count
  - Risk-Limiting Audits (eff. Sept. 1, 2026)
- Paper-based systems have slightly different testing procedures than DRE systems
- Paper-based systems also provide opportunities to perform additional audits to validate the paper records against the electronic results

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Acceptance Testing

- When an entity acquires a new voting system, they must perform acceptance testing on the system to verify that the system is properly functioning and to verify that the system that was delivered is the same system that was certified for use in Texas
- When performing acceptance testing, you must do the following:
  - Verify that the system is the same system that was certified by SOS
    - Compare the name and version number of the system to the certification order
  - Perform a hardware diagnostic test and L&A test
  - Perform a hash validation on the system
    - The vendor will provide specific procedures for how to perform this test
    - You will compare the hash generated by the system you received to a trusted hash from SOS or the EAC to verify that they match

(Sec. 129.021)

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L&A and Tabulation Testing with Paper-Based Systems

- For each election, an entity must conduct a Logic and Accuracy Test and three tabulation tests at the following times:
  - L&A Test: At least 48 hours before voting begins
  - 1st Tabulation Test: At least 48 hours before counting begins
  - 2nd Tabulation Test: Immediately before counting begins
  - 3rd Tabulation Test: Immediately after counting is complete
  - NOTE: We recommend that the L&A Test and 1st Tabulation Test occur at the same time and that they be performed before ballots by mail are sent out

(Secs. 127.091, 127.093, 129.023)

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L&A and Tabulation Testing with Paper-Based Systems

- Notice Requirements
  - L&A Test
    - Open to Public
    - Must post notice on website 48 hours before the test begins
  - 1st Tabulation Test
    - Open to Public
    - Must publish notice in newspaper of general circulation 48 hours before the test begins
  - 2nd and 3rd Tabulation Tests
    - No notice requirements
  - We recommend that you combine your L&A Test notice with your 1st Tabulation Test notice and publish the joint notice on your website and in the newspaper

(Secs. 127.091, 127.093, 129.023)

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L&A and Tabulation Testing with Paper-Based Systems

- L&A Test and 1st Tabulation Test
  - Develop a script for testing, and have your testers vote ballots on the ballot marking device according to the script
  - Read the test ballots generated by the ballot marking devices into the tabulating equipment (precinct scanner and/or central scanner)
  - Remove the media from the tabulating equipment and either read it into the central workstation to accumulate the test election results or generate the results from the central scanner
  - Verify that the results of the test election match the expected results from your testing script
- 2nd and 3rd Tabulation Tests
  - Re-read the test media that was generated in the first test into your central workstation
  - Verify that the results of the test election are still correctly tabulated by the central workstation and that they still match the expected results from the testing script

(Secs. 127.093, 127.096, 127.097, 127.098, 129.023)

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Partial Manual Count

- For each election involving paper ballots that are counted by automatic tabulating equipment, the entity must perform a partial manual count of a certain portion of those ballots to verify the electronic voting system results
  - The number of ballots that must be counted and the races involved will depend on the type of election
- General Election for State and County Officers, Primary Election, or Constitutional Amendment Election
  - SOS will select up to three offices and three propositions to be manually counted
  - SOS will designate the precincts in which the partial manual count will be conducted
- All Other Elections
  - Custodian of election records will randomly select a number of precincts equal to 1% of the precincts or three precincts (whichever is greater)
  - A partial manual count of all races on the ballot in those precincts will be conducted

(Sec. 127.201)

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Risk-Limiting Audits

- SB 598 (87th R.S.) requires a Risk-Limiting Audit to be conducted for any election occurring after August 31, 2026
  - SOS will conduct a pilot program with at least 5 counties beginning with the November 2022 election
- Risk-Limiting Audits are a form of audit that involves manually counting a statistical percentage of ballots to verify the election results

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Records Management and Retention

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Records Management Considerations

- Unlike DREs, paper-based systems produce physical paper records of the vote
  - This means that the physical storage requirements for paper-based systems can be much larger than what you traditionally deal with for DREs
  - You will need to plan not only for equipment storage, but also for storage options for your paper ballots and ballot boxes
- Paper-based systems also involve additional chain of custody and records management paperwork
  - Record of Ballot Distribution
  - Register of Official Ballots
  - Register of Spoiled Ballots
  - Ballot and Seal Certificate
  - Record of Ballot Destruction

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Retention Rules for Paper Records

- Paper ballots must be retained in the locked ballot box in which they are delivered to the general custodian for at least 60 days after election day
- On the 61st day after election day, the general custodian may transfer those ballots from their original ballot box into another secure container for the remainder of the 22-month preservation period
- During the 22-month preservation period, the custodian may not make an unauthorized entry into the secure container containing voted ballots or allow another person to make an unauthorized entry into that container
  - This is a Class A misdemeanor
  - Note: Recounts, partial manual counts, risk limiting audits, any other entry into the ballot box authorized by the Election Code or an entry authorized by court order would not be a violation of this section because those entries are not "unauthorized"
- Note: The electronic media from automatic tabulating equipment that is used to count the ballots is subject to the same retention rules as the paper records themselves, and must be retained and secured for the same timeframes outlined above.
  - Must retain the cast vote records on the original media drives from the device for 60 days after election day, and then the original media drives may be reformatted after the initial 60 day period has passed and after those records have been moved to another storage drive for the remainder of the 22 month preservation period.

(Sec. 66.058, Tex. Admin. Code 81.34)

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Public Information Requests
Considerations for Paper-Based Systems

- During the 22-month preservation period, you may not access the secure container containing the voted ballots without a court order or some other express authorization under the Election Code
  - After the preservation period has ended, you may access the secure container containing the voted ballots to fulfill any public information requests that have been made to inspect the voted ballots
- Once you have fulfilled any public information requests and there are no pending criminal or civil matters that require further retention of those records, you may transfer them into another container for long-term storage or destroy them
  - Consult with your county attorney before doing so to verify that there are no outstanding matters that would prevent you from destroying those records

(Sec. 66.058)

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How Do Paper-Based Systems Improve Transparency?

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Transparency With Paper-Based Systems

- Auditability
  - Paper-based voting systems produce a paper record that can be more easily audited
  - Paper records provide opportunities for hand-counts and other auditing methods that do not involve the electronic system
  - This can improve public confidence in the accuracy of those results
- Voter Verifiability
  - Once the voter has finished marking their ballot and before the ballot is cast into the ballot box, the voter can verify that the choices reflected on their paper ballot accurately reflect the choices made on the ballot marking device
  - This can also improve public confidence in the accuracy of voting system results and the auditability of those systems
- Poll Watchers
  - Systems that produce a paper record create a more visible trail from the point in time that the ballot is marked to the point in time that the ballot is cast and counted
  - Poll watchers are entitled to observe any activity occurring at the location in which they are serving, including the counting of ballots and the securing of those ballot boxes and records, except as limited by Election Code 33.057 and 33.058
    - May not observe voter marking their ballot in the voting station unless the voter is being assisted by an election officer (but not if they are being assisted by an assistant of their choice)

TEXAS SECRETARY OF STATE

Thanks for your attention!

Questions?

Elections@sos.texas.gov

AMERICAN OVERSIGHT

From: Elections Internet
Sent: Friday, December 10, 2021 5:04 PM
To: Elections Internet
Subject: MASS EMAIL ADVISORY (CC/EA/VR 1037) - Advisory 2021-23 - May 7, 2022 Election Law Calendar
Attachments: May 7, 2022 Election Law Calendar (FINAL).pdf

Dear Election Officials:

Our office has issued Advisory 2021-23 – May 7, 2022 Election Law Calendar. It is attached to this email as a PDF.

Additionally, there are a few relevant dates and deadlines for those cities, schools, and other political subdivisions that may be having an election in May 2022 that we wanted to draw to your attention.

Important Upcoming Dates

Monday, December 20, 2021 (30th day before Wednesday, January 19, 2022, first day to file an application for a place on the ballot)

- Deadline to Post Notice of Deadline to File Applications for Place on the Ballot in a building in which the authority maintains an office.

Wednesday, January 19, 2022 (30th day before Friday, February 18, 2022, regular filing deadline for a place on the ballot)

- First day to file an application for a place on the ballot or a declaration of write-in candidacy.
  - Application for Place on City/School/Other Political Subdivision Ballot (PDF)
    - If your home rule city or special law district allows for a petition, the following petition may be used: Petition for Place on the City General Election Ballot (PDF)
  - Declaration of Write-In Candidacy for City, School, or other Political Subdivisions (PDF)

Friday, February 18, 2022 (78th day before election day)

- **5:00 p.m. -** Last day for a candidate in a political subdivision (other than a county) to file an application for a place on the ballot for general election for officers for most political subdivisions.
- Deadline for political subdivisions to order a general election to be held on Saturday, May 7, 2022, unless otherwise provided by the Election Code. (Sec. 3.005).
  - Order of Election for Municipalities
  - Order of Election for Other Political Subdivisions (Including Schools)

Filing Method of Candidate Application

- A candidate application may be filed in person, by mail, by fax, or by email.
  - **Filing in Person:** The Elections Division recommends that political subdivisions take steps to have someone available for at least a few hours most days during the candidate filing period to accept filings, and that political subdivisions post a schedule on their websites and on the bulletin boards where notices of meetings are posted of the days and times when someone will be available to accept filings. The Elections Division also strongly recommends having someone available at the place of business on the filing deadline, especially from 2:00 p.m. to 5:00 p.m., if you are otherwise closed.
  - **Filing by Mail**: An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b); 144.005(b)).

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- **Filing by Fax or Email**: A signed, sworn, scanned candidate application (and petition, if applicable) may be submitted by fax or email if there is no filing fee. The SOS recommends that the filing authority establish a dedicated fax number or email address for the submission of candidate applications. This fax number or email address should be posted on the Notice of Deadline to File Applications for Place on the Ballot or wherever information about filing candidate applications is posted. Please be advised that an application must be notarized prior to filing via fax or email.

When posted, this advisory and other resources can be found on our Conducting Elections page. Please let us know if you have any questions or concerns.

Thank you,

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
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The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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May 7, 2022 Election Law Calendar

The uniform election date in May of an even-numbered year is a date on which many local political subdivisions, such as cities, school districts, and water districts, have their regular general elections for members of their governing bodies or special elections to fill vacancies. Additionally, this May uniform election date will include proposed constitutional amendments passed by the Texas Legislature during its recent special sessions. Therefore, this calendar is required to meet the needs of many diverse governmental bodies. If there are questions about the applicability of something in this calendar to your specific election, do not hesitate to call the Elections Division of the Office of the Texas Secretary of State at 1-800-252-VOTE(8683).

Notes

1. Campaign Information
2. Statutory and Administrative Code References
3. Web Posting Requirements
4. May Uniform Date (Even-Numbered Years)
5. Required Use of County Polling Places
6. Notice of Candidate Filing Periods
7. Joint Election Requirement for School Districts
8. Joint Elections Generally
9. Notice of Elections
10. Regular Days and Hours for Voting
11. Extended Early Voting Hours and Branch Locations
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1. Note on Campaign Information

Under Title 15 of the Texas Election Code, candidates running for an office must file campaign contribution and expenditure reports. For further information and all questions about such disclosure filings, campaign finance, and political advertising, please contact the Texas Ethics Commission at 201 E. 14th Street, 10th Floor, Austin, Texas 78701; call 512-463-5800; or access their website.

2. Note on Statutory and Administrative Code References

Unless otherwise indicated, all references are to the Texas Election Code. The county election officer is the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091). The county voter registrar is the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 12.001, 12.031, 31.031, 31.071).

Any references to the Texas Administrative Code are cited to the relevant section of the “T.A.C.”

3. Note on Web Posting Requirements

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Please see our Web Posting Advisory, Election Advisory No. 2019-19 for more details on web posting requirements; however, the requirements are summarized below.

As of January 1, 2020, each county *shall maintain* a website. (Sec. 26.16(a), Tax Code).

A political subdivision with the authority to impose a tax that maintained a publicly accessible website at any time on or after January 1, 2019, and that is not subject to Section 2051.202 of the Government Code must post the following items on the entity's Internet website (Secs. 2051.201, 2051.202, Government Code). *See* Internet Posting Requirements for Political Subdivisions (PDF):

1. The political subdivision's contact information, including a mailing address, telephone number, and e-mail address;
2. Each elected officer of the political subdivision;
3. The date and location of the next election for officers of the political subdivision;
4. The requirements and deadline for filing for candidacy of each elected office of the political subdivision, which shall be continuously posted for at least one year before the election day for the office;
5. Each notice of a meeting of the political subdivision's governing body under Subchapter C, Chapter 551 of the Government Code; and
6. Each record of a meeting of the political subdivision's governing body under Section 551.021 of the Government Code. (Sec. 2051.201, Government Code).

Our office recommends consulting with your political subdivision's local counsel regarding the particular posting requirements under Subdivisions (5) and (6) referenced above. Please note, the requirements for posting notice of meetings and record of meetings of the political subdivision's governing body do not apply to:

1. A county with a population of less than 10,000;
2. A municipality with a population of less than 5,000 located in a county with a population of less than 25,000; or
3. A school district with a population of less than 5,000 in the district's boundaries and located in a county with a population of less than 25,000.

NOTE-NEW LAW: HB 1154 (2021, R.S.) amended the Government Code to include Section 2051.202, effective September 1, 2021. Section 2051.202 of the Government Code requires a special purpose district with certain financial and population characteristics to post specific information on an Internet website. "Special purpose district" excludes from the term a municipality, county, junior college district, independent school district, groundwater conservation district, river authority, or political subdivision with statewide jurisdiction. (Sec. 2051.202, Government Code).

During the 21 days before the election, a debt obligation order under Section 3.009 must be posted on the political subdivision's Internet website, prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website. (Sec. 4.003(f)).

NOTE-NEW LAW: SB 1116 (2021, R.S.) amended Chapter 4 of the Election Code by adding Section 4.009 regarding candidate and polling place information which must be posted on county, city, and school district websites. Specifically, not later than the 21st day before election day, a county that holds an election or provides election services for an election must post certain information related to their upcoming elections. 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 date of the election;
- The location of each polling place;
- Each candidate for an elected office on the ballot; and
- Each measure on the ballot. (Sec. 4.009)

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NOTE-NEW LAW: SB 1116 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.016 of the Code regarding election results information which must be posted on county, city, and school district websites. Specifically, a county that holds an election or provides election services for an election for a public entity must post certain information on their website. 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 such information. Information should be posted **as soon as practicable after the election** and must be accessible without having to make more than two selections or view more than two network locations after accessing the home page of the county, city or school district, whichever is applicable. Required information on the websites must include:

- the results of each election;
- the total number of votes cast;
- the total number of votes cast for each candidate or for or against each measure;
- the total number of votes cast by personal appearance on election day;
- the total number of votes cast by personal appearance or mail during the early voting period; and
- the total number of counted and uncounted provisional ballots cast. (Sec. 65.016).

4. Note on May Uniform Date (Even-Numbered Years)

With few exceptions, counties are not authorized to hold an election ordered by county authority on the May uniform election date in an **even-numbered year**. A county elections administrator may refuse to provide election services by contract for an election that is held on the May uniform election date in an **even-numbered year**. (Sec. 41.001(d)). This remains true even though counties will be conducting a constitutional amendment election. However, it is **strongly recommended** that counties contract with political subdivisions to ensure uniform polling places for voters.

5. Note on Required Use of County Polling Places

Political Subdivisions other than Counties: Political subdivisions are not required to use county election precincts and polling places for elections held on the May uniform date. The governing body of a political subdivision other than a county shall establish the election precincts for elections ordered by an authority of the political subdivision and follow the requirements of Secs. 42.061 and 42.0615.

Counties: Counties are required to use county election precincts and polling places for a special election ordered by the governor. (Sec. 42.002(a)(2)).

NOTE - In a special election for which use of county election precincts is required, the commissioners court may consolidate, on the recommendation of the county election board, two or more county election precincts into a single precinct if the polling place is located so it will adequately serve the voters of the consolidated precinct. If county election precincts are consolidated for a countywide election, at least one consolidated precinct must be situated wholly within each commissioners precinct. (Sec. 42.008).

NOTE – When a county is using the countywide polling place program and a court order requires any of the polling locations to remain open past 7 PM, then ALL countywide polling place locations MUST remain open for the same amount of time, as ordered by the court order. (Sec 43.007).

NOTE – While a county elections administrator may refuse to provide election services by contract for an election that is held on the May uniform date in an even-numbered year, it is **strongly recommended** that counties contract with political subdivisions to ensure uniform polling places for voters.

6. Note on Notice of Candidate Filing Periods

The authority with whom an application for a place on the ballot is filed must post a Notice of Deadline to File Applications for Place on the Ballot (PDF), listing the filing period dates in a building in which the authority maintains an office. The notice must be posted not later than the 30th day **before** the first day to file. (Sec. 141.040). If you order a special election to fill a vacancy, the order must include the filing deadline; we recommend posting the notice

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of the filing period as soon as practicable after a special election is ordered. Note that an application for a place on the ballot for a special election may not be filed before the election is ordered.

> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) requires the authority with whom an application for a place on the ballot is filed to designate an e-mail address in the notice required by Section 141.040 of the Code for the purpose of filing an application for a place on the ballot. (Sec. 141.040).

7. Note on Joint Election Requirement for School Districts

School districts conducting trustee elections must have joint polling places on election day with either:

1. a city holding an election on the uniform election day (located wholly or partly within the school district's boundaries);
2. a public junior college district if it is having an election for members of its governing board in which the school district is wholly or partly located;
3. in limited circumstances, a hospital district; or
4. the county on the November uniform election day in even-numbered years.

For purposes of this calendar, we will continue to use separate subheads for cities and school districts when their rules are different. However, many entities will be working out joint election agreements. (Sec. 11.0581, Texas Education Code; Sec. 271.002).

NOTE – At minimum, a school district needs to share polling places with a city or public junior college district conducting an election on the uniform election day. Sharing polling places is sufficient to meet the joint election requirement.

8. Note on Joint Elections Generally

Many entities will have joint elections for the May 7, 2022 election. Note that the entries in this calendar are generally written in terms of elections held individually rather than jointly. Depending on the plan, different entities may choose not to hold early voting together and to do things separately. Not all joint election plans are alike. With a few exceptions, we do not discuss the impact of coordinating rules for a joint election, as we think this would make the calendar longer and confusing. We encourage joint election partners to read through the entire calendar, taking note of the rules affecting the partner entities, and to address the differences within the agreement itself. If you have questions about how different rules apply to a particular joint election plan, please contact our office by phone or email.

9. Note on Notice of Elections

Political subdivisions other than cities and school districts may have specific statutory notice requirements. In the absence of specific statutory requirements, such political subdivisions must post a notice on or before the 21st day before the election. (Sec. 4.003(b)). For the Saturday, May 7, 2022 election, this notice must be posted on or before Saturday, April 16, 2022. (Secs. 1.006, 4.003(b)). 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 21st day before the election, Saturday, April 16, 2022. (Sec. 4.003(a)(2)).
2. By publishing the notice at least once between the 30th day and the 10th day before the election, Thursday, April 7, 2022–Wednesday, April 27, 2022. (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, April 27, 2022. (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)). Counties, school districts, and cities must also publish notice on the governmental bulletin board used for posting notice of public meetings, no later than April 16, 2022. (Sec. 4.003(b).

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Note for Counties: Notice of an election ordered by the governor or by a county authority must be published in a newspaper; the county may also give any additional notice. (Secs. 4.003(a)(1), 4.003(c)).

Notice for State Constitutional Amendment Election: The constitutional amendment election is ordered by the governor. However, the commissioners court should also complete a local order (PDF) to ensure that all required actions related to the election have been completed. Additionally, your county may post notice of the election on the commissioners court bulletin board and must also provide notice under the method authorized under number 2 above. (Secs. 4.002(1), 4.003(a) and (b)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) provides that in addition to any other notice given, notice of an election ordered by the governor, by a county authority, or by an authority of a city or school district must be given by the method prescribed by Section 4.003(a)(1) of the Code. (Sec. 4.003(c)).

This notice must include:

1. The type and date of the election;
2. The location of the main early voting polling place**, including the street address, room number, and building name. The notice must designate which location is the main early voting polling place**;
3. The location of each polling place, **including the street address, room number, and building name**;
4. The hours the polls will be open;
5. The regular dates and hours for early voting by personal appearance;
6. The dates and hours of any Saturday or Sunday early voting;
7. 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;
8. We ***recommend*** that the information regarding branch early voting locations be included as part of your notice; and
9. Any other information required by law.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 4.004 of the Code to require the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 85.004 of the Code to provide that an election order and election notice must designate which location is the main early voting polling place. (Sec. 85.004).

NOTE – ANY notice of polling locations must include more detailed information regarding the polling locations including: the polling location's street address, any applicable suite or room number, and any applicable building name. (Sec. 1.021).

Note regarding branch early voting locations: The branch early voting locations are no longer a required part of your notice under the Texas Election Code. (Sec. 4.004).

The following forms may be used:

- Notice of General Election for Cities (PDF)
- Notice of General Election for Other Political Subdivisions (Including Schools) (PDF)
- Notice of Special Election for Counties (PDF)

All Political Subdivisions: The election notice shall be posted on the political subdivision's website, if the political subdivision maintains a website. For political subdivisions other than counties, the original order and notice should include all days and hours for early voting by personal appearance, including voting on **ANY** Saturday or Sunday.

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(Secs. 85.006, 85.007). **Note for counties**, the election notice must be subsequently amended to include voting ordered for **ANY** Saturday or Sunday and must be posted on the political subdivision's website, if maintained.

Notice for Bond Elections: Entities holding bond elections must provide additional notice per Section 4.003(f). A debt obligation order under Section 3.009 must be posted:

1. On election day and during early voting by personal appearance, in a prominent location at each polling place;
2. Not later than the 21st day before the election, in three public places in the boundaries of the political subdivision holding the election; and
3. During the 21 days before the election, on the political subdivision's Internet website, prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website.

The same requirements apply to the voter information document required by Government Code Section 1251.052(b) (see law for full contents of notice). The requirement referenced in Section 1251.052(b) of the Government Code applies to a political subdivision with at least 250 registered voters on the date the governing body of the political subdivision adopts the debt obligation election order.

Home-Rule Charter Cities: Home-rule cities MUST also give notice as provided in their charters.

Notice for Political Subdivisions other than Counties, School Districts, and Cities: Political subdivisions other than counties, school districts, and cities may have specific statutory election notice requirements either in their enabling acts or in the code governing them (such as the Water Code). In the absence of specific statutory requirements, such political subdivisions may post a copy of the notice on or before the 21st day before the election (i.e., Saturday, April 16, 2022) on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision. (Sec. 4.003(b)).

Note for All Political Subdivisions, Except Counties: The governing body of a political subdivision must deliver notice of the election to the county election officer and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day, Tuesday, March 8, 2022. (Sec. 4.008).

Note for Counties: 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. *See* Note for All Political Subdivisions above.

Notice of Nearest Polling Places in Countywide Election: EACH countywide polling place must post a notice, at that location, of the four nearest locations, by driving distance. (Sec. 43.007(o)). Notice of Four Nearest Countywide Polling Place Locations (PDF)

10. Note on Regular Days and Hours for Voting

NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 85.005 to modify the required days and hours for early voting by personal appearance.

Counties: For elections in which the county is serving as the early voting clerk, early voting must be conducted at the main early voting location on each weekday that is not a legal state holiday for a period of at least **nine (9) hours**. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.

Political Subdivisions Other Than Counties: For all other elections in which the county is **NOT** the early voting clerk, early voting must be conducted at the main early voting location on each weekday that is not a legal state holiday for a period of at least **nine (9) hours** unless the territory has fewer than 1,000 registered votes. For territories with less than 1,000 registered voters, voting shall be conducted for at least **four (4) hours** each day. (Sec. 85.005(b)).

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NOTE for Cities: SB 1 (2021, 2nd C.S.) amended Section 85.005(d) to remove the provision that required cities 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).

11. Note on Extended Early Voting Hours and Branch Locations

In a county with a population of **55,000 or more**:

- Voting in a primary election or general election for state and county officers shall be conducted at the main early voting location for at least 12 hours on each weekday of the last week of the early voting period. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.
- **Voting in a special election ordered by the governor shall be conducted at the main early voting location for at least 12 hours on each of the last two days of the early voting period. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.**
- Voting in a primary election or general election for state and county officers shall be conducted at the main early voting location on the last Saturday of the early voting period for at least 12 hours. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.
- Voting in a primary election or general election for state and county officers shall be conducted at the main early voting location on the last Sunday of the early voting period for at least six hours. Voting may not be conducted earlier than 9:00 AM or later than 10:00 PM.

In a county with a population of **less than 55,000**:

- Voting in a special election ordered by the governor must be conducted at the main early voting location for at least 12 hours on each of the last two days of the early voting period if the early voting clerk receives a written request (PDF) submitted by at least 15 registered voters of the county requesting extended weekday hours. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM. The request must be submitted in time to enable compliance with Sec. 85.067. See Notice of Extended Weekday Voting at Main Early Voting Location for County Elections (PDF).
- On receipt of a written request submitted by at least 15 registered voters, voting shall be conducted at the main early voting location on the last Saturday of the early voting period for at least 12 hours. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.
- On receipt of a written request submitted by at least 15 registered voters, voting shall be conducted at the main early voting location on the last Sunday of the early voting period for at least six hours. Voting may not be conducted earlier than 9:00 AM or later than 10:00 PM.

Note for Counties: The county election officer may also order early voting on a Saturday or Sunday, and determine the hours for such Saturday or Sunday early voting. This must be done by written order (PDF). (Secs. 85.006(b), 85.006(c)). Notice (PDF) of Saturday or Sunday early voting must be posted for at least 72 hours immediately preceding the first hour that voting will be conducted. (Sec. 85.007(c)). The county election officer must have early voting on Saturday or Sunday, *if* a written request (PDF) is received from at least 15 registered voters of the county in time to comply with the posting requirement. (Secs. 85.006(d), 85.007).

Note: The election notice must be subsequently amended to include voting later ordered for ANY Saturday or Sunday and must be posted on the political subdivision's website, if maintained. (Sec. 85.007).

All Political Subdivisions, *Except* Counties: Voting on **ANY** Saturday or Sunday must be included in the order and notice of election. The order and notice must include the dates and hours of Saturday or Sunday voting. (Secs. 85.006, 85.007). The political subdivision **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Sec. 85.006(d)). The election notice must be posted on the political subdivision's website, if the political subdivision maintains a website. (Sec. 85.007).

NOTE for Cities – NEW LAW: SB 1 (2021, 2nd C.S.) provides that in an election in which a city secretary is the early voting clerk, voting on any Saturday or Sunday **must** be included in the order and notice of election. City secretaries no longer have the authority to order Saturday or Sunday early voting 72 hours immediately preceding

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the first hour that voting will be conducted. However, the city **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Secs. 85.006, 85.007).

12. Note on Temporary Branch Locations

Effective September 1, 2021, the rules for temporary branch locations are different for counties with a population of 100,000 or more.

Note for Counties with a Population of 100,000 or More and Political Subdivisions Situated in Such a County: Early voting at any temporary branch polling place **MUST** be conducted on the same days that voting is required to be conducted at the main early voting polling place under Section 85.005 of the Code and **MUST** remain open for at least eight hours each day. For certain political subdivisions, this will require your temporary branch locations to be open on every weekday of the early voting period, for at least eight hours on each of those days. **This only applies to an election in which the territory served by the early voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the early voting clerk is situated in more than one county, this section applies if the sum of the populations of the counties is 100,000 or more.** (Secs. 85.005 and 85.064).

NOTE for political subdivisions other than city or county – If the city or county election officer does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters, the temporary branch polling place(s) must be open for at least three hours each day that voting is required to be conducted at the main early voting polling place under Section 85.005 of the Code. **This applies if the territory served by the early voting clerk is in a county with a population of 100,000 or more. In an election in which the territory served by the early voting clerk is situated in more than one county, this also applies if the sum of the populations of the counties is 100,000 or more.** (Secs. 85.005 and 85.064).

NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.064 of the Code to provide that the section only applies to an election in which the territory served by the early voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the clerk is situated in more than one county, this section applies if the sum of the populations of the counties is 100,000 or more. (Sec. 85.064).

NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.068 of the Code to provide that if the early voting clerk is a county election officer or city secretary, the clerk must post notice (PDF) for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Sections 85.064(d) or 85.065(b). (Sec. 85.068).

Note for Counties with a Population of Less than 100,000 and Political Subdivisions Situated in Such a County: Early voting at any temporary branch polling place may be conducted on any days and during any hours of the period for early voting by personal appearance, as determined by the authority establishing the branch. However, voting at a temporary branch polling place must be conducted on at least two consecutive business days and for at least eight consecutive hours on each of those days. The authority authorized under Section 85.006 of the Code to order early voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. The schedules for conducting voting are not required to be uniform among the temporary branch polling places. **This applies only to an election in which the territory served by the early voting clerk is situated in a county with a population under 100,000. In an election in which the territory served by the early voting clerk is situated in more than one county, this applies if the sum of the populations of the counties is under 100,000.** (Sec. 85.065)

NOTE - NEW LAW: HB 3107 (2021, R.S.) added Section 85.065 of the Code to modify the requirements regarding the days and hours for early voting by personal appearance at any temporary branch polling place if the territory served by the early voting clerk is situated in a county with a population under 100,000 or if the territory served by the early voting clerk is situated in more than one county and the sum of the populations of the counties is under 100,000. (Sec. 85.065).

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NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.068 of the Code to provide that if the early voting clerk is a county election officer or city secretary, the clerk must post notice (PDF) for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Sections 85.064(d) or 85.065(b). (Sec. 85.068).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 85.062 to provide that the location of temporary branch polling places in an election in which countywide polling places are used must be determined with the same methodology that is used for the location of countywide polling places.

13. Note on Notice of Previous Polling Place

If a different polling place is being used from the previous election held by the same authority, a Notice of Previous Precinct (PDF) must be posted at the entrance of the previous polling place informing voters of the current polling place location, if possible. (Sec. 43.062).

14. Note on Notice of Change of Polling Place Location:

For elections ordered by the **governor or county judge only**, if the location of the polling place changes after notice has been given under Section 4.003 of the Texas Election Code, and the county election officer maintains a website to inform voters about elections, the notice of the change must be posted on the website. The notice on the website must be posted not later than the earlier of (1) 24 hours after the location was changed; or (2) 72 hours before the polls open on election day. (Sec. 43.061). If the county election officer is conducting a legislative vacancy election, the candidates listed on the ballot are entitled to receive notice directly from the county judge.

15. Note on Testing Tabulating and Electronic Voting Equipment

Ballot Testing:

Once all candidate filing deadlines have passed, we recommend that you proof and test your ballot programming as soon as possible. Early testing will allow adequate time to locate any errors and make any necessary corrections in ballot programming. We also strongly suggest that you have candidates proof their names and offices before finalizing the ballot to avoid the necessity for last minute ballot corrections.

Logic and Accuracy Test:

We recommend establishing a date to perform the test of your electronic voting equipment (L&A, or Logic and Accuracy Test) as soon as possible. We recommend that this test be performed on a date that allows time to correct programming and retest, if necessary. A notice of this test must be published by the custodian of the electronic voting equipment at least 48 hours before the date of the test. (Sec. 129.023; Tex. Sec'y of State Election Advisory No. 2019-23). The L&A test must be conducted not later than 48 hours before voting begins on a voting system. (Sec. 129.023).

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) requires the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

Testing Tabulating Equipment:

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The automatic tabulating equipment used for counting ballots at a central counting station must be tested three times for each election. (Ch. 127, Subch. D). We recommend you test the equipment as soon as possible; early testing will allow adequate time to locate any errors and make any necessary corrections in programming. However, the first test **must be conducted at least 48 hours before** the automatic tabulating equipment is used to count ballots voted in the election. The second test shall be conducted immediately before the counting of ballots with the equipment begins. The third test must be conducted immediately after the counting of ballots with the equipment is completed. Please note that the custodian of the automatic tabulating equipment must publish notice of the date, hour, and place of the first test in a newspaper at least 48 hours before the date of the test. (Sec. 127.096). The electronic files created from the L&A testing are what must be used for testing the tabulating equipment. (Tex. Sec'y of State Election Advisory No. 2019-23).

Precinct tabulators must also be tested in accordance with the procedures set forth in Chapter 127, Subchapter D of the Texas Election Code to the extent those procedures can be made applicable. (Sec. 127.152; Tex. Sec'y of State Election Advisory No. 2019-23).

Our recommendation is that both L&A testing and testing of the automatic tabulating equipment take place prior to ballots by mail being sent out. However, should there be a reason to delay testing, please be advised that L&A testing must be conducted at least 48 hours before voting begins on a voting system. This means that L&A testing should be completed before early voting and possibly, before election day, if your election day system is different than your early voting system. Additionally, the automatic tabulating equipment may not be used to count ballots voted in the election until a test is successful. (See Chapters 127 and 129, Election Code).

For more information on testing tabulating equipment used at the central counting station, please see Chapter 127, Subchapter D of the Election Code and Tex. Sec'y of State Election Advisory No. 2019-23. See Chapter 129, Subchapter B of the Election Code and Tex. Sec'y of State Election Advisory No. 2019-23 **for other types of testing such as functionality tests, logic and accuracy tests, tests for central accumulators, etc**. Please see Tex. Sec'y of State Election Advisory No. 2019-23 for additional information regarding voting system equipment access, security and preservation, and chain of custody.

16. Note on Accepting Voters with Certain Disabilities

All Political Subdivisions:

An election officer may accept a person with a mobility problem that substantially impairs a person's ability to ambulate who is offering to vote before accepting others offering to vote at the polling place who arrived **before** the person. "Mobility problem that substantially impairs a person's ability to ambulate" has the meaning assigned by Section 681.001, Transportation Code. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order priority. Notice of the priority given to persons with a mobility problem that substantially impairs a person's ability to ambulate **shall** be posted:

1. at one or more locations in each polling place where it can be read by persons waiting to vote;
2. on the website of the Secretary of State; **and**
3. on each website relating to elections maintained by a county. (Sec. 63.0015).

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) provides that a qualified individual with a disability may 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. (Sec. 1.022).

The voting order priority notice required under Section 63.0015 **must** read as follows:

> "Pursuant to Section 63.0015, Election Code, an election officer may give voting order priority to individuals with a mobility problem that substantially impairs the person's ability to move around. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order priority. Disabilities and conditions that may qualify you for voting order priority include paralysis, lung disease, the use of portable oxygen, cardiac deficiency, severe limitation in the ability to walk due to arthritic, neurological,

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or orthopedic condition, wheelchair confinement, arthritis, foot disorder, the inability to walk 200 feet without stopping to rest, or use of a brace, cane, crutch, or other assistive device."

The ***recommended*** time to include the voting order priority notice on a county website is when the Notice of Election is also posted on the website. (Sec. 85.007(d)). See Note 9 regarding Notice of Elections.

Cities, Schools, and Other Political Subdivisions: It is ***strongly recommended*** that the notice regarding accepting voters with certain disabilities also be posted on the subdivision's website, if one is maintained by the political subdivision.

17. Note on Law Regarding Faxed or Emailed ABBMs and Faxed FPCAs

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).

If a voter faxes or emails the ABBM or faxes the FPCA, the date the early voting clerk receives the fax or email is considered the date of submission. Essentially, the faxed or emailed form serves as a place-holder for the voter. Therefore, a voter whose application was faxed or emailed by the 11th day before election day (the deadline), and whose original application is received on or before the 4th business day after that date, would still be entitled to receive a ballot for the election (if otherwise eligible). The early voting clerk will have to hold the faxed or emailed ABBM or faxed FPCA until the clerk receives the original, and would only send the voter a ballot if the original is received by the 4th business day after the faxed or emailed ABBM or faxed FPCA was received. *See* Tex. Sec'y of State Election Advisory No. 2018-02.

The requirement to mail the original application does not apply to an **emailed** FPCA, but does apply to a faxed FPCA.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 84.008 of the Code to provide 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 now 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.) (Sec. 84.008).

18. Note on Opportunity to Correct Defects in Mail Ballots

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NEW LAW: Pursuant to SB 1 (2021, 2nd C.S.), effective December 2, 2021, the early voting ballot board, or signature verification committee (if one is appointed), will need to provide voters voting a ballot by mail the opportunity to correct certain defects in the voter's carrier envelope containing the voter's ballot.

Early Voting Ballot Board: Section 87.0411 provides a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an early voting ballot board discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. Poll watchers are entitled to observe these activities by the early voting ballot board.

Signature Verification Committee (if appointed): Section 87.0271 provides a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after a signature verification committee discovers the defect and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, the committee shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the committee determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the signature verification committee takes one of the actions described above, the committee must take that action with respect to each ballot in the election that to which these options apply. Poll watchers are entitled to observe these activities by the signature verification committee.

The Secretary of State is authorized to prescribe any procedures necessary to implement Sections 87.0271 and 87.0411. (Secs. 87.0271(f), 87.0411(f)). The Secretary of State will issue such procedures prior to the May 2022 election.

Calendar of Events

December

Monday, December 20, 2021 (30th day before Wednesday, January 19, 2022, first day to file an application for a place on the ballot)

Cities, Schools, and Other Political Subdivisions: Post Notice of Deadline to File Applications for Place on the Ballot in a building in which the authority maintains an office. The notice must be posted not later than the 30th day before the first day to file. (Sec. 141.040; Sec. 49.113, Water Code). This notice must be posted in addition to the posting the requirements and deadline for filing for candidacy under Section 2051.201, Government Code. (See Note 3, above.)

Water Districts: The notice must be posted at the district's administrative office or at the public place established by the district under Section 49.063 of the Water Code. (Sec. 49.113, Water Code).

NOTE-NEW LAW: HB 3107 (2021, R.S.) requires the authority with whom an application for a place on the ballot is filed to designate an e-mail address in the notice required by Section 141.040 of the Code for the purpose of filing an application for a place on the ballot.

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NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include with the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

January

Saturday, January 1, 2022

First day for voters to submit an **application** for a ballot by mail (ABBM) for an election in 2022. The application is considered submitted at the time of receipt. (Secs. 84.001(e), 84.007).

First day for voters to submit an ABBM, an Annual ABBM, or a Federal Postcard Application (FPCA). The Annual ABBM and FPCA allows the voter to receive ballots for all elections in which they are eligible to vote held in 2022. Voters who will be 65 or older on election day or voters with a disability are eligible to submit an annual application. The application is considered submitted at the time of receipt. (Secs. 84.001(e), 84.007, 86.0015).

Wednesday, January 19, 2022 (30th day before Friday, February 18, 2022, regular filing deadline for a place on the ballot)

First day to file an application for a place on the ballot or a declaration of write-in candidacy. (Secs. 143.007, 144.005, Election Code; Secs. 11.055, 130.082(g), Educ. Code). *See* Candidacy Filing outline for more details. The following forms are available on the Secretary of State's website:

- Application for Place on City/School/Other Political Subdivision Ballot (PDF)
- If your home rule city or special law district allows for a petition, the following petition may be used: Petition for Place on the City General Election Ballot (PDF)
- Declaration of Write-In Candidacy for City, School, or other Political Subdivisions (PDF)

NOTE: We are often asked how filing can begin if you have not yet ordered the general election. You do not need to order your **general** (regularly occurring) election in order for the filing period to begin.

NOTE - Cities, Schools, and Other Political Subdivisions: There are political subdivisions that do not have office hours on all days of the business week (Monday through Friday) or do not have an office that is open for eight hours each day of the business week. The Elections Division recommends that political subdivisions take steps to have someone available for a few hours most days during the candidate filing period to accept filings, and that political subdivisions post a schedule on their websites and on the bulletin boards where notices of meetings are posted of the days and times when someone will be available to accept filings. The Elections Division also strongly recommends having someone available at the place of business on the filing deadline, especially from 2:00 PM to 5:00 PM, if you are otherwise closed. This guideline is based on the office-hour rule under Section 31.122 of the Election Code. Although a political subdivision may accept applications by mail, fax, or email without a person present at the office, the political subdivision will not be able to determine which applications were timely filed by 5:00 PM.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Sections 143.004 and 144.003 of the Code to provide that candidate applications, other than those that must be accompanied by a filing fee, may be filed via

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email. The application must be a scanned copy of the candidate application and must be sent to the filing authority's designated email address for accepting applications. (Secs. 143.004, 144.003).

Monday, January 31, 2022 (last weekday before February)

Recommended date that county election officials and local political subdivisions meet to discuss conducting elections at the same polling locations pursuant to Section 42.002, as well as any applicable joint election issues needed to be agreed upon. **NOTE: This is not a deadline; just a recommendation.**

February

February Term

Recommended time for the county commissioners court to decide whether to consolidate county election precincts for the May 7, 2022 state constitutional amendment election. The county may consolidate two or more precincts into a single precinct if it will be so located as to adequately serve the voters. At least one consolidated precinct must be wholly within each commissioners precinct. If a county consolidates county election precincts, they must provide a Notice of Consolidated Precinct (PDF) at each polling place used in the preceding general election to inform voters of the precinct's consolidation and the location of the consolidated precinct polling place. This notice must be posted not later than the 10th day before election day and must remain posted continuously through election day. (Secs. 42.008, 4.003(b)). The county shall deliver to the Secretary of State notice of the consolidated precinct no later than the date of the election. (Sec. 4.003(e)).

Monday, February 7, 2022 (89th day before election day, extended from 90th day, Sunday, February 6, 2022, Sec. 1.006)

Last day for eligible political subdivisions to submit Notice of Exemption Under Section 61.013 or an Application of Undue Burden Status to the Secretary of State for exemption from the accessible voting system requirement. (Sec. 61.013). For additional information, consult the most current advisory on this topic, Tex. Sec'y of State Election Advisory No. 2021-02.

Tuesday, February 15, 2022 (81st day before election day; 3rd day before filing deadline)

Political Subdivisions Other Than Counties: If a candidate dies on or before this date, his or her name is not placed on the ballot, if the filing deadline is Friday, February 18, 2022. (Sec. 145.094(a)(1)).

NOTE: Section 145.098 states if a candidate dies on or before the deadline for filing an application for a place on the ballot, the authority responsible for preparing the ballots MAY choose to omit the candidate. If the authority does choose to omit the candidate, the deadline for filing an application for a place on the ballot is extended to the fifth day after the filing deadline, Wednesday, February 23, 2022. This extended deadline only applies to the regular filing deadline. It **DOES NOT** apply to the write-in deadline.

Friday, February 18, 2022 (78th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM - Last day for a candidate in a political subdivision (other than a county) to file an application for a place on the ballot for general election for officers for most political subdivisions, except as otherwise provided by the Texas Election Code. (Secs. 143.007(c), 144.005(d); Sec. 11.055, Education Code; Chapter 286, Health & Safety Code). *See* Candidacy Filing outline for more details.

NOTE – A home-rule city's charter may **NOT** provide an alternate candidate filing deadline. (Secs. 143.005(a), 143.007).

NOTE – City Offices with Four-Year Terms: If no candidate has filed for a city office with a four-year term, the filing deadline is extended to 5:00 PM on Friday, March 11, 2022. (Sec. 143.008).

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NOTE – An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b), 144.005(b)).

Deadline for political subdivisions to order a general election to be held on Saturday, May 7, 2022, unless otherwise provided by the Election Code. (Sec. 3.005). One of the following forms may be used:

- Order of Election for Municipalities
- Order of Election for Other Political Subdivisions (Including Schools)

Political Subdivisions Other Than Counties (Special Election): Deadline to order a special election on a measure to be held on Saturday, May 7, 2022. The following form may be used:

- Order of Special Election for Municipalities (PDF)

Notice for State Constitutional Amendment Election: The constitutional amendment election is ordered by the governor**.** However, the commissioners court should also complete a local order (PDF) to ensure that all required actions related to the election have been completed.

The order must include:

1. The date of the election;
2. The location of the main early voting polling place **including the street address, room number, and building name. The order must designate which location is the main early voting polling place;**
3. The offices or measures to be voted on;
4. **(*Recommended*)** Branch early voting polling places (*see* Notice of Elections above);
5. The dates and hours for early voting (recommended for counties and cities, but required for all other entities);
6. The dates and hours of any Saturday and Sunday early voting (if applicable, it is recommended that this information be included in the order for counties, but it must be included for all other entities); and
7. 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.

In addition to the information included above, an order for a debt obligation (bond) election **must** include (Sec. 3.009):

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

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

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TX-SOS-24-0322-C-000671

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 85.004 of the Code to provide that an election order and election notice must designate which location is the main early voting polling place. (Sec. 85.004).

Recommended date to order the lists of registered voters from the county voter registrar. The list should include both the voters' residences and mailing addresses in order to conduct early voting by mail. (Sec. 18.006). The political subdivision should confirm that the most recent maps or boundary changes have been provided to the voter registrar.

Recommended date to confirm telephone number for the county voter registrar's office on election day.

Recommended date to order election supplies, other than ballots. (Subchapter A, Chapter 51).

Political Subdivisions Other Than Counties: ***Recommended*** date to appoint **presiding and alternate judges**. Currently, the Election Code does not establish a deadline for appointing election officials; there is only a notification deadline. For further information concerning procedures for appointing judges and their alternates, see Sections 32.005, 32.008, and 32.011. General eligibility requirements are found in Subchapter C, Chapter 32. In addition to appointing a judge and alternate judge for each election precinct pursuant to Sections 32.001 and 32.005, the governing body must allow the judge to appoint no less than two clerks; however, the alternate judge must serve as one of the clerks as a matter of law. (Secs. 32.032, 32.033). The presiding judge then appoints an additional clerk(s), but not more than the maximum set by the governing body. (Sec. 32.033). Presiding judges and their alternates must be given a Notice of Appointment not later than the 20th day after the appointment is made. (Sec. 32.009). If the appointment is for a single election, the notice may be combined with the Writ of Election, which is required to be delivered to each presiding judge not later than the 15th day before the election, Friday, April 22, 2022. (Secs. 4.007, 32.009(e)). If the notices are combined, both must be delivered by the date required by the earlier notice.

Water Districts: A water district is not required to provide a Notice of Appointment to a presiding judge, as required under Section 32.009, but must provide a Writ of Election. (Sec. 4.007; Sec. 49.110, Water Code).

Recommended date to appoint the **central counting station personnel** (manager, tabulation supervisor and assistants to the tabulation supervisor), if applicable. (Secs. 127.002, 127.003, 127.004, and 127.005). There is no statutory notice requirement for members of the central counting station, but good practice suggests that written notice be given to them.

Recommended date to appoint the **presiding judge and alternate presiding judge of the early voting ballot board** or to designate the election workers of one election precinct to serve as the early voting ballot board. (Secs. 87.001, 87.002, and 87.004). There is no statutory notice requirement for members of the early voting ballot board, but good practice suggests that written notice be given to them.

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 87.002 to require the early voting ballot board to have an alternate judge. The alternate judge is appointed in the same manner as the presiding judge.

Tuesday, February 22, 2022 (74th day before election day)

5:00 PM - Deadline for write-in candidates to file Declarations of Write-In Candidacy (PDF) for regular officers for city, school district, library district, junior college district, hospital district, common school districts, Chapter 36 and 49 Water Code districts, and other political subdivision elections, unless otherwise provided by law. (Secs. 144.006(b), 146.054(b), 146.055, Election Code; Secs. 11.056, 11.304, 130.0825, Education Code; Sec. 326.0431, Local Government Code; Sec. 285.131, Health and Safety Code; and Secs. 36.059, 49.101, 63.0945, Water Code). See Candidacy Filing outline for more details.

NOTE: An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b), 144.005(b)).

Wednesday, February 23, 2022 (73rd day before election day; 5th day after regular filing deadline)

If a candidate dies on or before the deadline for filing an application for a place on the ballot, the authority responsible for preparing the ballots MAY choose to omit the candidate. If the authority does choose to omit the candidate, the deadline for filing an application for a place on the ballot is extended to the fifth day after the filing deadline, February

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23rd. This extended deadline only applies to the regular filing deadline. It does NOT apply to the write-in deadline. (Sec. 145.098).

Thursday, February 24, 2022 (72nd day before election day)

First day to post Notice of Drawing for Place on Ballot if drawing is to be conducted on Monday, February 28, 2022. This notice must be posted for 72 hours immediately preceding the time of the drawing. (Sec. 52.094(c)).

> **For an election held by a political subdivision, other than a city**, a notice of ballot position drawing must be **mailed** to candidates by this day (not later than the 4th day before the drawing) if drawing is to be conducted on Monday, February 28, 2022. (Sec. 52.094(d)). Candidates who have not filed by this date should be given a copy of the notice at the time of filing.
>
> **For an election held at county or city expense**, if a candidate gives the filing authority a written request, accompanied by a stamped, self-addressed envelope, the filing authority must mail the candidate a notice of ballot position drawing. (Sec. 52.094(d)).
>
> > **NOTE-NEW LAW**: Effective September 1, 2021, HB 3107 (2021, R.S.) amended Section 52.094 of the Code to require the authority conducting the drawing to provide notice of the date, hour, and place of the drawing to each candidate by: 1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or 2) provided at the time the candidate files an application with the appropriate authority. If notice was not provided at the time the candidate filed an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

Friday, February 25, 2022 (71st day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to withdraw, by submission of a notarized Certificate of Withdrawal or a notarized letter. **If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot**. (Secs. 145.092(f), 145.094(a)(4), 145.096(a)(4)). For special circumstances regarding withdrawal of a candidate before ballots are prepared, please contact the Elections Division of the Office of the Texas Secretary of State.

Political Subdivisions Other Than Counties: 5:00 PM – Last day to **withdraw** as a **write-in** candidate in the general election ordered by a political subdivision other than a county. (Secs. 144.006(c), 146.0301, 146.054(c)). (Candidates may use the Certificate of Withdrawal (PDF)).

Recommended first day that an election may be cancelled **if** all filing deadlines have passed, each candidate for an office listed on the ballot is unopposed (except as discussed below), and write-in votes may be counted only for names appearing on a list of write-in candidates. (Sec. 2.052). The Certification of Unopposed Candidates for Other Political Subdivisions may be used to certify candidates as unopposed. Also, see our Sample Order of Cancellation.

A special election of a political subdivision is considered to be a separate election with a separate ballot from a general election for officers of the same political subdivision held at the same time as the special election. Therefore, the fact that there may be a proposition on the ballot will not prevent a cancellation of an election for candidates who are unopposed. (Sec. 2.051(a)). If any members of the political subdivision's governing body are elected from territorial units, such as single member districts, an election **shall** be cancelled in a particular territorial unit if each candidate for an office that is to appear on the ballot in that territorial unit is unopposed **and no opposed at-large race is to appear on the ballot.** An unopposed at-large race **shall** be cancelled in an election regardless of whether an opposed race is to appear on the ballot in a particular territorial unit. (Sec. 2.051(b)). **This recommended cancellation deadline presumes a filing deadline of Friday, February 18, 2022 and a write-in deadline of Tuesday, February 22, 2022. Special elections may have different deadlines, and may now be cancelled separately.**

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TX-SOS-24-0322-C-000673

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Sections 2.053 and 2.056 of the Texas Election Code to make this cancellation process mandatory, rather than discretionary. For additional information, consult the outline on Cancellation of Election for Local Political Subdivisions.

NOTE: Political Subdivision Holding a Special Election to Fill a Vacancy: If you are having a special election to fill a vacancy for an unexpired (partial) term, you must not cancel the special election until after all deadlines to file for a special vacancy election have passed. Reminder: The cancellation procedures allow general and special elections to be considered separate elections for cancellation purposes. If the elections are separated, note there are procedures related to listing unopposed candidates in the same relative order on the ballot. See Sec. 2.053, Election Code and the Secretary of State's outline on Cancellation of Election for Local Political Subdivisions (Not County).

Saturday, February 26, 2022 (70th day before election day)

Last day to order a special election to fill a vacancy (if authorized to fill vacancies by special election) and have the filing deadline be the 62nd day before election day. (Secs. 201.054(a)(1), 201.052). Please note that the Election Code requires the election to be ordered as soon as practicable after the vacancy occurs. (Sec. 201.051). The following form may be used: Order of Special Election for Municipalities.

NOTE: Section 201.054 provides that if the special election to fill a vacancy is ordered (1) on or before the 70th day before election day, the candidate application must be filed by 5:00 PM on the 62nd day before election day, OR (2) after the 70th day but on or before the 46th day before election day, the candidate application must be filed by 5:00 PM on the 40th day before election day. This is the first of the two possible ordering times. We do **not** interpret the 70th day order date here as "moving" to the next business day because the date falls on a Saturday, as this is not the last day to order a special election to fill a vacancy for this uniform election date.

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

Monday, February 28, 2022 (68th day before election day)

Recommended date to conduct ballot position drawing. (Sec. 52.094). You should also certify today to the county election officer the offices, propositions (in all necessary languages), and candidates' names (including the order) as they are to appear on the ballot, **if you are contracting** to have the county conduct your election or if you are conducting a joint election with the county. *See* entry for February 24, 2022, referencing new law regarding ballot drawing.

NOTE: After the ballot drawing has occurred, the Elections Division recommends that you proof and test your ballot programming as soon as possible and **prior to the deadline to mail a ballot** if the political subdivision will be using automatic tabulating equipment to count the mail ballots or if your mail ballots are printed from the same database used to program your precinct scanners and/or DREs (See Note 15 prior to Calendar of Events). **The Elections Division also recommends that you provide candidates with copies of ballot proofs so that candidates may verify the correctness of their names, positions sought, and order of names on the ballot.**

Deadline for the Secretary of State to certify the state constitutional amendment election. (Sec. 274.003). The certification will include the ballot order of the constitutional amendments.

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March

Monday, March 7, 2022 (61st day before election day, extended from 62nd day, Sunday, March 6, 2022, Sec. 1.006)

Political Subdivisions Other Than Counties: 5:00 PM – Last day to file an application for a place on the ballot in a special election to fill a vacancy, if the special election is ordered on or before the 70th day before election day, Saturday, February 26, 2022. (Secs. 1.006, 201.054(a)(1)). (For more details about Section 201.054 and the two possible special election deadlines, see entry for Saturday, February 26, 2022).

Political Subdivisions Other Than Counties: 5:00 PM – Deadline for write-in candidates to file Declarations of Write-In Candidacy for officers for city, school district, library district, junior college district, hospital district, and common school districts in a special election to fill a vacancy if the special election is ordered on or before the 70th day before election day, Saturday, February 26, 2022. (Sec. 201.054(a)(1) and 201.054(g)).

> **NOTE:** A declaration of write-in candidacy for a special election must be filed not later than the regular filing deadline to apply for a place on the ballot. The deadline to file an application for a place on the ballot in a special election to fill a vacancy, if the special election is ordered on or before the 70th day before election day, Saturday, February 26, 2022, is Monday, March 7, 2022. (Sec. 1.006).
>
> > **NOTE-NEW LAW**: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 52.094 of the Code to require the authority conducting the drawing to provide notice of the date, hour, and place of the drawing to each candidate by: 1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or 2) provided at the time the candidate files an application with the appropriate authority. If notice was not provided at the time the candidate files an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

Tuesday, March 8, 2022 (60th day before election day)

First day of period during which the Secretary of State must publish first statewide notice of state constitutional amendment election. The Secretary of State will publish this notice a second time on the same day of the next week after the first notice was published. (Art. XVII, Sec. 1, Texas Constitution).

Political Subdivisions Other Than Counties: Last day for the governing body of a political subdivision to deliver notice of the election to the county clerk/elections administrator and voter registrar of each county in which the political subdivision is wholly or partly located. (Sec. 4.008).

> **NOTE FOR COUNTIES -** 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. *See* Note 9 for more information on the requirements related to the Notice of Election.

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NOTE-NEW LAW: HB 3107 (2021, R.S.) requires the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 to require 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) .

Recommended date for county clerk/county elections administrator to deliver an initial list of voters who have submitted annual applications for ballot by mail under Section 86.0015 and scans or photocopies of those applications to the early voting clerk of any political subdivision located within the county that is holding an election on May 7, 2022. The list should only include voters that reside in the political subdivision holding the election. The list should only be created and sent to those political subdivisions that have provided notice of the election to the county clerk/elections administrator. *See also*, the note below and the entry at Tuesday, April 26, 2022, for more information about delivery of a final list of voters. *See* entry at Wednesday, May 4, 2022 for more information on the delivery of copies/images of the applications.

NOTE: Section 86.0015 requires the county clerk/elections administrator to provide a list of voters that have submitted an annual application for ballot by mail to all political subdivisions in their county holding an election. The law only applies to elections for which the county clerk/elections administrator is not the early voting clerk via a contract for election services or joint election agreement. The Election Division *strongly recommends* that the county and political subdivisions **discuss the frequency and method for which these lists should be transmitted** to ensure that ballots are sent out in a timely manner. Finally, the county clerk/elections administrator **must deliver either photocopies or scanned images of the applications (under Section 87.126) to the early voting clerk** of the political subdivision before the ballots by mail are delivered to the early voting ballot board for qualifying and counting under Section 87.041.

Thursday, March 10, 2022 (58th day before election day, 20th day after February 18, 2022)

Last day to notify election judges of their appointment if they were appointed, as recommended, by Friday, February 18, 2022. (Sec. 32.009(b)). Presiding judges and their alternates must be notified of their appointment in writing, not later than the 20th day after the date the appointment is made. If the appointment is for a single election, the notice may be combined with the Writ of Election, which is required to be delivered to each presiding judge not later than the 15th day before the election, Friday, April 22, 2022. (Sec. 4.007, 32.009(e)). If the notices are combined, both must be delivered by the date required by the earlier notice.

Friday, March 11, 2022 (57th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to file Certificate of Withdrawal in a special election, in which the filing deadline is the 62nd day before election day. If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot. (Secs. 145.092(b), (e) and 145.094(a)(3)).

For special circumstances regarding withdrawal of a candidate before ballots are prepared, please contact the Elections Division of the Office of the Texas Secretary of State.

Political Subdivisions Other Than Counties: 5:00 PM – **City Offices with Four-Year Terms**: Extended filing deadline in cities with four-year terms of office, when no candidate files for a particular office by the regular filing deadline of Friday, February 18, 2022. (Sec. 143.008). (*See* entry for Friday, February 18, 2022).

Friday, March 18, 2022 (50th day before election day)

Deadline to challenge the filing of an application for a place on the ballot as to form, content, and procedure. (Sec. 141.034)

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 141.034 of the Code to provide that a candidate application cannot be challenged for "Form, Content, and Procedure" defects after the 50th day before the date of the election for which the application is made. (Sec. 141.034).

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TX-SOS-24-0322-C-000676

Last day of period during which the Secretary of State must publish first statewide notice of state constitutional amendment election. The Secretary of State will publish this notice a second time on the same day of the next week after the first notice was published. (Art. XVII, Sec. 1, Texas Constitution).

Friday, March 18, 2022 - Thursday, June 16, 2022 (50th day before election day – 40th day after election day)

Mandatory Office Hours: Each county clerk, city secretary, or secretary of a governing body (or the person performing duties of a secretary) must keep the office open for election duties for at least 3 hours each day, during regular office hours, on regular business days. (Sec. 31.122).

NOTE - Counties: This office hour rule applies to the entity's general election or special election ordered by that authority; we recommend that the county maintain these office hours, because the county conducts the constitutional amendment election.

NOTE: Independent School Districts: A "regular business day" means a day on which the school district's main business office is regularly open for business. (Sec. 31.122(b)).

NOTE: If a school district's spring break falls during the mandatory office hour period under Section 31.122 of the Election Code, a school district is not required to have someone present for three hours during the days the school district's main business office is not regularly open for business. However, we strongly recommend posting notice with contact information for open records requests. You should also have one of your elections personnel check at least once a day in the event a voter sent an ABBM to the school district address, fax, or e-mail.

NOTE: Special Elections: In the case of a special election, the office hour rule is triggered starting the third day after the special election is ordered. (Sec. 31.122).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 31.096 of the Code, which addresses nontransferable functions under an election services contract. Specifically, an election services contract may not change the political subdivision's requirement to maintain office hours under Section 31.122. The amendment to Section 31.096 of the Code also allows a county that has contracted with a city to be the custodian of voted ballots for a city election. (Sec. 31.096).

Sunday, March 20, 2022 (48th day before election day)

Last day to publish notice for testing of automatic tabulation equipment testing and logic and accuracy testing (L&A testing) of a voting system that uses direct recording electronic (DRE) voting machines and precinct scanners **if test will be completed by recommended deadline of Tuesday, March 22, 2022.** Notice of the public tests must be published at least 48 hours before the test begins. (Secs. 127.093, 127.096, 129.022, 129.023). *See* Note 15, above.

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).

Tuesday, March 22, 2022 (46th day before election day)

Political Subdivisions Other Than Counties: Last day to order a special election to fill a vacancy (if authorized to fill vacancies by special election). If the election was ordered after the 70th day before election day, the filing deadline will be the 40th day before election day. (Secs. 201.052 and 201.054(a)(2)). Please note that the Election Code requires the election to be ordered as soon as practicable after the vacancy occurs. (Sec. 201.051). (For more information about the write-in declaration deadline, see Monday, March 28, 2022 note entry. For more details about Section 201.054 and the two possible special election deadlines, see Saturday, February 26, 2022 note entry.)

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate

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application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

Recommended date to conduct the first test of the automatic tabulating equipment and for logic and accuracy (L&A test) test on precinct scanners and DREs. (Secs. 127.093, 127.096, 129.022, 129.023). The SOS recommends you complete your first round of testing **prior to mailing your mail ballots** if those ballots will be counted using automatic tabulation equipment. If you conduct your first round of testing by this date, you must publish notice of the test 48 hours prior to testing. *See* Note 15, above.

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) requires the general custodian of election to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

Wednesday, March 23, 2022 (45th day before election day)

Deadline to mail ballots to military or overseas voters who already submitted their ballot requests via a federal postcard application (FPCA) or via a standard application for ballot by mail (ABBM) and indicated that they are outside the United States. If the early voting clerk cannot meet this 45th-day deadline, the clerk **must** notify the Secretary of State within 24 hours. (Sec. 86.004(b)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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).

Reminder Regarding FPCAs and Overseas ABBMs: If the early voting clerk receives an FPCA (from a military or non-military voter) or an ABBM from an overseas voter after the 45th day deadline, then the ballot **must** be mailed within seven days after the early voting clerk **receives** the FPCA or ABBM. (Secs. 86.004(b), 101.104).

Reminder: In regards to mail ballots for other voters (not military voters using an FPCA or overseas voters using an FPCA or ABBM), the early voting clerk **must** mail a ballot not later than the 7th day after the later of: (1) the date the early voting clerk has accepted a voter's application for a ballot by mail or (2) the date the ballots become available for mailing. However, if the 7th day falls earlier than the 37th day before election day, the voter's mail ballot must be mailed no later than the 30th day before election day. (Sec. 86.004(a)). This means that for every application that comes in before the 37th day before election day, the balloting materials must be mailed by the 30th day before election day. Any application that comes in after the 37th day before election day will follow the 7-day timeline in Sec. 86.004.

NOTE: Information on the early voting roster for both early voting in person and early voting by mail must be made available for public inspection and on the county's website if the county clerk or elections administrator is serving as

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the early voting clerk. For an election held by a political subdivision in which the county clerk or elections administrator is not serving as the political subdivision's early voting clerk, then the information on the roster must be made available on the Internet website of the authority ordering the election. The early voting roster shall be posted by 11:00 AM on the day after the information is entered on the roster (for early voting in person) or by 11:00 AM on the day after the early voting clerk receives a ballot voted by mail. If the entity does not maintain a website, the information must be on the bulletin board used for posting notices. (Sec. 87.121).

NOTE-NEW LAW: HB 1622 (2021, R.S.) amended Section 87.121 of the Code to provide that if an early voting clerk fails to post their early voting rosters in accordance with Section 87.121, a person registered to vote in the county where the early voting clerk is conducting early voting may file a complaint with the Secretary of State regarding the early voting clerk's noncompliance. The Secretary of State by rule shall create and maintain a system for receiving and recording these complaints. (Sec. 87.121).

Monday, March 28, 2022 (40th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day to file for a place on the ballot in a special election to fill a vacancy, if the special election is ordered after the 70th day before election day, but on or before the 46th day before election day, Tuesday, March 22, 2022. (Sec. 201.054(a)(2)). (For more details about Section 201.054 and the two possible special election deadlines, see Saturday, February 26, 2022 note entry.)

Political Subdivisions Other Than Counties: 5:00 PM – Deadline for write-in candidates to file Declarations of Write-In Candidacy (PDF) for officers for city, school district, library district, junior college district, hospital district, and common school districts in a special election to fill a vacancy if the special election is ordered after the 70th day before election day, but on or before the 46th day before election day, Tuesday, March 22, 2022. (Sec. 201.054(a)(1) and 201.054(g)).

NOTE - Sec. 201.054(g) provides that a declaration of write-in candidacy for a special election must be filed not later than the filing deadline.

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board trustee must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 52.094 of the Code to require the authority conducting the drawing to provide notice of the date, hour, and place of the drawing to each candidate by: 1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or 2) provided at the time the candidate files an application with the appropriate authority. If notice was not provided at the time the candidate files an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

April

Friday, April 1, 2022 (36th day before election day)

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Deadline for the Secretary of State to mail each county judge a copy of the governor's proclamation ordering the state constitutional amendment election. (Sec. 3.003(c)).

Saturday, April 2, 2022 (35th day before election day; 5th day after 40th day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to file a Certificate of Withdrawal in a special election in which the filing deadline is the 40th day before election day. **If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot.** This deadline does not extend to the next business day under Section 1.006. (Secs. 145.092(a) and 145.094(a)(2)).

Thursday, April 7, 2022 (30th day before election day)

Last day to register to vote or make a change of address effective for the May 7, 2022 election. (Secs. 13.143, 15.025).

> **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. (Secs. 15.025, 63.0011).
>
> **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)).

Last day for the county clerk to post a full copy of all amendments to be voted on at the state constitutional amendment election. (Art. XVII, Sec. 1, Texas Constitution).

First day of period during which notice of the constitutional amendment election and other elections must be published 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 the governor 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) and (d)). This notice may be combined with the other notices you are required to publish. The election notice shall be posted on the political subdivision's website. *See* Note on Notice of Elections.

> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) requires the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).
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> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

Recommended date for early voting clerk to issue order calling for appointment of signature verification committee. (Sec. 87.027). This form may be used to issue order: Order Calling for Signature Verification Committee. If the signature verification committee will start meeting on Sunday, April 17, 2022, the early voting clerk must post a copy of the order calling for appointment of the signature verification committee on or before this date, in order to give notice of the meeting. The order must remain posted continuously for at least 10 days before the first day the committee meets. (Secs. 87.027, 1.006).

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. 63.0015 & 85.007(d)). For more information on this requirement, *see* Note 16.

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. 63.0015 & 85.007(d)).

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NOTE - Notice of Change of Polling Place Location: For elections **ordered by the governor**, if the location of the polling place changes after notice has been given under Section 4.003, and the county election officer maintains a website to inform voters about elections, **the notice of the change must be posted on the website.** The notice on the website must be given not later than the earlier of (1) 24 hours after the location was changed; or (2) 72 hours before the polls open on election day. (Sec. 43.061). If the county election officer is conducting a legislative vacancy election, the candidates listed on the ballot are entitled to receive notice directly from the county judge.

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 Previous Precinct (PDF) must be posted at the entrance of the previous polling place informing voters of the current polling place location, if possible. (Sec. 43.062).

Friday, April 8, 2022 (29th day before election day)

Recommended last day for early voting clerk to coordinate with the voter registrar receipt of supplemental and registration correction lists, if applicable, or coordinate receipt of revised original list 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).

Tuesday, April 12, 2022 (25th day before election day)

Recommended last date for the county election board (or governing body of political subdivision, as appropriate) to appoint a signature verification committee (if one was ordered by the early voting clerk on Thursday, April 7, 2022). See entry under Thursday, April 7, 2022. (Secs. 51.002, 87.027). The members must be appointed not later than the fifth day after the order was issued by the early voting clerk. The appointing authority must post a notice of the appointment of committee members continuously until the last day the signature verification committee meets. This form may be used for the notice: Notice of Appointment of Signature Verification Committee.

Friday, April 15, 2022 (22nd day before election day)

Note that the office hour requirement of Sec. 31.122 does apply to Good Friday. For more information on the office hour rule, see the entry on March 18, 2022 – June 16, 2022.

Saturday, April 16, 2022 (21st day before election day)

Last day to post notice of election on bulletin board used for posting notices of meetings of governing body. (Sec. 4.003(b)). A Record of Posting Notice of Election should be completed at the time of posting. (Secs. 1.006, 4.005). *See* Note on Notice of Elections.

Last day to post notice of election in each election precinct, if the method of giving notice is **not** specified by a law outside the Election Code and notice is given by this method in lieu of publication. (Secs. 1.006, 4.003(a)(2)). Cities and school districts **must** publish their notice in the newspaper. A Record of Posting Notice of Election should be completed at the time of posting. (Secs. 1.006, 4.005).

> **All Political Subdivisions:** The election notice shall be posted on the political subdivision's website, if the political subdivision maintains a website. The order and notice should include all days and hours for early voting by personal appearance including voting on ***ANY*** Saturday or Sunday. (Secs. 85.006 & 85.007). **Note for counties,** the election notice **must** be subsequently amended to include voting later ordered for ***ANY*** Saturday or Sunday and **must** be posted on the political subdivision's website, if maintained.
>
> **NOTE FOR COUNTIES -** 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, regardless of whether the entity is conducting their own election or contracting with the county.

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For Bond Elections: First day a political subdivision must post on their Internet website prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website. (Sec. 4.003(f)).

The ***recommended*** time to include the notice of accepting voters with certain disabilities on a county website is when the notice of election is also posted on the website. (Secs. 63.0015 & 85.007(d)). *See* Note 16 regarding notice on accepting voters with certain disabilities.

Counties, Cities, and School Districts: NEW LAW: SB 1116 (2021, R.S.) amended Chapter 4 of the Election Code by adding Section 4.009 regarding candidate and polling place information which must be posted on county, city, and school district websites. 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).

Sunday, April 17, 2022 (20th day before election day)

First day that the signature verification committee may begin operating, if one is created. (Sec. 87.027).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) added Section 87.0271 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after a **signature verification committee** discovers the defect and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, the committee shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the committee determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the signature verification committee takes one of the actions described above, the committee must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0271). *See* Note 18.

Monday, April 18, 2022 (19th day before election day, extended from 20th day, Sunday, April 17, 2022, Sec. 101.052(i)(2))

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 May 7, 2022. A person 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* Friday, April 22, 2022 entry for timeliness of an FPCA received without a postmark. (Secs. 101.052(e), 101.052(i)(2)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, a member of the Texas National Guard or the National Guard of another state or a member

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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 (PDF), 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 (PDF), **or "my return is uncertain"** (2017 form (PDF) receive a federal ballot **only** regardless of the date filed. (Chapter 114). In a local election (where there is no federal office on the ballot), this means there is **no ballot to send the voter**.

Monday, April 18, 2022 – Tuesday, April 26, 2022 (19th day before election day – 11th day before election day)

A person submitting an FPCA (PDF) during this period who is **not** registered to vote is not entitled to receive a ballot for any non-federal election held on Saturday, May 7, 2022. This means that a person submitting an FPCA during this period is entitled to receive a federal ballot only, if not already a permanent registered voter. (Secs. 101.052(f), 114.002, 114.004). In a local election (where there is no federal office on the ballot), this means there is **no ballot to send the voter.**

The early voting clerk is required to maintain a copy of this application since it may be used for other elections and forward the original to the voter registrar. Also see entry below under Friday, April 22, 2022 (FPCA without a postmark). (Secs. 84.007, 101.052(e), (f)).

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 (PDF), 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 (PDF), or "**my return is uncertain**" (2017 form (PDF), 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**.

Tuesday, April 19, 2022 (18th day before election day)

If a **defective application to vote early by mail** is received on or before this date, the early voting clerk must mail the applicant a new application with explanation of defects and instructions for submitting the new application. For defective applications received after this date and before the end of early voting by personal appearance, the early voting clerk must mail only the Notice of Rejected Application for Ballot by Mail and a statement that the voter is not entitled to vote early by mail unless he or she submits a sufficient application by the deadline, which is Tuesday, April 26, 2022. (Secs. 84.007(c), 86.008).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 86.001 to provide that if the information required by Section 84.002(a)(1-a) included on the application does not identify the same voter identified on the applicant's voter registration application, the clerk shall reject the application. (Sec. 86.001(f)). If an application is rejected under Section 86.001(f), the clerk shall provide notice of the rejection.The notice must include information regarding the ability to correct or add the required information through the online ballot by mail tracker described in Section 86.015(c). (Sec. 86.001(f-1)). If the applicant corrects the application for ballot by mail online and that application subsequently identifies the same voter identified on the applicant's voter registration application, the clerk shall provide a ballot to the voter. (Sec. 86.001(f-2)).

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Wednesday, April 20, 2022 (17th day before election day)

Last day to publish notice of L&A test for voting systems or precinct scanners if test will be held on Friday, April 22, 2022, if testing was not already completed by March 22, 2022. Notice of the public L&A Test must be published at least 48 hours before the test begins. (Secs. 129.001, 129.023). See Note 15, above.

> **NOTE - NEW LAW:** SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).

Last day to post notice (PDF) of 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) and (d)).

> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) amended Section 85.062 to provide that the location of temporary branch polling places in an election in which countywide polling places are used must be determined with the same methodology that is used for the location of countywide polling places.

Friday, April 22, 2022 (15th day before election day)

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 indicating **"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)). *See* Note under entry for Monday, April 18, 2022.

Last day to conduct public L&A test of a voting system or precinct scanner. We highly ***recommend*** that this test is done on an earlier date to allow time for corrections to programming, if necessary. (*See* Note 15, above). Per Section 129.023, the L&A test shall be conducted not later than 48 hours before voting begins on such voting systems, assuming that the voting system will first be used for early voting in person.

> **NOTE-NEW LAW:** SB 1 (2021, 2nd C.S.) requires the general custodian of election to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

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).

NEW LAW: ***Recommended date*** for a signature verification committee (if appointed) that has discovered a defect in a voter's carrier envelope to return the voted ballot in the carrier envelope to the voter. (Sec. 87.0271).

> **NOTE:** If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by **phone or email** and inform the voter that the voter may cancel

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their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. (Sec. 87.0271). *See* Note 18.

Monday, April 25, 2022 (12th day before election day; day before the last day to apply for a ballot by mail)

First day to vote early in person. (Sec. 85.001(e)).

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 – NEW LAW: Political Subdivisions Other than Counties: Early voting in person at the main early voting polling place must be conducted for 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 for at least **four (4) hours** per day. (Sec. 85.005(b)).

NOTE – NEW LAW: Counties: Early voting in person must be conducted on each weekday of the early voting period that is not a legal state holiday and for a period of at least **nine (9) hours**, except that voting may not be conducted earlier than 6:00 AM or later than 10:00 PM. (Sec. 85.005(a)).

NOTE – NEW LAW: Cities: SB 1 (2021, 2nd C.S.) amended Section 85.005(d) to remove the provision that requires cities 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.

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.

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 61.002 to provide that immediately before the opening of the polls on the first day of early voting and 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. Each election judge and alternate judge shall sign the printed tapes. (Sec. 61.002).

NOTE - NEW LAW: Temporary Branch Locations: Effective September 1, 2021, the rules for temporary branch locations differ based on the population size of the county. *See* Note 12 for additional information regarding temporary branch location days and hours.

First day a county with a population of 100,000 or more, or entities that are having joint elections or are contracting with such a county, may convene their early voting ballot board and begin processing and qualifying mail ballots; however, the mail ballots may not be counted until (i) the polls open on election day; or (ii) for 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). 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. (Sec. 87.0222). **NOTE: Results may not be released until the polls close on election day.**

NOTE – NEW LAW: HB 3107 (2021, R.S.) clarified that if a county with a population of 100,000 or more is conducting an election through a contract for election services for a political subdivision in May of an even-numbered year, the county's ballot board timeframes apply to the election. (Secs. 87.0222, 87.0241).

NOTE – The county clerk/elections administrator must ensure that photocopies or scanned images 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.

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NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) added Section 87.0411 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an **early voting ballot board** discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0411). *See* Note 18.

A voter who becomes sick or disabled on or after Monday, April 25, 2022 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 (PDF). An application may be submitted after the last day of the period for early voting by personal appearance and before 5:00 PM on Election Day. (Sec. 102.003).

Tuesday, April 26, 2022 (11th day before election day)

Last day to receive an FPCA (PDF) 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)).

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 requirement to mail the original application does not apply to an **emailed** FPCA. For additional information on this law, please see Note 17, above.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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).

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, April 26, 2022. (Sec. 84.008).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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).

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NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 84.008 of the Code to provide 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 effective September 1, 2021, voters may now 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 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 May 7, 2022, 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)).

NOTE for Counties: Deadline to file a petition (PDF) to require the county early voting clerk to conduct extended early voting on Saturday, April 30, 2022. Notice of weekend voting (PDF) must be posted beginning no later than Wednesday, April 27, 2022, and continuing through Friday, April 29, 2022. (Secs. 85.006(d), 85.007(c)).

Wednesday, April 27, 2022 (10th day before 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 of election ordered by the governor 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. (Secs. 4.003(c) and (d)).

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 notice **if method of giving notice is not specified by a law outside the Election Code** and this method of giving notice is selected. (Sec. 4.003(a)(3)).

Last day to post notice (PDF) of the precinct's consolidation and the location of the polling place in the consolidated precinct for each precinct that is combined to form a consolidated precinct under Section 42.008. This notice must be posted at the polling place used in the preceding general election **and** must remain posted continuously through election day. (Sec. 4.003(b)).

Counties – Weekend Early Voting Hours – Notice Requirement: Last day to post notice on bulletin board used for posting notice of meetings of the commissioners court, if early voting will be conducted on Saturday, April 30, 2022. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Saturday or Sunday. Notice (including the days and hours of early voting) must also be posted to the political subdivision's website, if one is maintained.

NOTE for Counties: If the county election officer on her/his own motion by written order orders early voting on Saturday or Sunday OR if the county election officer orders Saturday or Sunday voting after being petitioned to do so by at least 15 registered voters, such voting need not be included in the regular order or notice of the election. (Secs. 85.006(b), (d) and 85.007(b), (c)).

NOTE – NEW LAW: All Political Subdivisions, Except Counties: SB 1 (2021, 2nd C.S.) provides that in an election in which a city secretary is the early voting clerk, voting on any Saturday or Sunday **must** be included in the order and notice of election. City secretaries no longer have the authority to order Saturday or Sunday early voting 72 hours immediately preceding the first hour that voting will be conducted. However, the city **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Secs. 85.006, 85.007).

NOTE for Counties: Deadline to file a petition (PDF) to require the county early voting clerk to conduct extended early voting on Sunday, May 1, 2022 (Sec. 85.006(d)). Notice of weekend voting (PDF) must be posted beginning no later than Thursday, April 28, 2022, and continuing through Saturday, April 30, 2022. (Sec. 85.007(c)).

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Note for Counties with Population of Less than 55,000: Extended Early Voting Hours - Notice Requirement: Deadline for counties with populations of less than 55,000 to post the Notice of Extended Hours (PDF) for the constitutional amendment election if the early voting clerk received a timely **petition** for extended early voting hours for Monday, May 2, 2022. The notice must be posted beginning no later than Wednesday, April 27, 2022, and continuing through Sunday, May 1, 2022. For additional information, *see* Note 11 regarding extended early voting hours.

> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) modified the days and hours for extended early voting by personal appearance. Effective December 2, 2021, in counties with a population of 55,000 or more, voting in a special election ordered by the governor shall be conducted for at least 12 hours on each of the last two days of the early voting period. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM. (Sec. 85.005(c)).

Thursday, April 28, 2022 (9th day before election day)

Counties – Weekend Early Voting Hours – Notice Requirement: Last day to post notice on bulletin board used for posting notice of meetings of commissioners court, if early voting will be conducted on Sunday, May 1, 2022. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Saturday or Sunday. Notice (including the days and hours of early voting) must also be posted to the political subdivision's website, if one is maintained.

Note for Counties with Population of Less than 55,000: Extended Early Voting Hours - Notice Requirement: Deadline for counties with populations of less than 55,000 to post the Notice of Extended Hours (PDF) for the constitutional amendment election if the early voting clerk received a timely **petition** for extended early voting hours for Tuesday, May 3, 2022. The notice must be posted beginning no later than Thursday, April 28, 2022, and continuing through Monday, May 2, 2022. For additional information, *see* Note 11 regarding extended early voting hours.

> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) modified the days and hours for extended early voting by personal appearance. Effective December 2, 2021, in counties with a population of 55,000 or more, voting in a special election ordered by the governor shall be conducted for at least 12 hours on each of the last two days of the early voting period. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM. (Sec. 85.005(c)).

May

Monday, May 2, 2022 (5th day before election day, day before last day of early voting, 4th business day after the deadline to apply for a ballot by mail)

Note for Counties: For the constitutional amendment election, early voting must be conducted for at least 12 hours on this day in counties with populations of 55,000 or more. Early voting must be conducted for at least 12 hours on this day in counties with populations under 55,000 if the early voting clerk received a timely petition (PDF). For additional information, *see* Note 11 regarding extended early voting hours. (Secs. 85.005(c), 85.067).

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, May 4, 2022 (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).

Deadline for the early voting clerk to receive, by mail, the original of an ABBM that was faxed or emailed or an FPCA that was faxed on the deadline to apply for a ballot by mail, Tuesday, April 26, 2022.

> A voter who faxed or emailed their ABBM or faxed their FPCA must mail the original 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**. For more information, see the entry under Tuesday, April 26, 2022 and Note 17.

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Last day to publish notice of public test of automatic tabulating equipment, if test will be held on Wednesday, May 4, 2022, and testing was not already completed. The public notice of the test of automatic tabulating equipment must be published at least 48 hours before the test begins. (Sec. 127.096).

Tuesday, May 3, 2022 (4th day before election day)

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

Note for Counties: For the constitutional amendment election, early voting must be conducted for at least 12 hours on this day in counties with populations of 55,000 or more. Early voting must be conducted for at least 12 hours on this day in counties with populations under 55,000 if the early voting clerk received a timely petition (PDF). For additional information, *see* Note 11 regarding extended early voting hours. (Secs. 85.005(c), 85.067).

5:00 PM – Deadline to submit a Request for Election Inspectors for election day, Saturday, May 7, 2022 to the Secretary of State. (Sec. 34.001).

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, May 4, 2022. 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).

> The Notice of Delivery of Early Voting Balloting Materials serves as notice of the convening of the early voting ballot board. Your entity should also post notice every time the early voting ballot board reconvenes.

Wednesday, May 4, 2022 (3rd day before election day; day after early voting in person ends)

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):

> First day those counties and political subdivisions 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).

Counties with a population less than 100,000 (or local subdivisions who are **NOT** conducting a joint election with a county with a population of 100,000 or more or conducting an election through a contract for election services with such a county):

> First day those counties and political subdivisions may convene their early voting ballot board for **processing** and **qualifying** mail ballots, 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 (PDF).
>
> **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:** SB 1 (2021, 2nd C.S.) added Section 87.0411 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an **early voting ballot board** discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect

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and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0411). *See* Note 18.

First day to submit an Application for Emergency Early Ballot Due to Death in Family to vote a late ballot because of a death in the immediate family that occurred on or after Monday, May 2, 2022, and will require absence from the county on election day. (Secs. 103.001, 103.003(b)).

Last day to conduct public test of automatic tabulation equipment. Per Section 127.093, the test shall be conducted at least 48 hours before the automatic tabulating equipment is used to count ballots voted in an election and was not previously tested. We highly ***recommend*** that this test is done on an earlier date to allow time for corrections to programming, if necessary. (See Note 15, above).

Friday, May 6, 2022 (day before 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 e-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, May 6, 2022, 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 office of the custodian of election records and pick up the provisional ballots and forms.

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

NOTE FOR MAY 2023 ELECTION: Chapter 2051 of the Government Code requires any political subdivision with the authority to impose a tax that maintained a publicly available Internet website at any time on or after January 1, 2019, to post on that website the requirements and deadline for filing for candidacy of each elected office of the political subdivision continuously for one year before the election day for that office. *See* Tex. Sec'y of State Election Advisory No. 2019-19.

Saturday, May 7, 2022 (Election Day)

7:00 AM – 7:00 PM	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). A voter may vote at the main early voting polling place if **electronic voting systems** are used at regular polling place(s) on election day **and** the voter has a sickness or physical condition that prevents the voter from voting in the regular manner without personal assistance or a likelihood of injuring the voter's health. (Secs. 104.001, 104.003). However, if the early voting ballots by mail are processed at a location other

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	than the main early voting polling place, the early voting clerk may require the voting to be conducted at that location. (Sec. 104.003).
5:00 PM	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, April 25, 2022. (Sec. 102.003(b)).
7:00 PM	Regular deadline for receiving **early voting ballots** by mail. **BUT see entry for Monday, May 9, 2022 on "late domestic ballots," entry for Thursday, May 12, 2022, and entry for Friday, May 13, 2022 on other "late" ballots.** This is also the deadline for receiving **late ballots cast by voters who became sick or disabled** on or after Monday, April 25, 2022. (Secs. 86.007(a), 102.006(c)).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 61.002 to provide 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 – NEW LAW: SB 1 (2021, 2nd C.S.) requires 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).

NOTE: Receipt of Mail Ballots: All early voting ballots sent by mail from inside the United States that are received by 7:00 PM on election day, May 7, 2022, **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 that 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 pm on election day may not be counted unless the ballot may be counted late, which applies to late domestic ballots (Sec. 86.007(a)(2)), ballots mailed from outside the United States (Sec. 86.007(d)), 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, May 9, 2022 on "late domestic ballots," entry for Thursday, May 12, 2022, and entry for Friday, May 13, 2022 on other "late" ballots. See Tex. Sec'y of State Election Advisory No. 2018-02**.**

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 chief of police or city marshal for city elections, the constable of the justice precinct in which the office of the political subdivision governing body's main office is located (or the sheriff, if there is no constable) for an election ordered by an authority of a political subdivision other than a county or city, and the sheriff for an election ordered by the Governor or a county authority. (Sec. 66.060). If ballots are to be delivered before election day, the early voting clerk must post notice at least 24 hours before each delivery at the main early voting polling place. Form AW6-6

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Note on Delivery of Early Voting Ballot to Early Voting Ballot Board Before Election Day: Early voting ballots may be delivered to the early voting ballot board at any time after early voting by personal appearance ends. 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 at least 24 hours before each delivery at the main early voting polling place. Form AW6-6

> **Exception: Counties with a population of 100,000 or more, or entities that are having joint elections with counties with a population of 100,000 or more or who are conducting an election through a contract for election services with such a county, may process the mail ballots (i.e., qualify, and accept or reject, but not count) as early as the 8th day before the end of the early voting period; in such an election, votes may be counted 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 (PDF) at least 24 hours before each delivery at the main early voting polling place. (Secs. 87.0221(b), 87.023(b), 87.024(b))**.
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> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) amended Section 127.1232 to provide that in counties with a population of 100,000 or more (or political subdivisions contracting with a county with a population of 100,000 or more), 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).

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 on Election Night: The county voter registrar may take possession of the 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). Form AW8-19

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 are delivered to the appropriate authorities after completion. (Secs. 66.053(a), 127.065, 127.066, 127.067).

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Last day to post notice of governing authority's meeting to canvass returns of election if canvass is to take place on Tuesday, May 10, 2022 (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: NEW LAW: SB 1116 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.016 of the Code regarding 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).

Monday, May 9, 2022 (1st business day after election day)

5:00 PM – 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 Postcard 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 PM** at the location of the election on election day, May 7, 2022**.** (Secs. 86.007, 101.057 and 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 PM.

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 PM 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 PM** 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 who applied for a ballot using an ABBM or FPCA; 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 the **entry for Thursday, May 12, 2022, and the entry for Friday, May 13, 2022.**

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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 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: 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, May 7, 2022), 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 office of the custodian of election records 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, May 10, 2022 (3rd day after election day)

Last day to begin the **partial manual count** for entities using electronic voting systems for the counting of ballots. 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 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, but partial manual count must be completed for mail ballots. (Sec. 127.201(g)).

> **NOTE:** For information on how to begin the partial manual count, please see Tex. Sec'y of State Election Advisory No. 2018-30.

The first possible day to conduct official local canvass of returns by governing authority of the political subdivision. However, the canvass may not be conducted until the 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 and 86.007).** Notice of canvass must be posted at least 72 hours continuously before the canvass is conducted.

> **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 be issued a certificate of election and take the oath of office. (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, who cannot qualify until the 6th day after election day. *See* entry on Friday, May 13, 2022.

NOTE: Officially-canvassed returns for the state constitutional amendment election must be delivered by the county election officer to the Secretary of State within 24 hours of the canvass. (Sec. 67.007(d)).

Thursday, May 12, 2022 (5th day after election day)

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 PM on election

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day, Saturday, May 7, 2022, 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 a military FPCA) **cannot be counted** if it does **not** bear a cancellation mark or a receipt mark. (Sec. 86.007(c), (e), (f)). For military voters casting ballots who submitted an FPCA, please see entry for Friday, May 13, 2022.

> **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 PM** on election day.

Last day to receive ballots from **non-military voters** casting ballots from **overseas**, who submitted an **FPCA, AND** who placed their ballots in delivery by 7:00 PM on election day, Saturday, May 7, 2022. (Sec. 86.007(d) and (e)).

Friday, May 13, 2022 (6th day after election day)

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

> **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."
>
> **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).**
>
> **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 Monday, June 6, 2022 entry.

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 and 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 and 101.001).

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NOTE: The carrier envelope or, if applicable, the envelope containing the carrier envelope sent by the military 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)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 65.052 of the Code to provide that, for the general election for state and county officers, the voter registrar will now have 10 days to review a provisional voter's eligibility. **Please note this extended deadline does not apply to the constitutional amendment election.** (Sec. 65.052).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.): 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). *See* Note 18.

Monday, May 16, 2022 (9th day after 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:

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 PM on election day, May 7, 2022, and were received not later than 5:00 PM on the first business day after election day, Monday, May 9, 2022. (Secs. 86.007(a) & (d-1), 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, May 12, 2022. (Secs. 86.007(d), 87.125(a)).
3. any ballots received by the 6th day after election day, Friday, May 13, 2022, 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)).

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-NEW LAW: HB 3107 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.0581 to provide 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 – NEW LAW: SB 1 (2021, 2nd C.S.) requires 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

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central counting station meets for the last time to process late-arriving ballots by mail and provisional ballots. (Sec. 127.131).

Tuesday, May 17, 2022 (10th day after election day)

The presiding judge of the EVBB shall mail a Notice of Rejected Ballot (PDF) to voters whose mail ballots were rejected no later than the 10th day after election day or as soon as practicable, depending on when the EVBB last convenes. (Sec. 87.0431).

Wednesday, May 18, 2022 (11th day after election day)

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

> **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).
>
> **NOTE - Officially-canvassed returns for the state constitutional amendment election must be delivered by the county election officer to the Secretary of State within 24 hours of the canvass. (Sec. 67.007(d)).**

Sunday, May 22, 2022 (15th day after election day)

Election records from the May 7, 2022 election must be available in an electronic format no later than this day, for a fee of not more than $50.00. (Sec. 1.012(e)).

First day that the Governor may conduct the state canvass of the state constitutional amendment election. (Sec. 67.012).

Monday, May 30, 2022 – Tuesday, July 5, 2022 (20th day after the canvass through the 48th day after the canvass; 23rd day after election day; 12th day after last canvass date)

Possible period for runoff election, depending on the date of the official canvass unless a charter provides for a later date. If Monday, May 30, 2022 (Memorial Day) is the first possible day, it does not move, since it is not the last possible day to hold a runoff election. If the 45th day is Saturday, July 2, 2022, that deadline will move to the next regular business day, Tuesday, July 5, 2022, under Section 1.006, because Monday, July 4, 2022 is a legal state holiday.

NOTE: The order of the names on the runoff ballot should be in the same relative order as they appeared on the general election ballot, so no ballot drawing is required for the runoff ballot. (Sec. 52.094).

Tuesday, May 31, 2022 (24th day after election day; extended from 21st day, Saturday, May 28, 2022, Sec. 1.006)

Last day for the presiding judge of the early voting ballot board to mail Notice of Outcome to Provisional Voter (PDF) to provisional voters, if the canvass was held on Wednesday, May 18, 2022. Such notices must be delivered to provisional voters by the presiding judge no later than the 10th day after the local canvass. (The deadline falls on Saturday, May 28, 2022, and is extended to Tuesday, May 31, 2022 under Section 1.006.) (Sec. 65.059; 1 T.A.C. § 81.176(e)).

Last day to complete the partial manual count, which is first business day after the 21st day after the election. (Secs. 1.006, 127.201(a)).

June

Monday, June 6, 2022 (30th day after 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).

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Last day for governor to conduct the state canvass for the state constitutional amendment election. (Sec. 67.012).

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).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 18.069 of the Code by changing who is responsible for submitting voter history to the Secretary of State from the voter registrar to the general custodian of election records (early voting clerk). (Sec. 18.069).

Thursday, June 16, 2022 (40th day after election day)

Last day of the period for mandatory office hours. See entry for Friday, March 18, 2022. (Sec. 31.122).

July

Thursday, July 7, 2022 (61st day after election day)

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

2023-2024

Sunday, January 1, 2023 (1st day after the end of the calendar year in which the election was held)

NEW LAW: SB 1 (2021, 2nd C.S.): amended Section 127.1232 to provide that in counties with a population of 100,000 or more (or political subdivisions contracting with a county with a population of 100,000 or more), 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).

Friday, March 8, 2024 (day after 22 months after May 7, 2022 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.)

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Wednesday, May 8, 2024 (day after Two Years after May 7, 2022 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).

AMERICAN OVERSIGHT

From: Elections Internet
Sent: Monday, December 12, 2022 3:37 PM
To: Elections Internet
Subject: MASS EMAIL ADVISORY (CC/EA/VR 1037) - Advisory 2022-37 - May 6, 2023 Election Law Calendar
Attachments: May 6 2023 Election Law Calendar (FINAL).pdf

Dear Election Officials:

Our office has issued **Advisory 2022-37 – May 6, 2023 Election Law Calendar**. It is attached to this email as a PDF.

Additionally, there are a few relevant dates and deadlines for those cities, schools, and other political subdivisions that may be having an election in May 2023 that we wanted to draw to your attention.

Important Upcoming Dates

Monday, December 19, 2022 (30th day before Wednesday, January 18, 2023, first day to file an application for a place on the ballot)

- Deadline to Post Notice of Deadline to File Applications for Place on the Ballot in a building in which the authority maintains an office.

Wednesday, January 18, 2023 (30th day before Friday, February 17, 2023, regular filing deadline for a place on the ballot)

- First day to file an application for a place on the ballot or a declaration of write-in candidacy.
  - Application for Place on City/School/Other Political Subdivision Ballot (PDF)
    - If your home rule city or special law district allows for a petition, the following petition may be used: Petition for Place on the City General Election Ballot (PDF)
  - Declaration of Write-In Candidacy for City, School, or other Political Subdivisions (PDF)

Friday, February 17, 2023 (78th day before election day)

- **5:00 p.m. -** Last day for a candidate in a political subdivision (other than a county) to file an application for a place on the ballot for general election for officers for most political subdivisions.
- Deadline for political subdivisions to order a general election to be held on Saturday, May 6, 2023, unless otherwise provided by the Election Code. (Sec. 3.005).
  - Order of Election for Municipalities
  - Order of Election for Other Political Subdivisions (Including Schools)

Filing Method of Candidate Application

- A candidate application may be filed in person, by mail, by fax, or by email.
  - **Filing in Person:** The Elections Division recommends that political subdivisions take steps to have someone available for at least a few hours most days during the candidate filing period to accept filings, and that political subdivisions post a schedule on their websites and on the bulletin boards where notices of meetings are posted of the days and times when someone will be available to accept filings. The Elections Division also strongly recommends having someone available at the place of business on the filing deadline, especially from 2:00 p.m. to 5:00 p.m., if you are otherwise closed.
  - **Filing by Mail**: An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b); 144.005(b)).

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- **Filing by Fax or Email**: A signed, sworn, scanned candidate application (and petition, if applicable) may be submitted by fax or email if there is no filing fee. The SOS recommends that the filing authority establish a dedicated fax number or email address for the submission of candidate applications. This fax number or email address should be posted on the Notice of Deadline to File Applications for Place on the Ballot or wherever information about filing candidate applications is posted. Please be advised that an application must be notarized prior to filing via fax or email.

When posted, this advisory and other resources can be found on our Conducting Elections page. Please let us know if you have any questions or concerns.

Thank you,

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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May 6, 2023 Election Law Calendar

The uniform election date in May of an odd-numbered year is a date on which many local political subdivisions, such as cities, school districts, and water districts, have their regular general elections for members of their governing bodies or special elections to fill vacancies. Therefore, this calendar is required to meet the needs of many different governmental bodies. If there are questions about the applicability of something in this calendar to your specific election, do not hesitate to call the Elections Division of the Office of the Texas Secretary of State at 1-800-252-VOTE(8683).

Notes

1. Campaign Information
2. Statutory and Administrative Code References
3. Web Posting Requirements
4. May Uniform Date (Odd-Numbered Years)
5. Required Use of County Polling Places
6. Notice of Candidate Filing Periods
7. Joint Election Requirement for School Districts
8. Joint Elections Generally
9. Notice of Elections
10. Regular Days and Hours for Voting
11. Extended Early Voting Hours and Branch Locations
12. Temporary Branch Locations
13. Notice of Previous Polling Place
14. Notice of Change of Polling Place Location
15. Testing Tabulating and Electronic Voting Equipment
16. Accepting Voters with Certain Disabilities
17. Law Regarding Faxed or Emailed ABBMs and Faxed FPCAs
18. Opportunity to Correct Defects in Mail Ballots
19. Reconciliation Forms

NOTE REGARDING CERTAIN STATUTES AND GOVERNMENTAL ACTIONS THAT RELATE TO THE FEDERAL CENSUS: Pursuant to HB 2025 (2021), the population figures from the 2010 federal census will continue to apply with respect to a statute that applies to a political subdivision having a certain population according to the most recent federal census until September 1, 2023. The bill specifies that a statute does not apply to a political subdivision to which the statute did not apply under the 2010 federal census, regardless of whether the political subdivision has the population prescribed by the statute according to the 2020 federal census.

1. Note on Campaign Information

Under Title 15 of the Texas Election Code, candidates running for an office must file campaign contribution and expenditure reports. For further information and all questions about such disclosure filings, campaign finance, and political advertising, please contact the Texas Ethics Commission at 201 E. 14th Street, 10th Floor, Austin, Texas 78701; call 512-463-5800; or access their website.

2. Note on Statutory and Administrative Code References

Unless otherwise indicated, all references are to the Texas Election Code. The county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091). The county voter registrar is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 12.001, 12.031, 31.031, 31.071).

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TX-SOS-24-0322-C-000702

Any references to the Texas Administrative Code are cited to the relevant section of the "T.A.C."

3. Note on Web Posting Requirements

Please see our Web Posting Advisory, Tex. Sec'y of State Election Advisory No. 2019-19, for more details on web posting requirements; however, the requirements are summarized below.

As of January 1, 2020, each county *shall maintain* a website. (Sec. 26.16(a), Tax Code).

A political subdivision with the authority to impose a tax that maintained a publicly accessible website at any time on or after January 1, 2019, and that is not subject to Section 2051.202 of the Government Code must post the following items on the entity's Internet website (Secs. 2051.201, 2051.202, Government Code). *See* Internet Posting Requirements for Political Subdivisions (PDF):

1. The political subdivision's contact information, including a mailing address, telephone number, and e-mail address;
2. Each elected officer of the political subdivision;
3. The date and location of the next election for officers of the political subdivision;
4. The requirements and deadline for filing for candidacy of each elected office of the political subdivision, which shall be continuously posted for at least one year before the election day for the office;
5. Each notice of a meeting of the political subdivision's governing body under Subchapter C, Chapter 551 of the Government Code; and
6. Each record of a meeting of the political subdivision's governing body under Section 551.021 of the Government Code. (Sec. 2051.201, Government Code).

Our office recommends consulting with your political subdivision's local counsel regarding the particular posting requirements under Subdivisions (5) and (6) referenced above. Please note, the requirements for posting notice of meetings and record of meetings of the political subdivision's governing body do not apply to:

1. A county with a population of less than 10,000;
2. A municipality with a population of less than 5,000 located in a county with a population of less than 25,000; or
3. A school district with a population of less than 5,000 in the district's boundaries and located in a county with a population of less than 25,000.

NOTE-NEW LAW: HB 1154 (2021, R.S.) amended the Government Code to include Section 2051.202, effective September 1, 2021. Section 2051.202 of the Government Code requires a special purpose district with certain financial and population characteristics to post specific information on an Internet website. "Special purpose district" excludes from the term a municipality, county, junior college district, independent school district, groundwater conservation district, river authority, or political subdivision with statewide jurisdiction. (Sec. 2051.202, Government Code).

During the 21 days before the election, a debt obligation order under Section 3.009 must be posted on the political subdivision's Internet website, prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website. (Sec. 4.003(f)).

NOTE-NEW LAW: SB 1116 (2021, R.S.) amended Chapter 4 of the Election Code by adding Section 4.009 regarding candidate and polling place information which must be posted on county, city, and school district websites. Specifically, not later than the 21st day before election day, a county that holds an election or provides election services for an election must post certain information related to their upcoming elections. 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 date of the election;
- The location of each polling place;

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- Each candidate for an elected office on the ballot; and
- Each measure on the ballot. (Sec. 4.009)

NOTE-NEW LAW: SB 1116 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.016 of the Code regarding election results information which must be posted on county, city, and school district websites. Specifically, a county that holds an election or provides election services for an election for a public entity must post certain information on their website. 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 such information. Information should be posted **as soon as practicable after the election** and must be accessible without having to make more than two selections or view more than two network locations after accessing the home page of the county, city or school district, whichever is applicable. Required information on the websites must include:

- the results of each election;
- the total number of votes cast;
- the total number of votes cast for each candidate or for or against each measure;
- the total number of votes cast by personal appearance on election day;
- the total number of votes cast by personal appearance or mail during the early voting period; and
- 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.

4. Note on May Uniform Date (Odd-Numbered Years)

With few exceptions, counties are not authorized to hold an election ordered by county authority on the May uniform election date in an even-numbered year. A county elections administrator may refuse to provide election services by contract for an election that is held on the May uniform election date in an even-numbered year. (Sec. 41.001(d)). Thus, for **May 6, 2023** (odd-numbered year) we return to the general rules: counties are authorized to hold an election ordered by county authority in May 2023; and a county elections administrator **may not refuse** to provide election services by contract in May 2023.

5. Note on Required Use of County Polling Places

Political Subdivisions other than Counties: Political subdivisions are not required to use county election precincts and polling places for elections held on the May uniform date. The governing body of a political subdivision other than a county shall establish the election precincts for elections ordered by an authority of the political subdivision and follow the requirements of Secs. 42.061 and 42.0615.

6. Note on Notice of Candidate Filing Periods

The authority with whom an application for a place on the ballot is filed must post a Notice of Deadline to File Applications for Place on the Ballot (PDF), listing the filing period dates in a building in which the authority maintains an office. The notice must be posted not later than the 30th day **before** the first day to file. (Sec. 141.040). If you order a special election to fill a vacancy, the order must include the filing deadline; we recommend posting the notice of the filing period as soon as practicable after a special election is ordered. Note that an application for a place on the ballot for a special election may not be filed before the election is ordered.

NOTE-NEW LAW: HB 3107 (2021, R.S.) requires the authority with whom an application for a place on the ballot is filed to designate an e-mail address in the notice required by Section 141.040 of the Code for the purpose of filing an application for a place on the ballot. (Sec. 141.040).

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Most elective offices require that a candidate be a registered voter of the territory that the office is elected from as of the filing deadline or as of other statutory deadlines. (Sec. 141.001). For more information on the candidate voter registration requirement, see Voter Registration Requirements for Candidates.

7. Note on Joint Election Requirement for School Districts

School districts conducting trustee elections must have joint polling places on election day with either:

1. a city holding an election on the uniform election day (located wholly or partly within the school district's boundaries);
2. a public junior college district if it is having an election for members of its governing board in which the school district is wholly or partly located;
3. in limited circumstances, a hospital district; or
4. the county on the November uniform election day in even-numbered years.

For purposes of this calendar, we will continue to use separate subheads for cities and school districts when their rules are different. However, many entities will be working out joint election agreements. (Sec. 11.0581, Texas Education Code; Sec. 271.002).

NOTE – At minimum, a school district needs to share polling places with a city or public junior college district conducting an election on the uniform election day. Sharing polling places is sufficient to meet the joint election requirement.

8. Note on Joint Elections Generally

Many entities will have joint elections for the May 6, 2023 election. Note that the entries in this calendar are generally written in terms of elections held individually rather than jointly. For example, counties with populations of 55,000 or more are advised about conducting 12-hour days on each weekday during the last week of early voting. However, we have long advised different entities who conduct early voting together to coordinate their early voting hours, which may result in entities other than those counties also holding early voting for 12-hour days on each weekday during the last week of early voting. On the other hand, depending on the plan, different entities may choose to do different things separately, i.e., not holding early voting together. Not all joint election plans are alike. With a few exceptions, we do not discuss the impact of coordinating rules for a joint election, as we think this would make the calendar longer and confusing. We encourage joint election partners to read through the entire calendar, taking note of the rules affecting the partner entities and to address the differences within the agreement itself. If you have questions about how different rules apply to a particular joint election plan, please contact our office by phone or email.

9. Note on Notice of Elections

Political subdivisions other than cities and school districts may have specific statutory notice requirements. In the absence of specific statutory requirements, such political subdivisions must post a notice on or before the 21st day before the election. (Sec. 4.003(b)). For the Saturday, May 6, 2023 election, this notice must be posted on or before Saturday, April 15, 2023. (Secs. 1.006, 4.003(b)). 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 21st day before the election, Saturday, April 15, 2023. (Sec. 4.003(a)(2)).
2. By publishing the notice at least once between the 30th day and the 10th day before the election, Thursday, April 6, 2023–Wednesday, April 26, 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, April 26, 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)). Counties, school districts, and cities must also publish notice on the governmental bulletin board used for posting notice of public meetings, no later than April 15, 2023. (Sec. 4.003(b).

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Note for Counties: Notice of an election ordered by the governor or by a county authority must be published in a newspaper; the county may also give any additional notice. (Secs. 4.003(a)(1), 4.003(c)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) provides that in addition to any other notice given, notice of an election ordered by the governor, by a county authority, or by an authority of a city or school district must be given by the method prescribed by Section 4.003(a)(1) of the Code. (Sec. 4.003(c)).

This notice must include:

1. The type and date of the election;
2. The location of the main early voting polling place**, including the street address, room number, and building name. The notice must designate which location is the main early voting polling place**;
3. The location of each polling place, **including the street address, room number, and building name**;
4. The hours the polls will be open;
5. The regular dates and hours for early voting by personal appearance;
6. The dates and hours of any Saturday or Sunday early voting;
7. 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;
8. We ***recommend*** that the information regarding branch early voting locations be included as part of your notice; and
9. Any other information required by law.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 4.004 of the Code to require the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 85.004 of the Code to provide that an election order and election notice must designate which location is the main early voting polling place. (Sec. 85.004).

NOTE – ANY notice of polling locations must include more detailed information regarding the polling locations including: the polling location's street address, any applicable suite or room number, and any applicable building name. (Sec. 1.021).

Note regarding branch early voting locations: The branch early voting locations are no longer a required part of your notice under the Texas Election Code. (Sec. 4.004).

The following forms may be used:

- Notice of General Election for Cities (PDF)
- Notice of General Election for Other Political Subdivisions (Including Schools) (PDF)
- Notice of Special Election for Counties (PDF)
- Notice of Special Election (Cities, Schools, and Other Political Subdivisions (PDF)

All Political Subdivisions: The election notice shall be posted on the political subdivision's website, if the political subdivision maintains a website. For political subdivisions other than counties, the original order and notice should include all days and hours for early voting by personal appearance, including voting on **ANY** Saturday or Sunday. (Secs. 85.006, 85.007).

Note for Counties: The election notice must be subsequently amended to include voting ordered for **ANY** Saturday or Sunday and must be posted on the political subdivision's website, if maintained.

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For more information on notice requirements related to early voting in person, see Tex. Sec'y of State Election Advisory No. 2022-07.

Notice for Bond Elections: Entities holding bond elections must provide additional notice per Section 4.003(f). A debt obligation order under Section 3.009 must be posted:

1. On election day and during early voting by personal appearance, in a prominent location at each polling place;
2. Not later than the 21st day before the election, in three public places in the boundaries of the political subdivision holding the election; and
3. During the 21 days before the election, on the political subdivision's Internet website, prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website.

The same requirements apply to the voter information document required by Government Code Section 1251.052(b) (see law for full contents of notice). The requirement referenced in Section 1251.052(b) of the Government Code applies to a political subdivision with at least 250 registered voters on the date the governing body of the political subdivision adopts the debt obligation election order.

Home-Rule Charter Cities: Home-rule cities MUST also give notice as provided in their charters.

Notice for Political Subdivisions other than Counties, School Districts, and Cities: Political subdivisions other than counties, school districts, and cities may have specific statutory election notice requirements either in their enabling acts or in the code governing them (such as the Water Code). In the absence of specific statutory requirements, such political subdivisions may post a copy of the notice on or before the 21st day before the election (i.e., Saturday, April 15, 2023) on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision. (Sec. 4.003(b)).

Note for All Political Subdivisions, Except Counties: The governing body of a political subdivision **must** deliver notice of the election to the county election officer and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day, Tuesday, March 7, 2023. (Sec. 4.008).

Note for Counties: 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. *See* Note for All Political Subdivisions above.

Notice of Nearest Polling Places in Countywide Election: EACH countywide polling place must post a notice, at that location, of the four nearest locations, by driving distance. (Sec. 43.007(o)). Notice of Four Nearest Countywide Polling Place Locations (PDF)

10. Note on Regular Days and Hours for Voting

NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 85.005 to modify the required days and hours for early voting by personal appearance at the main early voting location.

Counties: For elections in which the county is serving as the early voting clerk, early voting must be conducted at the main early voting location on each weekday that is not a legal state holiday for a period of at least **nine (9) hours**. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.

Political Subdivisions Other Than Counties: For all other elections in which the county is **NOT** the early voting clerk, early voting must be conducted at the main early voting location on each weekday that is not a legal state holiday for a period of at least **nine (9) hours** unless the territory has fewer than 1,000 registered votes. For territories with less than 1,000 registered voters, voting shall be conducted for at least **four (4) hours** each day. (Sec. 85.005(b)).

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NOTE for Cities: SB 1 (2021, 2nd C.S.) amended Section 85.005(d) to remove the provision that required cities 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).

11. Note on Extended Early Voting Hours and Branch Locations

Note for Counties: The county election officer may order early voting on a **Saturday or Sunday**, and determine the hours for such Saturday or Sunday early voting. This must be done by written order (PDF). (Secs. 85.006(b), 85.006(c)). Notice (PDF) of Saturday or Sunday early voting must be posted for at least 72 hours immediately preceding the first hour that voting will be conducted. (Sec. 85.007(c)). The county election officer must have early voting on Saturday or Sunday, *if* a written request (PDF) is received from at least 15 registered voters of the county in time to comply with the posting requirement. (Secs. 85.006(d), 85.007).

Note: The election notice must be subsequently amended to include voting later ordered for ANY Saturday or Sunday and must be posted on the political subdivision's website, if maintained. (Sec. 85.007).

All Political Subdivisions, *Except* Counties: Voting on **ANY** Saturday or Sunday must be included in the order and notice of election. The order and notice must include the dates and hours of Saturday or Sunday voting. (Secs. 85.006, 85.007). The political subdivision **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Sec. 85.006(d)). The election notice must be posted on the political subdivision's website, if the political subdivision maintains a website. (Sec. 85.007).

NOTE for Cities – NEW LAW: SB 1 (2021, 2nd C.S.) provides that in an election in which a city secretary is the early voting clerk, voting on any Saturday or Sunday **must** be included in the order and notice of election. City secretaries no longer have the authority to order Saturday or Sunday early voting 72 hours immediately preceding the first hour that voting will be conducted. However, the city **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Secs. 85.006, 85.007).

12. Note on Temporary Branch Locations

Effective September 1, 2021, the rules for temporary branch locations are different for counties with a population of 100,000 or more.

Note for Counties with a Population of 100,000 or More and Political Subdivisions Situated in Such a County: Early voting at any temporary branch polling place **MUST** be conducted on the same days that voting is required to be conducted at the main early voting polling place under Section 85.005 of the Code and **MUST** remain open for at least eight hours each day. For certain political subdivisions, this will require your temporary branch locations to be open on every weekday of the early voting period, for at least eight hours on each of those days. **This only applies to an election in which the territory served by the early voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the early voting clerk is situated in more than one county, this section applies if the sum of the populations of the counties is 100,000 or more.** (Secs. 85.005 and 85.064).

NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.068 of the Code to provide that if the early voting clerk is a county election officer or city secretary, the clerk must post notice (PDF) for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Sections 85.064(d) or 85.065(b). (Sec. 85.068).

NOTE for political subdivisions other than city or county – If the city or county election officer does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters, the temporary branch polling place(s) must be open for at least three hours each day that voting is required to be conducted at the main early voting polling place under Section 85.005 of the Code. **This applies if the territory served by the early voting clerk is in a county with a population of 100,000 or more. In an election in which**

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the territory served by the early voting clerk is situated in more than one county, this also applies if the sum of the populations of the counties is 100,000 or more. (Secs. 85.005 and 85.064).

> **NOTE - NEW LAW**: HB 3107 (2021, R.S.) amended Section 85.064 of the Code to provide that the section only applies to an election in which the territory served by the early voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the clerk is situated in more than one county, this section applies if the sum of the populations of the counties is 100,000 or more. (Sec. 85.064).

> **NOTE - NEW LAW**: HB 3107 (2021, R.S.) amended Section 85.068 of the Code to provide that if the early voting clerk is a county election officer or city secretary, the clerk must post notice (PDF) for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Sections 85.064(d) or 85.065(b). (Sec. 85.068).

Note for Counties with a Population of Less than 100,000 and Political Subdivisions Situated in Such a County: Early voting at any temporary branch polling place may be conducted on any days and during any hours of the period for early voting by personal appearance, as determined by the authority establishing the branch. However, voting at a temporary branch polling place must be conducted on at least two consecutive business days and for at least eight consecutive hours on each of those days. The authority authorized under Section 85.006 of the Code to order early voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. The schedules for conducting voting are not required to be uniform among the temporary branch polling places. **This applies only to an election in which the territory served by the early voting clerk is situated in a county with a population under 100,000. In an election in which the territory served by the early voting clerk is situated in more than one county, this applies if the sum of the populations of the counties is under 100,000.** (Sec. 85.065).

> **NOTE - NEW LAW**: HB 3107 (2021, R.S.) added Section 85.065 of the Code to modify the requirements regarding the days and hours for early voting by personal appearance at any temporary branch polling place if the territory served by the early voting clerk is situated in a county with a population under 100,000 or if the territory served by the early voting clerk is situated in more than one county and the sum of the populations of the counties is under 100,000. (Sec. 85.065).

> **NOTE - NEW LAW**: HB 3107 (2021, R.S.) amended Section 85.068 of the Code to provide that if the early voting clerk is a county election officer or city secretary, the clerk must post notice (PDF) for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Sections 85.064(d) or 85.065(b). (Sec. 85.068).

NOTE for Cities – NEW LAW: SB 1 (2021, 2nd C.S.) provides that in an election in which a city secretary is the early voting clerk, voting on any Saturday or Sunday **must** be included in the order and notice of election. City secretaries no longer have the authority to order Saturday or Sunday early voting 72 hours immediately preceding the first hour that voting will be conducted. However, the city **must** have early voting on Saturday or Sunday, *if* a written request (PDF) is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Secs. 85.006, 85.007).

NOTE for Cities: If a city is contracting for election services with a county or is holding a joint election with the county, the city **must** amend their order and notice of election to include any weekend early voting that the county is conducting.

13. Note on Notice of Previous Polling Place

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

14. Note on Notice of Change of Polling Place Location

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For elections ordered by the **county judge only**, if the location of the polling place changes after notice has been given under Section 4.003 of the Texas Election Code, and the county election officer maintains a website to inform voters about elections, the notice of the change must be posted on the website. The notice on the website must be posted not later than the earlier of (1) 24 hours after the location was changed; or (2) 72 hours before the polls open on election day. (Sec. 43.061). If the county election officer is conducting a legislative vacancy election, the candidates listed on the ballot are entitled to receive notice directly from the county judge. **As a reminder, notice should also be provided to the Secretary of State regarding any changes made to the location of polling places.** Notice of Change to Polling Place (PDF).

15. Note on Testing Tabulating and Electronic Voting Equipment

Ballot Testing:

Once all candidate filing deadlines have passed, we recommend that you proof and test your ballot programming as soon as possible. Early testing will allow adequate time to locate any errors and make any necessary corrections in ballot programming. **We also strongly suggest that you have candidates proof their names and offices before finalizing the ballot to avoid the necessity for last minute ballot corrections.**

Logic and Accuracy Test:

We recommend establishing a date to perform the test of your electronic voting equipment (L&A, or Logic and Accuracy Test) as soon as possible. We recommend that this test be performed on a date that allows time to correct programming and retest, if necessary. A notice of this test must be published by the custodian of the electronic voting equipment at least 48 hours before the date of the test. (Sec. 129.023; Tex. Sec'y of State Election Advisory No. 2019-23). The L&A test must be conducted not later than 48 hours before voting begins on a voting system. (Sec. 129.023).

> **NOTE-NEW LAW:** SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).
>
> **NOTE-NEW LAW:** SB 1 (2021, 2nd C.S.) requires the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

Testing Tabulating Equipment:

The automatic tabulating equipment used for counting ballots at a central counting station must be tested three times for each election. (Ch. 127, Subch. D). We recommend you test the equipment as soon as possible; early testing will allow adequate time to locate any errors and make any necessary corrections in programming. However, the first test **must be conducted at least 48 hours before** the automatic tabulating equipment is used to count ballots voted in the election. The second test shall be conducted immediately before the counting of ballots with the equipment begins. The third test must be conducted immediately after the counting of ballots with the equipment is completed. Please note that the custodian of the automatic tabulating equipment must publish notice of the date, hour, and place of the first test in a newspaper at least 48 hours before the date of the test. (Sec. 127.096). The electronic files created from the L&A testing are what must be used for testing the tabulating equipment. (Tex. Sec'y of State Election Advisory No. 2019-23).

Precinct tabulators must also be tested in accordance with the procedures set forth in Chapter 127, Subchapter D of the Texas Election Code to the extent those procedures can be made applicable. (Sec. 127.152; Tex. Sec'y of State Election Advisory No. 2019-23).

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Our recommendation is that both L&A testing and testing of the automatic tabulating equipment take place prior to ballots by mail being sent out. However, should there be a reason to delay testing, please be advised that L&A testing must be conducted at least 48 hours before voting begins on a voting system. This means that L&A testing should be completed before early voting and possibly, before election day, if your election day system is different than your early voting system. Additionally, the automatic tabulating equipment may not be used to count ballots voted in the election until a test is successful. (See Chapters 127 and 129, Election Code).

For more information on testing tabulating equipment used at the central counting station, please see Chapter 127, Subchapter D of the Election Code and Tex. Sec'y of State Election Advisory No. 2019-23. See Chapter 129, Subchapter B of the Election Code and Tex. Sec'y of State Election Advisory No. 2019-23 **for other types of testing such as functionality tests, logic and accuracy tests, tests for central accumulators, etc**. Please see Tex. Sec'y of State Election Advisory No. 2019-23 for additional information regarding voting system equipment access, security and preservation, and chain of custody.

16. Note on Accepting Voters with Certain Disabilities

An election officer may accept a person with a mobility problem that substantially impairs a person's ability to ambulate who is offering to vote before accepting others offering to vote at the polling place who arrived **before** the person. "Mobility problem that substantially impairs a person's ability to ambulate" has the meaning assigned by Section 681.001, Transportation Code. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order priority. Notice of the priority given to persons with a mobility problem that substantially impairs a person's ability to ambulate **shall** be posted:

1. at one or more locations in each polling place where it can be read by persons waiting to vote;
2. on the website of the Secretary of State; **and**
3. on each website relating to elections maintained by a county. (Sec. 63.0015).

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) provides that a qualified individual with a disability may 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. (Sec. 1.022).

The voting order priority notice required under Section 63.0015 **must** read as follows:

> "Pursuant to Section 63.0015, Election Code, an election officer may give voting order priority to individuals with a mobility problem that substantially impairs the person's ability to move around. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order priority. Disabilities and conditions that may qualify you for voting order priority include paralysis, lung disease, the use of portable oxygen, cardiac deficiency, severe limitation in the ability to walk due to arthritic, neurological, or orthopedic condition, wheelchair confinement, arthritis, foot disorder, the inability to walk 200 feet without stopping to rest, or use of a brace, cane, crutch, or other assistive device."

The ***recommended*** time to include the voting order priority notice on a county website is when the Notice of Election is also posted on the website. (Sec. 85.007(d)). See Note 9 regarding Notice of Elections.

Cities, Schools, and Other Political Subdivisions: It is ***strongly recommended*** that the notice regarding accepting voters with certain disabilities also be posted on the subdivision's website, if one is maintained by the political subdivision.

If a voter is physically unable to enter the polling place without assistance or likelihood of injury to his or her health, an election officer shall deliver a ballot or voting machine to the voter at the entrance or curb of the polling place on the voter's request. On the voter's request, a person accompanying the voter to the polling place must be permitted to select the voter's ballot and to deposit the ballot in the ballot box after the voter has voted. (Sec. 64.009).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) provides that 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

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solely under Section 64.009 or if the person is providing additional assistance to the voter under Chapter 64, Subchapter B. Completed forms shall be delivered to the SOS as soon as practicable. The SOS shall retain a form delivered under Section 64.009 for the period for preserving the precinct election records and shall make the form available to the attorney general for inspection upon request. This provision 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).

17. Note on Law Regarding Faxed or Emailed ABBMs and Faxed FPCAs

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).

If a voter faxes or emails the ABBM or faxes the FPCA, the date the early voting clerk receives the fax or email is considered the date of submission. Essentially, the faxed or emailed form serves as a place-holder for the voter. Therefore, a voter whose application was faxed or emailed by the 11th day before election day (the deadline), and whose original application is received on or before the 4th business day after that date, would still be entitled to receive a ballot for the election (if otherwise eligible). The early voting clerk will have to hold the faxed or emailed ABBM or faxed FPCA until the clerk receives the original, and would only send the voter a ballot if the original is received by the 4th business day after the faxed or emailed ABBM or faxed FPCA was received. *See* Tex. Sec'y of State Election Advisory No. 2018-02.

The requirement to mail the original application does not apply to an **emailed** FPCA, but does apply to a faxed FPCA.

> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW**: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW**: HB 3107 (2021, R.S.) amended Section 84.008 of the Code to provide 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 now 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.) (Sec. 84.008).

18. Note on Opportunity to Correct Defects in Mail Ballots

NEW LAW: Pursuant to SB 1 (2021, 2nd C.S.), effective December 2, 2021, the early voting ballot board, or signature verification committee (if one is appointed), will need to provide voters voting a ballot by mail the opportunity to correct certain defects in the voter's carrier envelope containing the voter's ballot.

Early Voting Clerk: Section 86.011(d) 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 early voting 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 Application for Ballot By Mail and vote in person. The early voting clerk may utilize this provision for defects such as a missing signature by the voter, a partially completed witness or assistant box (if applicable), 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 SOS 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.

Early Voting Ballot Board: Section 87.0411 provides a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an early voting ballot board discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. Poll watchers are entitled to observe these activities by the early voting ballot board.

Signature Verification Committee (if appointed): Section 87.0271 provides a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after a signature verification committee discovers the defect and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, the committee shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the committee determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the signature verification committee takes one of the actions described above, the committee must take that action with respect to each ballot in the election that to which these options apply. Poll watchers are entitled to observe these activities by the signature verification committee.

For more information on the corrective action procedures, please see Tex. Sec'y of State Election Advisory No. 2022-08 and Tex. Sec'y of State Election Advisory No. 2022-12.

19. Note on Reconciliation Forms

NEW LAW: Pursuant to SB 1 (2021, 2nd C.S.), effective December 2, 2021, the presiding judge of the central counting station must prepare a preliminary reconciliation form (PDF) on election night and a final reconciliation form (PDF) after the canvass. The reconciliation form requirement only applies to entities that conducted voting in such a manner that they had a central counting station. The reconciliation forms must be posted on the county website with election returns and results after they are completed and signed. This posting requirement applies regardless of whether a local entity is contracting with the county for election services. We recommend that local entities post the reconciliation form on their website, if the entity maintains a website. We further recommend that the reconciliation forms remain posted at least until the next election, and that the forms are available for the full 22 month retention period for election records. An entity may choose to make older reconciliation forms available as part of historical results on its website.

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Calendar of Events

December

Monday, December 19, 2022 (30th day before Wednesday, January 18, 2023, first day to file an application for a place on the ballot)

Cities, Schools, and Other Political Subdivisions: Post Notice of Deadline to File Applications for Place on the Ballot in a building in which the authority maintains an office. The notice must be posted not later than the 30th day before the first day to file. (Sec. 141.040; Sec. 49.113, Water Code). This notice must be posted in addition to the posting the requirements and deadline for filing for candidacy under Section 2051.201, Government Code. (See Note 3, above.)

Water Districts: The notice must be posted at the district's administrative office or at the public place established by the district under Section 49.063 of the Water Code. (Sec. 49.113, Water Code).

NOTE: The delivery, submission, or filing of an application with an employee of the filing authority at the authority's usual place for conducting official business constitutes filing with the authority. (Sec. 1.007).

NOTE-NEW LAW: HB 3107 (2021, R.S.) requires the authority with whom an application for a place on the ballot is filed to designate an e-mail address in the notice required by Section 141.040 of the Code for the purpose of filing an application for a place on the ballot.

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include with the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

January

Sunday, January 1, 2023

First day for voters to submit an **application** for a ballot by mail (ABBM) for an election in 2023. The application is considered submitted at the time of receipt. (Secs. 84.001(e), 84.007).

First day for voters to submit an ABBM, an Annual ABBM, or a Federal Postcard Application (FPCA). The Annual ABBM and FPCA allows the voter to receive ballots for all elections in which they are eligible to vote held in 2023. Voters who will be 65 or older on election day or voters with a disability are eligible to submit an annual application. The application is considered submitted at the time of receipt. (Secs. 84.001(e), 84.007, 86.0015).

Wednesday, January 18, 2023 (30th day before Friday, February 17, 2023, regular filing deadline for a place on the ballot)

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First day to file an application for a place on the ballot or a declaration of write-in candidacy. (Secs. 143.007, 144.005, Election Code; Secs. 11.055, 130.082(g), Educ. Code). *See* Candidacy Filing outline for more details. The following forms are available on the Secretary of State's website:

- Application for Place on City/School/Other Political Subdivision Ballot (PDF)
- If your home rule city or special law district allows for a petition, the following petition may be used: Petition for Place on the City General Election Ballot (PDF)
- Declaration of Write-In Candidacy for City, School, or other Political Subdivisions (PDF)

NOTE: Most elective offices now require that a candidate be a registered voter of the territory that the office is elected from as of the filing deadline or as of other statutory deadlines. (Sec. 141.001). For more information on the candidate voter registration requirement, see Voter Registration Requirements for Candidates.

NOTE: We are often asked how filing can begin if you have not yet ordered the general election. You do not need to order your **general** (regularly occurring) election in order for the filing period to begin.

NOTE - Cities, Schools, and Other Political Subdivisions: There are political subdivisions that do not have office hours on all days of the business week (Monday through Friday) or do not have an office that is open for eight hours each day of the business week. The Elections Division recommends that political subdivisions take steps to have someone available for a few hours most days during the candidate filing period to accept filings, and that political subdivisions post a schedule on their websites and on the bulletin boards where notices of meetings are posted of the days and times when someone will be available to accept filings. The Elections Division also strongly recommends having someone available at the place of business on the filing deadline, especially from 2:00 PM to 5:00 PM, if you are otherwise closed. This guideline is based on the office-hour rule under Section 31.122 of the Election Code. Although a political subdivision may accept applications by mail, fax, or email without a person present at the office, the political subdivision will not be able to determine which applications were timely filed by 5:00 PM.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Sections 143.004 and 144.003 of the Code to provide that candidate applications, other than those that must be accompanied by a filing fee, may be filed via email. The application must be a scanned copy of the candidate application and must be sent to the filing authority's designated email address for accepting applications. (Secs. 143.004, 144.003).

Tuesday, January 31, 2023 (last weekday before February)

Recommended date that county election officials and local political subdivisions meet to discuss conducting elections at the same polling locations pursuant to Section 42.002, as well as any applicable joint election issues needed to be agreed upon. **NOTE: This is not a deadline; just a recommendation.**

February

Monday, February 6, 2023 (89th day before election day, extended from 90th day, Sunday, February 5, 2023, Sec. 1.006)

Last day for eligible political subdivisions to submit Notice of Exemption Under Section 61.013 or an Application of Undue Burden Status to the Secretary of State for exemption from the accessible voting system requirement. (Sec. 61.013). For additional information, consult the most current advisory on this topic, Tex. Sec'y of State Election Advisory No. 2021-02.

Tuesday, February 14, 2023 (81st day before election day; 3rd day before filing deadline)

Political Subdivisions Other Than Counties: If a candidate dies on or before this date, his or her name is not placed on the ballot, if the filing deadline is Friday, February 17, 2023. (Sec. 145.094(a)(1)).

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NOTE: Section 145.098 states if a candidate dies on or before the deadline for filing an application for a place on the ballot, the authority responsible for preparing the ballots MAY choose to omit the candidate. If the authority does choose to omit the candidate, the deadline for filing an application for a place on the ballot is extended to the fifth day after the filing deadline, Wednesday, February 22, 2023. This extended deadline only applies to the regular filing deadline. It **DOES NOT** apply to the write-in deadline.

Friday, February 17, 2023 (78th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM - Last day for a candidate in a political subdivision (other than a county) to file an application for a place on the ballot for general election for officers for most political subdivisions, except as otherwise provided by the Texas Election Code. (Secs. 143.007(c), 144.005(d); Sec. 11.055, Education Code; Chapter 286, Health & Safety Code). *See* Candidacy Filing outline for more details.

NOTE – A home-rule city's charter may **NOT** provide an alternate candidate filing deadline. (Secs. 143.005(a), 143.007).

NOTE – City Offices with Four-Year Terms: If no candidate has filed for a city office with a four-year term, the filing deadline is extended to 5:00 PM on Friday, March 10, 2023. (Sec. 143.008).

NOTE – An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b), 144.005(b)).

Deadline for political subdivisions to order a general election to be held on Saturday, May 6, 2023, unless otherwise provided by the Election Code. (Sec. 3.005). One of the following forms may be used:

- Order of Election for Municipalities
- Order of Election for Other Political Subdivisions (Including Schools)

Political Subdivisions Other Than Counties (Special Election): Deadline to order a special election on a measure to be held on Saturday, May 6, 2023. The following form may be used:

- Order of Special Election for Municipalities (PDF)
- Order of Special Election for Other Political Subdivisions (Including Schools) (PDF)

Counties: Deadline for counties to order a general election or a special election on a measure to be held on Saturday, May 6, 2023. (Secs. 3.004, 3.005). The following forms may be used:

- Order of Special Election for County-Ordered Measure Elections (PDF)

The order must include:

1. The date of the election;
2. The location of the main early voting polling place **including the street address, room number, and building name. The order must designate which location is the main early voting polling place;**
3. The offices or measures to be voted on;
4. **(*Recommended*)** Branch early voting polling places (*see* Notice of Elections above);
5. The dates and hours for early voting (recommended for counties and cities, but required for all other entities);
6. The dates and hours of any Saturday and Sunday early voting (if applicable, it is recommended that this information be included in the order for counties, but it must be included for all other entities); and
7. 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.

In addition to the information included above, an order for a debt obligation (bond) election **must** include (Sec. 3.009):

1. the proposition language that will appear on the ballot;
2. the purpose for which the debt obligations are to be authorized;

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

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 85.004 of the Code to provide that an election order and election notice must designate which location is the main early voting polling place. (Sec. 85.004).

Recommended date to order the lists of registered voters from the county voter registrar. The list should include both the voters' residences and mailing addresses in order to conduct early voting by mail. (Sec. 18.006). The political subdivision should confirm that the most recent maps or boundary changes have been provided to the voter registrar.

Recommended date to confirm telephone number for the county voter registrar's office on election day.

Recommended date to order election supplies, other than ballots. (Subchapter A, Chapter 51).

Political Subdivisions Other Than Counties: ***Recommended*** date to appoint **presiding and alternate judges**. Currently, the Election Code does not establish a deadline for appointing election officials; there is only a notification deadline. For further information concerning procedures for appointing judges and their alternates, see Sections 32.005, 32.008, and 32.011. General eligibility requirements are found in Subchapter C, Chapter 32. In addition to appointing a judge and alternate judge for each election precinct pursuant to Sections 32.001 and 32.005, the governing body must allow the judge to appoint no less than two clerks; however, the alternate judge must serve as one of the clerks as a matter of law. (Secs. 32.032, 32.033). The presiding judge then appoints an additional clerk(s), but not more than the maximum set by the governing body. (Sec. 32.033). Presiding judges and their alternates must be given a Notice of Appointment not later than the 20th day after the appointment is made. (Sec. 32.009). If the appointment is for a single election, the notice may be combined with the Writ of Election, which is required to be delivered to each presiding judge not later than the 15th day before the election, Monday, April 24, 2023. This deadline is extended to the next regular business day, which is Monday, April 24, 2023, due to the 15th day falling on San Jacinto Day, Friday, April 21, 2023. (Secs. 1.006, 4.007, 32.009(e)). If the notices are combined, both must be delivered by the date required by the earlier notice.

Water Districts: A water district is not required to provide a Notice of Appointment to a presiding judge, as required under Section 32.009, but must provide a Writ of Election. (Sec. 4.007; Sec. 49.110, Water Code).

Recommended date to appoint the **central counting station personnel** (manager, tabulation supervisor and assistants to the tabulation supervisor), if applicable. (Secs. 127.002, 127.003, 127.004, and 127.005). There is no statutory notice requirement for members of the central counting station, but good practice suggests that written notice be given to them.

Recommended date to appoint the **presiding judge and alternate presiding judge of the early voting ballot board** or to designate the election workers of one election precinct to serve as the early voting ballot board. (Secs. 87.001, 87.002, and 87.004). There is no statutory notice requirement for members of the early voting ballot board, but good practice suggests that written notice be given to them.

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NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 87.002 to require the early voting ballot board to have an alternate judge. The alternate judge is appointed in the same manner as the presiding judge.

Tuesday, February 21, 2023 (74th day before election day)

5:00 PM - Deadline for write-in candidates to file Declarations of Write-In Candidacy (PDF) for regular officers for city, school district, library district, junior college district, hospital district, common school districts, Chapter 36 and 49 Water Code districts, and other political subdivision elections, unless otherwise provided by law. (Secs. 144.006(b), 146.054(b), 146.055, Election Code; Secs. 11.056, 11.304, 130.0825, Education Code; Sec. 326.0431, Local Government Code; Sec. 285.131, Health and Safety Code; and Secs. 36.059, 49.101, 63.0945, Water Code). See Candidacy Filing outline for more details.

NOTE: An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b), 144.005(b)).

Wednesday, February 22, 2023 (73rd day before election day; 5th day after regular filing deadline)

If a candidate dies on or before the deadline for filing an application for a place on the ballot, the authority responsible for preparing the ballots MAY choose to omit the candidate. If the authority does choose to omit the candidate, the deadline for filing an application for a place on the ballot is extended to the fifth day after the filing deadline, February 23rd. This extended deadline only applies to the regular filing deadline. It does NOT apply to the write-in deadline. (Sec. 145.098).

Thursday, February 23, 2023 (72nd day before election day)

First day to post Notice of Drawing for Place on Ballot if drawing is to be conducted on Monday, February 27, 2023. This notice must be posted for 72 hours immediately preceding the time of the drawing. (Sec. 52.094(c)).

For an election held by a political subdivision, other than a city, a notice of ballot position drawing must be **mailed** to candidates by this day (not later than the 4th day before the drawing) if drawing is to be conducted on Monday, February 27, 2023. (Sec. 52.094(d)). Candidates who have not filed by this date should be given a copy of the notice at the time of filing.

The authority conducting the drawing shall provide notice of the date, hour, and place of the drawing to each candidate by:

1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or
2) written notice provided to the candidate at the time the candidate files an application with the appropriate authority. If notice was not provided at the time the candidate filed an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

Friday, February 24, 2023 (71st day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to withdraw, by submission of a notarized Certificate of Withdrawal or a notarized letter. **If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot**. (Secs. 145.092(f), 145.094(a)(4), 145.096(a)(4)). For special circumstances regarding withdrawal of a candidate before ballots are prepared, please contact the Elections Division of the Office of the Texas Secretary of State.

Political Subdivisions Other Than Counties: 5:00 PM – Last day to **withdraw** as a **write-in** candidate in the general election ordered by a political subdivision other than a county. (Secs. 144.006(c), 146.0301, 146.054(c)). (Candidates may use the Certificate of Withdrawal (PDF)).

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Recommended first day that an election may be cancelled **if** all filing deadlines have passed, each candidate for an office listed on the ballot is unopposed (except as discussed below), and write-in votes may be counted only for names appearing on a list of write-in candidates. (Sec. 2.052). The Certification of Unopposed Candidates for Other Political Subdivisions may be used to certify candidates as unopposed. Also, see our Sample Order of Cancellation and Tex. Sec'y of State Election Advisory No. 2022-16.

A special election of a political subdivision is considered to be a separate election with a separate ballot from a general election for officers of the same political subdivision held at the same time as the special election. Therefore, the fact that there may be a proposition on the ballot will not prevent a cancellation of an election for candidates who are unopposed. (Sec. 2.051(a)). If any members of the political subdivision's governing body are elected from territorial units, such as single member districts, an election **shall** be cancelled in a particular territorial unit if each candidate for an office that is to appear on the ballot in that territorial unit is unopposed **and no opposed at-large race is to appear on the ballot.** An unopposed at-large race **shall** be cancelled in an election regardless of whether an opposed race is to appear on the ballot in a particular territorial unit. (Sec. 2.051(b)). **This recommended cancellation deadline presumes a filing deadline of Friday, February 17, 2023 and a write-in deadline of Tuesday, February 21, 2023. Special elections may have different deadlines, and may now be cancelled separately.**

> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) amended Sections 2.053 and 2.056 of the Texas Election Code to make this cancellation process mandatory, rather than discretionary. For additional information, consult the outline on Cancellation of Election for Local Political Subdivisions.

NOTE: Political Subdivision Holding a Special Election to Fill a Vacancy: If you are having a special election to fill a vacancy for an unexpired (partial) term, you must not cancel the special election until after all deadlines to file for a special vacancy election have passed. Reminder: The cancellation procedures allow general and special elections to be considered separate elections for cancellation purposes. If the elections are separated, note there are procedures related to listing unopposed candidates in the same relative order on the ballot. See Sec. 2.053, Election Code and the Secretary of State's outline on Cancellation of Election for Local Political Subdivisions (Not County).

Saturday, February 25, 2023 (70th day before election day)

Last day to order a special election to fill a vacancy (if authorized to fill vacancies by special election) and have the filing deadline be the 62nd day before election day. (Secs. 201.054(a)(1), 201.052). Please note that the Election Code requires the election to be ordered as soon as practicable after the vacancy occurs. (Sec. 201.051). The following form may be used:

- Order of Special Election for Municipalities (PDF)
- Order of Special Election for Other Political Subdivisions (Including Schools) (PDF)

> **NOTE:** Section 201.054 provides that if the special election to fill a vacancy is ordered (1) on or before the 70th day before election day, the candidate application must be filed by 5:00 PM on the 62nd day before election day, OR (2) after the 70th day but on or before the 46th day before election day, the candidate application must be filed by 5:00 PM on the 40th day before election day. This is the first of the two possible ordering times. We do **not** interpret the 70th day order date here as "moving" to the next business day because the date falls on a Saturday, as this is not the last day to order a special election to fill a vacancy for this uniform election date.
>
> **NOTE-NEW LAW**: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

Monday, February 27, 2023 (68th day before election day)

Recommended date to conduct ballot position drawing. (Sec. 52.094). You should also certify today to the county election officer the offices, propositions (in all necessary languages), and candidates' names (including the order) as they are to appear on the ballot, **if you are contracting** to have the county conduct your election or if you are conducting a joint election with the county. *See* entry for February 23, 2023, referencing new law regarding ballot drawing.

> **NOTE:** After the ballot drawing has occurred, the Elections Division recommends that you proof and test your ballot programming as soon as possible and **prior to the deadline to mail a ballot** if the political subdivision will be using automatic tabulating equipment to count the mail ballots or if your mail ballots are printed from the same database used to program your precinct scanners and/or DREs (See Note 15 prior to Calendar of Events). **The Elections Division also recommends that you provide candidates with copies of ballot proofs so that candidates may verify the correctness of their names, positions sought, and order of names on the ballot.**

March

Monday, March 6, 2023 (61st day before election day, extended from 62nd day, Sunday, March 5, 2023, Sec. 1.006)

Political Subdivisions Other Than Counties: 5:00 PM – Last day to file an application for a place on the ballot in a special election to fill a vacancy, if the special election is ordered on or before the 70th day before election day, Saturday, February 25, 2023. (Secs. 1.006, 201.054(a)(1)). (For more details about Section 201.054 and the two possible special election deadlines, see entry for Saturday, February 25, 2023).

Political Subdivisions Other Than Counties: 5:00 PM – Deadline for write-in candidates to file Declarations of Write-In Candidacy for officers for city, school district, library district, junior college district, hospital district, and common school districts in a special election to fill a vacancy if the special election is ordered on or before the 70th day before election day, Saturday, February 25, 2023. (Sec. 201.054(a)(1) and 201.054(g)).

> **NOTE:** A declaration of write-in candidacy for a special election must be filed not later than the regular filing deadline to apply for a place on the ballot. The deadline to file an application for a place on the ballot in a special election to fill a vacancy, if the special election is ordered on or before the 70th day before election day, Saturday, February 25, 2023, is Monday, March 6, 2023. (Sec. 1.006).
>
> > **NOTE-NEW LAW**: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 52.094 of the Code to require the authority conducting the drawing to provide notice of the date, hour, and place of the drawing to each candidate by: 1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or 2) provided at the time the candidate files an application with the appropriate authority. If notice was not

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provided at the time the candidate files an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

Tuesday, March 7, 2023 (60th day before election day)

Political Subdivisions Other Than Counties: Last day for the governing body of a political subdivision to deliver notice of the election to the county clerk/elections administrator and voter registrar of each county in which the political subdivision is wholly or partly located. (Sec. 4.008).

> **NOTE FOR COUNTIES -** 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. *See* Note 9 for more information on the requirements related to the Notice of Election.
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> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) requires the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).
>
> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) amended Section 83.010 to require 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).

Recommended date for county clerk/county elections administrator to deliver an initial list of voters who have submitted annual applications for ballot by mail under Section 86.0015 and scans or photocopies of those applications to the early voting clerk of any political subdivision located within the county that is holding an election on May 6, 2023. The list should only include voters that reside in the political subdivision holding the election. The list should only be created and sent to those political subdivisions that have provided notice of the election to the county clerk/elections administrator. *See also*, the note below and the entry at Tuesday, April 25, 2023, for more information about delivery of a final list of voters. *See* entry at Monday, April 24, 2023 for more information on the delivery of copies/images of the applications.

> **NOTE:** Section 86.0015 requires the county clerk/elections administrator to provide a list of voters that have submitted an annual application for ballot by mail to all political subdivisions in their county holding an election. The law only applies to elections for which the county clerk/elections administrator is not the early voting clerk via a contract for election services or joint election agreement. The Election Division *strongly recommends* that the county and political subdivisions **discuss the frequency and method for which these lists should be transmitted** to ensure that ballots are sent out in a timely manner. Finally, the county clerk/elections administrator **must deliver either photocopies or scanned images of the applications (under Section 87.126) to the early voting clerk** of the political subdivision before the ballots by mail are delivered to the early voting ballot board for qualifying and counting under Section 87.041.

Thursday, March 9, 2023 (58th day before election day, 20th day after February 17, 2023)

Last day to notify election judges of their appointment if they were appointed, as recommended, by Friday, February 17, 2023. (Sec. 32.009(b)). Presiding judges and their alternates must be notified of their appointment in writing, not later than the 20th day after the date the appointment is made. If the appointment is for a single election, the notice may be combined with the Writ of Election, which is required to be delivered to each presiding judge not later than the 15th day before the election, Monday, April 24, 2023. This deadline is extended to the next regular business day, which is Monday, April 24, 2023, due to the 15th day falling on San Jacinto Day, Friday, April 21, 2023. (Secs. 1.006, 4.007, 32.009(e)). If the notices are combined, both must be delivered by the date required by the earlier notice.

Friday, March 10, 2023 (57th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to file Certificate of Withdrawal in a special election, in which the filing deadline is the 62nd day before election day. If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot. (Secs. 145.092(b), (e) and 145.094(a)(3)).

NOTE: For special circumstances regarding withdrawal of a candidate before ballots are prepared, please contact the Elections Division of the Office of the Texas Secretary of State.

Political Subdivisions Other Than Counties: 5:00 PM – City Offices with Four-Year Terms: Extended filing deadline in cities with four-year terms of office, when no candidate files for a particular office by the regular filing deadline of Friday, February 17, 2023. (Sec. 143.008). (*See* entry for Friday, February 17, 2023).

Friday, March 17, 2023 (50th day before election day)

Deadline to challenge the filing of an application for a place on the ballot as to form, content, and procedure. (Sec. 141.034). For more information on candidacy, see our Candidacy for Local Political Subdivisions outline.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 141.034 of the Code to provide that a candidate application cannot be challenged for "Form, Content, and Procedure" defects after the 50th day before the date of the election for which the application is made. (Sec. 141.034).

Friday, March 17, 2023 - Thursday, June 15, 2023 (50th day before election day – 40th day after election day)

Mandatory Office Hours: Each county clerk, city secretary, or secretary of a governing body (or the person performing duties of a secretary) must keep the office open for election duties for at least 3 hours each day, during regular office hours, on regular business days. (Sec. 31.122).

NOTE - Counties: This office hour rule applies to the entity's general election or special election ordered by that authority.

NOTE: Independent School Districts: A "regular business day" means a day on which the school district's main business office is regularly open for business. (Sec. 31.122(b)).

NOTE: If a school district's spring break falls during the mandatory office hour period under Section 31.122 of the Election Code, a school district is not required to have someone present for three hours during the days the school district's main business office is not regularly open for business. However, we strongly recommend posting notice with contact information for open records requests. You should also have one of your elections personnel check at least once a day in the event a voter sent an ABBM to the school district address, fax, or e-mail.

NOTE: Special Elections: In the case of a special election, the office hour rule is triggered starting the third day after the special election is ordered. (Sec. 31.122).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 31.096 of the Code, which addresses nontransferable functions under an election services contract. Specifically, an election services contract may not change the political subdivision's requirement to maintain office hours under Section 31.122. The amendment to Section 31.096 of the Code also allows a county that has contracted with a city to be the custodian of voted ballots for a city election. (Sec. 31.096).

NOTE: Good Friday falls during the mandatory office hour period under Section 31.122 of the Election Code. Section 31.122 applies to Good Friday, therefore entities, other than school districts, will need to be open for at least 3 hours that day. Section 31.122(b) grants school districts an exception if Good Friday is a local holiday and a day the school district's main business office is not regularly open for business. (Sec. 31.122)

Sunday, March 19, 2023 (48th day before election day)

Last day to publish notice for testing of automatic tabulation equipment testing and logic and accuracy testing (L&A testing) of a voting system that uses direct recording electronic (DRE) voting machines and precinct scanners **if test will be completed by recommended deadline of Tuesday, March 21, 2023.** Notice of the public tests must be published at least 48 hours before the test begins. (Secs. 127.093, 127.096, 129.022, 129.023). *See* Note 15, above.

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code,

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the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).

Tuesday, March 21, 2023 (46th day before election day)

Political Subdivisions Other Than Counties: Last day to order a special election to fill a vacancy (if authorized to fill vacancies by special election). If the election was ordered after the 70th day before election day, the filing deadline will be the 40th day before election day. (Secs. 201.052 and 201.054(a)(2)). Please note that the Election Code requires the election to be ordered as soon as practicable after the vacancy occurs. (Sec. 201.051). (For more information about the write-in declaration deadline, see Monday, March 27, 2023 note entry. For more details about Section 201.054 and the two possible special election deadlines, see Saturday, February 25, 2023 note entry.) The following forms may be used:

- Order of Special Election for Municipalities (PDF)
- Order of Special Election for Other Political Subdivisions (Including Schools) (PDF)

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

Recommended date to conduct the first test of the automatic tabulating equipment and for logic and accuracy (L&A test) test on precinct scanners and DREs. (Secs. 127.093, 127.096, 129.022, 129.023). The SOS recommends you complete your first round of testing **prior to mailing your mail ballots** if those ballots will be counted using automatic tabulation equipment. If you conduct your first round of testing by this date, you must publish notice of the test 48 hours prior to testing. *See* Note 15, above.

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) requires the general custodian of election to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

Wednesday, March 22, 2023 (45th day before election day)

Deadline to mail ballots to military or overseas voters who already submitted their ballot requests via a federal postcard application (FPCA) or via a standard application for ballot by mail (ABBM) and indicated that they are outside the United States. If the early voting clerk cannot meet this 45th-day deadline, the clerk **must** notify the Secretary of State within 24 hours. (Sec. 86.004(b)).

Reminder Regarding FPCAs and Overseas ABBMs: If the early voting clerk receives an FPCA (from a military or non-military voter) or an ABBM from an overseas voter after the 45th day deadline, then the ballot **must** be mailed within seven days after the early voting clerk **receives** the FPCA or ABBM. (Secs. 86.004(b), 101.104).

Reminder: In regards to mail ballots for other voters (not military voters using an FPCA or overseas voters using an FPCA or ABBM), the early voting clerk **must** mail a ballot not later than the 7th day after the later of: (1) the

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date the early voting clerk has accepted a voter's application for a ballot by mail or (2) the date the ballots become available for mailing. However, if the 7th day falls earlier than the 37th day before election day, the voter's mail ballot must be mailed no later than the 30th day before election day. (Sec. 86.004(a)). This means that for every application that comes in before the 37th day before election day, the balloting materials must be mailed by the 30th day before election day. Any application that comes in after the 37th day before election day will follow the 7-day timeline in Sec. 86.004.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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: Information on the early voting roster for both early voting in person and early voting by mail must be made available for public inspection and on the county's website if the county clerk or elections administrator is serving as the early voting clerk. For an election held by a political subdivision in which the county clerk or elections administrator is not serving as the political subdivision's early voting clerk, then the information on the roster must be made available on the Internet website of the authority ordering the election. The early voting roster shall be posted by 11:00 AM on the day after the information is entered on the roster (for early voting in person) or by 11:00 AM on the day after the early voting clerk receives a ballot voted by mail. If the entity does not maintain a website, the information must be on the bulletin board used for posting notices. (Sec. 87.121).

NOTE-NEW LAW: HB 1622 (2021, R.S.) amended Section 87.121 of the Code to provide that if an early voting clerk fails to post their early voting rosters in accordance with Section 87.121, a person registered to vote in the county where the early voting clerk is conducting early voting may file a complaint with the Secretary of State regarding the early voting clerk's noncompliance. The Secretary of State by rule shall create and maintain a system for receiving and recording these complaints. (Sec. 87.121).

Monday, March 27, 2023 (40th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day to file for a place on the ballot in a special election to fill a vacancy, if the special election is ordered after the 70th day before election day, but on or before the 46th day before election day, Tuesday, March 21, 2023. (Sec. 201.054(a)(2)). (For more details about Section 201.054 and the two possible special election deadlines, see Saturday, February 25, 2023 note entry.)

Political Subdivisions Other Than Counties: 5:00 PM – Deadline for write-in candidates to file Declarations of Write-In Candidacy (PDF) for officers for city, school district, library district, junior college district, hospital district, and common school districts in a special election to fill a vacancy if the special election is ordered after the 70th day before election day, but on or before the 46th day before election day, Tuesday, March 21, 2023. (Sec. 201.054(a)(1) and 201.054(g)).

NOTE - Sec. 201.054(g) provides that a declaration of write-in candidacy for a special election must be filed not later than the filing deadline.

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates

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of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board trustee must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 52.094 of the Code to require the authority conducting the drawing to provide notice of the date, hour, and place of the drawing to each candidate by: 1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or 2) provided at the time the candidate files an application with the appropriate authority. If notice was not provided at the time the candidate files an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

April

Saturday, April 1, 2023 (35th day before election day; 5th day after 40th day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to file a Certificate of Withdrawal in a special election in which the filing deadline is the 40th day before election day. **If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot.** This deadline does not extend to the next business day under Section 1.006. (Secs. 145.092(a) and 145.094(a)(2)).

Thursday, April 6, 2023 (30th day before election day)

Last day to register to vote or make a change of address effective for the May 6, 2023 election. (Secs. 13.143, 15.025).

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. (Secs. 15.025, 63.0011).

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)).

First day of period during which notice of elections must be published 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 the governor 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) and (d)). This notice may be combined with the other notices you are required to publish. The election notice shall be posted on the political subdivision's website. *See* Note on Notice of Elections.

NOTE-NEW LAW: HB 3107 (2021, R.S.) requires the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

Recommended date for early voting clerk to issue order calling for appointment of signature verification committee. (Sec. 87.027). This form may be used to issue order: Order Calling for Signature Verification Committee. If the

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signature verification committee will start meeting on Sunday, April 16, 2023, the early voting clerk must post a copy of the order calling for appointment of the signature verification committee on or before this date, in order to give notice of the meeting. The order must remain posted continuously for at least 10 days before the first day the committee meets. (Secs. 87.027, 1.006).

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. 63.0015 & 85.007(d)). For more information on this requirement, *see* Note 16.

NOTE - Notice of Change of Polling Place Location: For elections **ordered by the governor**, if the location of the polling place changes after notice has been given under Section 4.003, and the county election officer maintains a website to inform voters about elections, **the notice of the change must be posted on the website.** The notice on the website must be given not later than the earlier of (1) 24 hours after the location was changed; or (2) 72 hours before the polls open on election day. (Sec. 43.061). If the county election officer is conducting a legislative vacancy election, the candidates listed on the ballot are entitled to receive notice directly from the county judge.

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 Previous Precinct (PDF) must be posted at the entrance of the previous polling place informing voters of the current polling place location, if possible. (Sec. 43.062).

Friday, April 7, 2023 (Good Friday, 29th day before election day)

Recommended last day for early voting clerk to coordinate with the voter registrar receipt of supplemental and registration correction lists, if applicable, or coordinate receipt of revised original list 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 that the office hour requirement of Sec. 31.122 does apply to Good Friday. For more information on the office hour rule, see the entry on March 17, 2023 – June 15, 2023.

Tuesday, April 11, 2023 (25th day before election day)

Recommended last date for the county election board (or governing body of a political subdivision, as appropriate) to appoint a signature verification committee (if one was ordered by the early voting clerk on Thursday, April 6, 2023). See entry under Thursday, April 6, 2023. (Secs. 51.002, 87.027). The members must be appointed not later than the fifth day after the order was issued by the early voting clerk. The appointing authority must post a notice of the appointment of committee members continuously until the last day the signature verification committee meets. This form may be used for the notice: Notice of Appointment of Signature Verification Committee.

Saturday, April 15, 2023 (21st day before election day)

Last day to post notice of election on bulletin board used for posting notices of meetings of governing body. (Sec. 4.003(b)). A Record of Posting Notice of Election should be completed at the time of posting. (Secs. 4.005). *See* Note on Notice of Elections.

Last day to post notice of election in each election precinct, if the method of giving notice is **not** specified by a law outside the Election Code and notice is given by this method in lieu of publication. (Secs. 1.006, 4.003(a)(2)). Cities and school districts **must** publish their notice in the newspaper. A Record of Posting Notice of Election should be completed at the time of posting. (Secs. 4.005).

> **All Political Subdivisions:** The election notice shall be posted on the political subdivision's website, if the political subdivision maintains a website. The order and notice should include all days and hours for early voting by personal appearance including voting on ***ANY*** Saturday or Sunday. (Secs. 85.006 & 85.007). **Note**

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for counties, the election notice **must** be subsequently amended to include voting later ordered for ***ANY*** Saturday or Sunday and **must** be posted on the political subdivision's website, if maintained.

NOTE FOR COUNTIES - 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, regardless of whether the entity is conducting their own election or contracting with the county.

For Bond Elections: First day a political subdivision must post on their Internet website prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website. (Sec. 4.003(f)).

The ***recommended*** time to include the notice of accepting voters with certain disabilities on a county website is when the notice of election is also posted on the website. (Secs. 63.0015 & 85.007(d)). *See* Note 16 regarding notice on accepting voters with certain disabilities.

Counties, Cities, and School Districts: NEW LAW: SB 1116 (2021, R.S.) amended Chapter 4 of the Election Code by adding Section 4.009 regarding candidate and polling place information which must be posted on county, city, and school district websites. 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).

Sunday, April 16, 2023 (20th day before election day)

First day that the signature verification committee may begin operating, if one is created. (Sec. 87.027).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) added Section 87.0271 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after a **signature verification committee** discovers the defect and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, the committee shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the committee determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the signature verification committee takes one of the actions described above, the committee must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0271). *See* Note 18; Tex. Sec'y of State Election Advisory No. 2022-08; Tex. Sec'y of State Election Advisory No. 2022-12.

Monday, April 17, 2023 (19th day before election day, extended from 20th day, Sunday, April 16, 2023, Sec. 101.052(i)(2))

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 May 6, 2023. A person 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* Friday, April 21, 2023 entry for timeliness of an FPCA received without a postmark. (Secs. 101.052(e), 101.052(i)(2)).

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NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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 (PDF), 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 (PDF), **or "my return is uncertain"** (2017 form) receive a federal ballot **only** regardless of the date filed. (Chapter 114). In a local election (where there is no federal office on the ballot), this means there is **no ballot to send the voter**.

Monday, April 17, 2023 – Tuesday, April 25, 2023 (19th day before election day – 11th day before election day)

A person submitting an FPCA (PDF) during this period who is **not** registered to vote is not entitled to receive a ballot for any non-federal election held on Saturday, May 6, 2023. This means that a person submitting an FPCA during this period is entitled to receive a federal ballot only, if not already a permanent registered voter. (Secs. 101.052(f), 114.002, 114.004). In a local election (where there is no federal office on the ballot), this means there is **no ballot to send the voter.**

The early voting clerk is required to maintain a copy of this application since it may be used for other elections and forward the original to the voter registrar. Also see entry below under Friday, April 21, 2023 (FPCA without a postmark). (Secs. 84.007, 101.052(e), (f)).

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 (PDF), 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 (PDF), 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**.

Tuesday, April 18, 2023 (18th day before election day)

If a **defective application to vote early by mail** is received on or before this date, the early voting clerk must mail the applicant a new application with explanation of defects and instructions for submitting the new application. For defective applications received after this date and before the end of early voting by personal appearance, the early voting clerk must mail only the Notice of Rejected Application for Ballot by Mail and a statement that the voter is not entitled to vote early by mail unless he or she submits a sufficient application by the deadline, which is Tuesday, April 25, 2023. (Secs. 84.007(c), 86.008).

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NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 86.001 to provide that if the information required by Section 84.002(a)(1-a) included on the application does not identify the same voter identified on the applicant's voter registration application, the clerk shall reject the application. (Sec. 86.001(f)). If an application is rejected under Section 86.001(f), the clerk shall provide notice of the rejection. The notice must include information regarding the ability to correct or add the required information through the online ballot by mail tracker described in Section 86.015(c). (Sec. 86.001(f-1)). If the applicant corrects the application for ballot by mail online and that application subsequently identifies the same voter identified on the applicant's voter registration application, the clerk shall provide a ballot to the voter. (Sec. 86.001(f-2)).

Wednesday, April 19, 2023 (17th day before election day)

Last day to publish notice of L&A test for voting systems or precinct scanners if test will be held on Friday, April 21, 2023, if testing was not already completed by March 21, 2023. Notice of the public L&A Test must be published at least 48 hours before the test begins. (Secs. 129.001, 129.023). See Note 15, above.

NOTE - NEW LAW: SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).

Last day to post notice (PDF) of 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) and (d)).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 85.062 to provide that the location of temporary branch polling places in an election in which countywide polling places are used must be determined with the same methodology that is used for the location of countywide polling places.

Friday, April 21, 2023 (15th day before election day)

Last day to conduct public L&A test of a voting system or precinct scanner. We highly ***recommend*** that this test is done on an earlier date to allow time for corrections to programming, if necessary. (*See* Note 15, above). Per Section 129.023, the L&A test shall be conducted not later than 48 hours before voting begins on such voting systems, assuming that the voting system will first be used for early voting in person.

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) requires the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

NEW LAW: ***Recommended date*** for a signature verification committee (if appointed) that has discovered a defect in a voter's carrier envelope to return the voted ballot in the carrier envelope to the voter. (Sec. 87.0271).

NOTE: If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by **phone or email** and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. (Sec. 87.0271). *See* Note 18.

Monday, April 24, 2023 (12th day before election day; day before the last day to apply for a ballot by mail)

First day to vote early in person. (Sec. 85.001(e)).

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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 – NEW LAW: Political Subdivisions Other than Counties: Early voting in person at the main early voting polling place must be conducted for 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 for at least **four (4) hours** per day. (Sec. 85.005(b)).

NOTE – NEW LAW: Counties: Early voting in person must be conducted on each weekday of the early voting period that is not a legal state holiday and for a period of at least **nine (9) hours**, except that voting may not be conducted earlier than 6:00 AM or later than 10:00 PM. (Sec. 85.005(a)).

NOTE – NEW LAW: Cities: SB 1 (2021, 2nd C.S.) amended Section 85.005(d) to remove the provision that requires cities 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.

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.

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 61.002 to provide that immediately before the opening of the polls on the first day of early voting and 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. Each election judge and alternate judge shall sign the printed tapes. (Sec. 61.002).

NOTE - NEW LAW: Temporary Branch Locations: Effective September 1, 2021, the rules for temporary branch locations differ based on the population size of the county. *See* Note 12 for additional information regarding temporary branch location days and hours.

First day a county with a population of 100,000 or more, or entities that are having joint elections or are contracting with such a county, may convene their early voting ballot board and begin processing and qualifying mail ballots; however, the mail ballots may not be counted until (i) the polls open on election day; or (ii) for 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). 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. (Sec. 87.0222). **NOTE: Results may not be released until the polls close on election day.**

NOTE – NEW LAW: HB 3107 (2021, R.S.) clarified that if a county with a population of 100,000 or more is conducting an election through a contract for election services for a political subdivision in May of an even-numbered year, the county's ballot board timeframes apply to the election. (Secs. 87.0222, 87.0241).

NOTE – The county clerk/elections administrator must ensure that photocopies or scanned images 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: SB 1 (2021, 2nd C.S.) added Section 87.0411 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an **early voting ballot board** discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be

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possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0411). *See* Note 18; Tex. Sec'y of State Election Advisory No. 2022-08; Tex. Sec'y of State Election Advisory No. 2022-12.

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 indicating **"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)). *See* entry for Monday, April 17, 2023.

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).

A voter who becomes sick or disabled on or after Monday, April 24, 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 (PDF). An application may be submitted after the last day of the period for early voting by personal appearance and before 5:00 PM on Election Day. (Sec. 102.003).

Tuesday, April 25, 2023 (11th day before election day)

Last day to receive an FPCA (PDF) 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)).

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 requirement to mail the original application does not apply to an **emailed** FPCA. For additional information on this law, please see Note 17, above.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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).

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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, April 25, 2023. (Sec. 84.008).

> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW:** HB 3107 (2021, R.S.) amended Section 84.008 of the Code to provide 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 effective September 1, 2021, voters may now 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 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 May 6, 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)).

NOTE for Counties: Deadline to file a petition (PDF) to require the county early voting clerk to conduct extended early voting on Saturday, April 29, 2023. Notice of weekend voting (PDF) must be posted beginning no later than Wednesday, April 26, 2023, and continuing through Friday, April 28, 2023. (Secs. 85.006(d), 85.007(c)).

Wednesday, April 26, 2023 (10th day before 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 of election ordered by the governor 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. (Secs. 4.003(c) and (d)).

> **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 notice **if method of giving notice is not specified by a law outside the Election Code** and this method of giving notice is selected. (Sec. 4.003(a)(3)).

Last day to post notice (PDF) of the precinct's consolidation and the location of the polling place in the consolidated precinct for each precinct that is combined to form a consolidated precinct under Section 42.008. This notice must be posted at the polling place used in the preceding general election **and** must remain posted continuously through election day. (Sec. 4.003(b)).

Counties – Weekend Early Voting Hours – Notice Requirement: Last day to post notice on bulletin board used for posting notice of meetings of the commissioners court, if early voting will be conducted on Saturday, April 29, 2023. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Saturday or Sunday. Notice (including the days and hours of early voting) must also be posted to the political subdivision's website, if one is maintained.

NOTE for Counties: If the county election officer on her/his own motion by written order orders early voting on Saturday or Sunday OR if the county election officer orders Saturday or Sunday voting after being petitioned to do so by at least 15 registered voters, such voting need not be included in the regular order or notice of the election. (Secs. 85.006(b), (d) and 85.007(b), (c)).

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NOTE – NEW LAW: All Political Subdivisions, Except Counties: SB 1 (2021, 2nd C.S.) provides that in an election in which a city secretary is the early voting clerk, voting on any Saturday or Sunday **must** be included in the order and notice of election. City secretaries no longer have the authority to order Saturday or Sunday early voting 72 hours immediately preceding the first hour that voting will be conducted. However, the city **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Secs. 85.006, 85.007).

NOTE for Counties: Deadline to file a petition (PDF) to require the county early voting clerk to conduct extended early voting on Sunday, April 30, 2023 (Sec. 85.006(d)). Notice of weekend voting (PDF) must be posted beginning no later than Thursday, April 27, 2023, and continuing through Saturday, April 29, 2023. (Sec. 85.007(c)).

Thursday, April 27, 2023 (9th day before election day)

Counties – Weekend Early Voting Hours – Notice Requirement: Last day to post notice on bulletin board used for posting notice of meetings of commissioners court, if early voting will be conducted on Sunday, April 30, 2023. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Saturday or Sunday. Notice (including the days and hours of early voting) must also be posted to the political subdivision's website, if one is maintained.

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Monday, May 1, 2023 (5th day before election day, day before last day of early voting, 4th business day after the deadline to apply for a ballot by mail)

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, May 3, 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).

Deadline for the early voting clerk to receive, by mail, the original of an ABBM that was faxed or emailed or an FPCA that was faxed on the deadline to apply for a ballot by mail, Tuesday, April 25, 2023.

> A voter who faxed or emailed their ABBM or faxed their FPCA must mail the original 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**. For more information, see the entry under Tuesday, April 25, 2023 and Note 17.

Last day to publish notice of public test of automatic tabulating equipment, if test will be held on Wednesday, May 3, 2023, and testing was not already completed. The public notice of the test of automatic tabulating equipment must be published at least 48 hours before the test begins. (Sec. 127.096).

Tuesday, May 2, 2023 (4th day before election day)

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

5:00 PM – Deadline to submit a Request for Election Inspectors for election day, Saturday, May 6, 2023 to the Secretary of State. (Sec. 34.001).

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, May 3, 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).

> The Notice of Delivery of Early Voting Balloting Materials serves as notice of the convening of the early voting ballot board. Your entity should also post notice every time the early voting ballot board reconvenes.

Wednesday, May 3, 2023 (3rd day before election day; day after early voting in person ends)

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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):

First day those counties and political subdivisions 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).

Counties with a population less than 100,000 (or local subdivisions who are **NOT** conducting a joint election with a county with a population of 100,000 or more or conducting an election through a contract for election services with such a county):

First day those counties and political subdivisions may convene their early voting ballot board for **processing** and **qualifying** mail ballots, 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 (PDF).

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: SB 1 (2021, 2nd C.S.) added Section 87.0411 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an **early voting ballot board** discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0411). *See* Note 18.

First day to submit an Application for Emergency Early Ballot Due to Death in Family to vote a late ballot because of a death in the immediate family that occurred on or after Monday, May 1, 2023, and will require absence from the county on election day. (Secs. 103.001, 103.003(b)).

Last day to conduct public test of automatic tabulation equipment. Per Section 127.093, the test shall be conducted at least 48 hours before the automatic tabulating equipment is used to count ballots voted in an election and was not previously tested. We highly ***recommend*** that this test is done on an earlier date to allow time for corrections to programming, if necessary. (See Note 15, above).

Friday, May 5, 2023 (day before 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 e-pollbook.

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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, May 5, 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 office of the custodian of election records and pick up the provisional ballots and forms.

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

NOTE FOR MAY 2024 ELECTION: Chapter 2051 of the Government Code requires any political subdivision with the authority to impose a tax that maintained a publicly available Internet website at any time on or after January 1, 2019, to post on that website the requirements and deadline for filing for candidacy of each elected office of the political subdivision continuously for one year before the election day for that office. *See* Tex. Sec'y of State Election Advisory No. 2019-19.

Saturday, May 6, 2023 (Election Day)

7:00 AM – 7:00 PM	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). A voter may vote at the main early voting polling place if **electronic voting systems** are used at regular polling place(s) on election day **and** the voter has a sickness or physical condition that prevents the voter from voting in the regular manner without personal assistance or a likelihood of injuring the voter's health. (Secs. 104.001, 104.003). However, if the early voting ballots by mail are processed at a location other than the main early voting polling place, the early voting clerk may require the voting to be conducted at that location. (Sec. 104.003).
5:00 PM	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, April 26, 2023. (Sec. 102.003(b)).
7:00 PM	Regular deadline for receiving **early voting ballots** by mail. **BUT see entry for Monday, May 8, 2023 on "late domestic ballots," entry for Thursday, May 12, 2023, and entry for Friday, May 12, 2023 on other "late" ballots.** This is also the deadline for receiving **late ballots cast by voters who became sick or disabled** on or after Monday, April 26, 2023. (Secs. 86.007(a), 102.006(c)).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 61.002 to provide 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).

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NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) requires 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).

NOTE: Receipt of Mail Ballots: All early voting ballots sent by mail from inside the United States that are received by 7:00 PM on election day, May 6, 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 that 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 pm on election day may not be counted unless the ballot may be counted late, which applies to late domestic ballots (Sec. 86.007(a)(2)), ballots mailed from outside the United States (Sec. 86.007(d)), 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, May 8, 2023 on "late domestic ballots," entry for Thursday, May 11, 2023, and entry for Friday, May 12, 2023 on other "late" ballots. See Tex. Sec'y of State Election Advisory No. 2018-02**.**

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 chief of police or city marshal for city elections, the constable of the justice precinct in which the office of the political subdivision governing body's main office is located (or the sheriff, if there is no constable) for an election ordered by an authority of a political subdivision other than a county or city, and the sheriff for an election ordered by the Governor or a county authority. (Sec. 66.060). If ballots are to be delivered before election day, the early voting clerk must post notice at least 24 hours before each delivery at the main early voting polling place. Form AW6-6

Note on Delivery of Early Voting Ballot to Early Voting Ballot Board Before Election Day: Early voting ballots may be delivered to the early voting ballot board at any time after early voting by personal appearance ends. 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 at least 24 hours before each delivery at the main early voting polling place. Form AW6-6

> **Exception: Counties with a population of 100,000 or more, or entities that are having joint elections with counties with a population of 100,000 or more or who are conducting an election through a contract for election services with such a county, may process the mail ballots (i.e., qualify, and accept or reject, but not count) as early as the 8th day before the end of the early voting period; in such an election, votes may be counted 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 (PDF) at least 24 hours before each delivery at the main early voting polling place. (Secs. 87.0221(b), 87.023(b), 87.024(b))**.
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> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) amended Section 127.1232 to provide that in counties with a population of 100,000 or more (or political subdivisions contracting with a county with a population of 100,000 or more), 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

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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).

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 on Election Night: The county voter registrar may take possession of the 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). Form AW8-19

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 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, May 9, 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: NEW LAW: SB 1116 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.016 of the Code regarding 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;

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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).

Monday, May 8, 2023 (1st business day after election day)

5:00 PM – 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 Postcard 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 PM** at the location of the election on election day, May 6, 2023**.** (Secs. 86.007, 101.057 and 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 PM.

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 PM 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 PM** 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 who applied for a ballot using an ABBM or FPCA; 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 the **entry for Thursday, May 11, 2023, and the entry for Friday, May 12, 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 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: 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, May 6, 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 office of the custodian of election records 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, May 9, 2023 (3rd day after election day)

Last day to begin the **partial manual count** for entities using electronic voting systems for the counting of ballots. 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 Secretary of State not later than the 3rd day after the manual count is

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completed. (Sec. 127.201(e)). No partial manual count needs to be done of ballots cast on DRE voting machines, but partial manual count must be completed for mail ballots. (Sec. 127.201(g)).

> **NOTE:** For information on how to begin the partial manual count, please see Tex. Sec'y of State Election Advisory No. 2018-30.

The first possible day to conduct official local canvass of returns by governing authority of the political subdivision. However, the canvass may not be conducted until the 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 and 86.007).** Notice of canvass must be posted at least 72 hours continuously before the canvass is conducted.

> **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 be issued a certificate of election and take the oath of office. (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, who cannot qualify until the 6th day after election day. *See* entry on Friday, May 12, 2023.

Thursday, May 11, 2023 (5th day after election day)

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 PM on election day, Saturday, May 6, 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 a military FPCA) **cannot be counted** if it does **not** bear a cancellation mark or a receipt mark. (Sec. 86.007(c), (e), (f)). For military voters casting ballots who submitted an FPCA, please see entry for Friday, May 12, 2023.

> **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 PM** on election day.

Last day to receive ballots from **non-military voters** casting ballots from **overseas**, who submitted an **FPCA, AND** who placed their ballots in delivery by 7:00 PM on election day, Saturday, May 6, 2023. (Sec. 86.007(d) and (e)).

Friday, May 12, 2023 (6th day after election day)

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

> **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

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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."

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).

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 Monday, June 5, 2023 entry.

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 and 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 and 101.001).

NOTE: The carrier envelope or, if applicable, the envelope containing the carrier envelope sent by the military 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's office; 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)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 65.052 of the Code to provide that, for the general election for state and county officers, the voter registrar will now have 10 days to review a provisional voter's eligibility. **Please note this extended deadline does not apply to the May uniform election.** (Sec. 65.052).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.): 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). *See* Note 18.

Monday, May 15, 2023 (9th day after 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:

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

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carrier not later than 7:00 PM on election day, May 6, 2023, and were received not later than 5:00 PM on the first business day after election day, Monday, May 8, 2023. (Secs. 86.007(a) & (d-1), 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, May 11, 2023. (Secs. 86.007(d), 87.125(a)).
3. any ballots received by the 6th day after election day, Friday, May 12, 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)).

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-NEW LAW**: HB 3107 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.0581 to provide 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 – NEW LAW: SB 1 (2021, 2nd C.S.) requires 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, May 16, 2023 (10th day after election day)

The presiding judge of the EVBB shall mail a Notice of Rejected Ballot (PDF) to voters whose mail ballots were rejected no later than the 10th day after election day or as soon as practicable, depending on when the EVBB last convenes. (Sec. 87.0431).

Wednesday, May 17, 2023 (11th day after election day)

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

> **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).

Sunday, May 21, 2023 (15th day after election day)

Election records from the May 6, 2023 election must be available in an electronic format no later than this day, for a fee of not more than $50.00. (Sec. 1.012(e)).

NOTE: For information on when voted ballots may be inspected and produced, please see Texas Attorney General Opinion No. KP-0411 (PDF). You should also consult with your county attorney (or attorney for your local political subdivision) and any records management officers from your local entity when responding to public information requests. Additionally, the OAG has a hotline you can call for questions related to open government issues, including the Public Information Act. That number is (877) OPEN-TEX (673-6839).

Monday, May 29, 2023 – Monday, July 3, 2023 (20th day after the canvass through the 47th day after the canvass; 23rd day after election day; 12th day after last canvass date)

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Possible period for runoff election, depending on the date of the official canvass unless a charter provides for a later date. If Monday, May 29, 2023 (Memorial Day) is the first possible day, it does not move, since it is not the last possible day to hold a runoff election. If the 45th day is Saturday, July 1, 2023, that deadline will move to the next regular business day, Monday, July 3, 2023, under Section 1.006.

NOTE: The order of the names on the runoff ballot should be in the same relative order as they appeared on the general election ballot, so no ballot drawing is required for the runoff ballot. (Sec. 52.094).

Tuesday, May 30, 2023 (24th day after election day; extended from 21st day, Saturday, May 27, 2023, Sec. 1.006)

Last day for the presiding judge of the early voting ballot board to mail Notice of Outcome to Provisional Voter (PDF) to provisional voters, if the canvass was held on Wednesday, May 17, 2023. Such notices must be delivered to provisional voters by the presiding judge no later than the 10th day after the local canvass. (The deadline falls on Saturday, May 27, 2023, and is extended to Tuesday, May 30, 2023 under Section 1.006.) (Sec. 65.059; 1 T.A.C. § 81.176(e)).

Last day to complete the partial manual count, which is first business day after the 21st day after the election. (Secs. 1.006, 127.201(a)).

June

Monday, June 5, 2023 (30th day after 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).

> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) amended Section 18.069 of the Code by changing who is responsible for submitting voter history to the Secretary of State from the voter registrar to the general custodian of election records (early voting clerk). (Sec. 18.069).

Thursday, June 15, 2023 (40th day after election day)

Last day of the period for mandatory office hours. See entry for Friday, March 17, 2023. (Sec. 31.122).

July

Thursday, July 6, 2023 (61st day after election day)

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: For information on when voted ballots may be inspected and produced, please see Texas Attorney General Opinion No. KP-0411 (PDF). You should also consult with your county attorney (or attorney for your local political subdivision) and any records management officers from your local entity when responding to public information requests. Additionally, the OAG has a hotline you can call for questions related to open government issues, including the Public Information Act. That number is (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.

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2024-2025

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

First day that surveillance video of areas containing voted ballots from the May 6, 2023 election may be destroyed IF there is no unresolved election contest.

NEW LAW: SB 1 (2021, 2nd C.S.): amended Section 127.1232 to provide that in counties with a population of 100,000 or more (or political subdivisions contracting with a county with a population of 100,000 or more), 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).

Friday, March 7, 2025 (day after 22 months after May 6, 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, May 7, 2025 (day after Two Years after May 6, 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).

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From: Elections Internet
Sent: Monday, December 12, 2022 4:12 PM
To: Elections Internet
Subject: MASS EMAIL ADVISORY (CSO-3343) - Advisory 2022-37 - May 6, 2023 Election Law Calendar
Attachments: May 6 2023 Election Law Calendar (FINAL).pdf

Dear Election Officials:

Our office has issued **Advisory 2022-37 – May 6, 2023 Election Law Calendar**. It is attached to this email as a PDF.

Additionally, there are a few relevant dates and deadlines for those cities, schools, and other political subdivisions that may be having an election in May 2023 that we wanted to draw to your attention.

Important Upcoming Dates

Monday, December 19, 2022 (30th day before Wednesday, January 18, 2023, first day to file an application for a place on the ballot)

- Deadline to Post Notice of Deadline to File Applications for Place on the Ballot in a building in which the authority maintains an office.

Wednesday, January 18, 2023 (30th day before Friday, February 17, 2023, regular filing deadline for a place on the ballot)

- First day to file an application for a place on the ballot or a declaration of write-in candidacy.
  - Application for Place on City/School/Other Political Subdivision Ballot (PDF)
    - If your home rule city or special law district allows for a petition, the following petition may be used: Petition for Place on the City General Election Ballot (PDF)
  - Declaration of Write-In Candidacy for City, School, or other Political Subdivisions (PDF)

Friday, February 17, 2023 (78th day before election day)

- **5:00 p.m. -** Last day for a candidate in a political subdivision (other than a county) to file an application for a place on the ballot for general election for officers for most political subdivisions.
- Deadline for political subdivisions to order a general election to be held on Saturday, May 6, 2023, unless otherwise provided by the Election Code. (Sec. 3.005).
  - Order of Election for Municipalities
  - Order of Election for Other Political Subdivisions (Including Schools)

Filing Method of Candidate Application

- A candidate application may be filed in person, by mail, by fax, or by email.
  - **Filing in Person:** The Elections Division recommends that political subdivisions take steps to have someone available for at least a few hours most days during the candidate filing period to accept filings, and that political subdivisions post a schedule on their websites and on the bulletin boards where notices of meetings are posted of the days and times when someone will be available to accept filings. The Elections Division also strongly recommends having someone available at the place of business on the filing deadline, especially from 2:00 p.m. to 5:00 p.m., if you are otherwise closed.
  - **Filing by Mail**: An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b); 144.005(b)).

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- **Filing by Fax or Email**: A signed, sworn, scanned candidate application (and petition, if applicable) may be submitted by fax or email if there is no filing fee. The SOS recommends that the filing authority establish a dedicated fax number or email address for the submission of candidate applications. This fax number or email address should be posted on the Notice of Deadline to File Applications for Place on the Ballot or wherever information about filing candidate applications is posted. Please be advised that an application must be notarized prior to filing via fax or email.

When posted, this advisory and other resources can be found on our Conducting Elections page. Please let us know if you have any questions or concerns.

Thank you,

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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May 6, 2023 Election Law Calendar

The uniform election date in May of an odd-numbered year is a date on which many local political subdivisions, such as cities, school districts, and water districts, have their regular general elections for members of their governing bodies or special elections to fill vacancies. Therefore, this calendar is required to meet the needs of many different governmental bodies. If there are questions about the applicability of something in this calendar to your specific election, do not hesitate to call the Elections Division of the Office of the Texas Secretary of State at 1-800-252-VOTE(8683).

Notes

1. Campaign Information
2. Statutory and Administrative Code References
3. Web Posting Requirements
4. May Uniform Date (Odd-Numbered Years)
5. Required Use of County Polling Places
6. Notice of Candidate Filing Periods
7. Joint Election Requirement for School Districts
8. Joint Elections Generally
9. Notice of Elections
10. Regular Days and Hours for Voting
11. Extended Early Voting Hours and Branch Locations
12. Temporary Branch Locations
13. Notice of Previous Polling Place
14. Notice of Change of Polling Place Location
15. Testing Tabulating and Electronic Voting Equipment
16. Accepting Voters with Certain Disabilities
17. Law Regarding Faxed or Emailed ABBMs and Faxed FPCAs
18. Opportunity to Correct Defects in Mail Ballots
19. Reconciliation Forms

NOTE REGARDING CERTAIN STATUTES AND GOVERNMENTAL ACTIONS THAT RELATE TO THE FEDERAL CENSUS: Pursuant to HB 2025 (2021), the population figures from the 2010 federal census will continue to apply with respect to a statute that applies to a political subdivision having a certain population according to the most recent federal census until September 1, 2023. The bill specifies that a statute does not apply to a political subdivision to which the statute did not apply under the 2010 federal census, regardless of whether the political subdivision has the population prescribed by the statute according to the 2020 federal census.

1. Note on Campaign Information

Under Title 15 of the Texas Election Code, candidates running for an office must file campaign contribution and expenditure reports. For further information and all questions about such disclosure filings, campaign finance, and political advertising, please contact the Texas Ethics Commission at 201 E. 14th Street, 10th Floor, Austin, Texas 78701; call 512-463-5800; or access their website.

2. Note on Statutory and Administrative Code References

Unless otherwise indicated, all references are to the Texas Election Code. The county election officer is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091). The county voter registrar is either the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 12.001, 12.031, 31.031, 31.071).

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Any references to the Texas Administrative Code are cited to the relevant section of the "T.A.C."

3. Note on Web Posting Requirements

Please see our Web Posting Advisory, Tex. Sec'y of State Election Advisory No. 2019-19, for more details on web posting requirements; however, the requirements are summarized below.

As of January 1, 2020, each county *shall maintain* a website. (Sec. 26.16(a), Tax Code).

A political subdivision with the authority to impose a tax that maintained a publicly accessible website at any time on or after January 1, 2019, and that is not subject to Section 2051.202 of the Government Code must post the following items on the entity's Internet website (Secs. 2051.201, 2051.202, Government Code). *See* Internet Posting Requirements for Political Subdivisions (PDF):

1. The political subdivision's contact information, including a mailing address, telephone number, and e-mail address;
2. Each elected officer of the political subdivision;
3. The date and location of the next election for officers of the political subdivision;
4. The requirements and deadline for filing for candidacy of each elected office of the political subdivision, which shall be continuously posted for at least one year before the election day for the office;
5. Each notice of a meeting of the political subdivision's governing body under Subchapter C, Chapter 551 of the Government Code; and
6. Each record of a meeting of the political subdivision's governing body under Section 551.021 of the Government Code. (Sec. 2051.201, Government Code).

Our office recommends consulting with your political subdivision's local counsel regarding the particular posting requirements under Subdivisions (5) and (6) referenced above. Please note, the requirements for posting notice of meetings and record of meetings of the political subdivision's governing body do not apply to:

1. A county with a population of less than 10,000;
2. A municipality with a population of less than 5,000 located in a county with a population of less than 25,000; or
3. A school district with a population of less than 5,000 in the district's boundaries and located in a county with a population of less than 25,000.

NOTE-NEW LAW: HB 1154 (2021, R.S.) amended the Government Code to include Section 2051.202, effective September 1, 2021. Section 2051.202 of the Government Code requires a special purpose district with certain financial and population characteristics to post specific information on an Internet website. "Special purpose district" excludes from the term a municipality, county, junior college district, independent school district, groundwater conservation district, river authority, or political subdivision with statewide jurisdiction. (Sec. 2051.202, Government Code).

During the 21 days before the election, a debt obligation order under Section 3.009 must be posted on the political subdivision's Internet website, prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website. (Sec. 4.003(f)).

NOTE-NEW LAW: SB 1116 (2021, R.S.) amended Chapter 4 of the Election Code by adding Section 4.009 regarding candidate and polling place information which must be posted on county, city, and school district websites. Specifically, not later than the 21st day before election day, a county that holds an election or provides election services for an election must post certain information related to their upcoming elections. 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 date of the election;
- The location of each polling place;

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- Each candidate for an elected office on the ballot; and
- Each measure on the ballot. (Sec. 4.009)

NOTE-NEW LAW: SB 1116 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.016 of the Code regarding election results information which must be posted on county, city, and school district websites. Specifically, a county that holds an election or provides election services for an election for a public entity must post certain information on their website. 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 such information. Information should be posted **as soon as practicable after the election** and must be accessible without having to make more than two selections or view more than two network locations after accessing the home page of the county, city or school district, whichever is applicable. Required information on the websites must include:

- the results of each election;
- the total number of votes cast;
- the total number of votes cast for each candidate or for or against each measure;
- the total number of votes cast by personal appearance on election day;
- the total number of votes cast by personal appearance or mail during the early voting period; and
- 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.

4. Note on May Uniform Date (Odd-Numbered Years)

With few exceptions, counties are not authorized to hold an election ordered by county authority on the May uniform election date in an even-numbered year. A county elections administrator may refuse to provide election services by contract for an election that is held on the May uniform election date in an even-numbered year. (Sec. 41.001(d)). Thus, for **May 6, 2023** (odd-numbered year) we return to the general rules: counties are authorized to hold an election ordered by county authority in May 2023; and a county elections administrator **may not refuse** to provide election services by contract in May 2023.

5. Note on Required Use of County Polling Places

Political Subdivisions other than Counties: Political subdivisions are not required to use county election precincts and polling places for elections held on the May uniform date. The governing body of a political subdivision other than a county shall establish the election precincts for elections ordered by an authority of the political subdivision and follow the requirements of Secs. 42.061 and 42.0615.

6. Note on Notice of Candidate Filing Periods

The authority with whom an application for a place on the ballot is filed must post a Notice of Deadline to File Applications for Place on the Ballot (PDF), listing the filing period dates in a building in which the authority maintains an office. The notice must be posted not later than the 30th day **before** the first day to file. (Sec. 141.040). If you order a special election to fill a vacancy, the order must include the filing deadline; we recommend posting the notice of the filing period as soon as practicable after a special election is ordered. Note that an application for a place on the ballot for a special election may not be filed before the election is ordered.

NOTE-NEW LAW: HB 3107 (2021, R.S.) requires the authority with whom an application for a place on the ballot is filed to designate an e-mail address in the notice required by Section 141.040 of the Code for the purpose of filing an application for a place on the ballot. (Sec. 141.040).

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Most elective offices require that a candidate be a registered voter of the territory that the office is elected from as of the filing deadline or as of other statutory deadlines. (Sec. 141.001). For more information on the candidate voter registration requirement, see Voter Registration Requirements for Candidates.

7. Note on Joint Election Requirement for School Districts

School districts conducting trustee elections must have joint polling places on election day with either:

1. a city holding an election on the uniform election day (located wholly or partly within the school district's boundaries);
2. a public junior college district if it is having an election for members of its governing board in which the school district is wholly or partly located;
3. in limited circumstances, a hospital district; or
4. the county on the November uniform election day in even-numbered years.

For purposes of this calendar, we will continue to use separate subheads for cities and school districts when their rules are different. However, many entities will be working out joint election agreements. (Sec. 11.0581, Texas Education Code; Sec. 271.002).

NOTE – At minimum, a school district needs to share polling places with a city or public junior college district conducting an election on the uniform election day. Sharing polling places is sufficient to meet the joint election requirement.

8. Note on Joint Elections Generally

Many entities will have joint elections for the May 6, 2023 election. Note that the entries in this calendar are generally written in terms of elections held individually rather than jointly. For example, counties with populations of 55,000 or more are advised about conducting 12-hour days on each weekday during the last week of early voting. However, we have long advised different entities who conduct early voting together to coordinate their early voting hours, which may result in entities other than those counties also holding early voting for 12-hour days on each weekday during the last week of early voting. On the other hand, depending on the plan, different entities may choose to do different things separately, i.e., not holding early voting together. Not all joint election plans are alike. With a few exceptions, we do not discuss the impact of coordinating rules for a joint election, as we think this would make the calendar longer and confusing. We encourage joint election partners to read through the entire calendar, taking note of the rules affecting the partner entities and to address the differences within the agreement itself. If you have questions about how different rules apply to a particular joint election plan, please contact our office by phone or email.

9. Note on Notice of Elections

Political subdivisions other than cities and school districts may have specific statutory notice requirements. In the absence of specific statutory requirements, such political subdivisions must post a notice on or before the 21st day before the election. (Sec. 4.003(b)). For the Saturday, May 6, 2023 election, this notice must be posted on or before Saturday, April 15, 2023. (Secs. 1.006, 4.003(b)). 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 21st day before the election, Saturday, April 15, 2023. (Sec. 4.003(a)(2)).
2. By publishing the notice at least once between the 30th day and the 10th day before the election, Thursday, April 6, 2023–Wednesday, April 26, 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, April 26, 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)). Counties, school districts, and cities must also publish notice on the governmental bulletin board used for posting notice of public meetings, no later than April 15, 2023. (Sec. 4.003(b).

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Note for Counties: Notice of an election ordered by the governor or by a county authority must be published in a newspaper; the county may also give any additional notice. (Secs. 4.003(a)(1), 4.003(c)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) provides that in addition to any other notice given, notice of an election ordered by the governor, by a county authority, or by an authority of a city or school district must be given by the method prescribed by Section 4.003(a)(1) of the Code. (Sec. 4.003(c)).

This notice must include:

1. The type and date of the election;
2. The location of the main early voting polling place**, including the street address, room number, and building name. The notice must designate which location is the main early voting polling place**;
3. The location of each polling place, **including the street address, room number, and building name**;
4. The hours the polls will be open;
5. The regular dates and hours for early voting by personal appearance;
6. The dates and hours of any Saturday or Sunday early voting;
7. 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;
8. We ***recommend*** that the information regarding branch early voting locations be included as part of your notice; and
9. Any other information required by law.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 4.004 of the Code to require the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 85.004 of the Code to provide that an election order and election notice must designate which location is the main early voting polling place. (Sec. 85.004).

NOTE – ANY notice of polling locations must include more detailed information regarding the polling locations including: the polling location's street address, any applicable suite or room number, and any applicable building name. (Sec. 1.021).

Note regarding branch early voting locations: The branch early voting locations are no longer a required part of your notice under the Texas Election Code. (Sec. 4.004).

The following forms may be used:

- Notice of General Election for Cities (PDF)
- Notice of General Election for Other Political Subdivisions (Including Schools) (PDF)
- Notice of Special Election for Counties (PDF)
- Notice of Special Election (Cities, Schools, and Other Political Subdivisions (PDF)

All Political Subdivisions: The election notice shall be posted on the political subdivision's website, if the political subdivision maintains a website. For political subdivisions other than counties, the original order and notice should include all days and hours for early voting by personal appearance, including voting on **ANY** Saturday or Sunday. (Secs. 85.006, 85.007).

Note for Counties: The election notice must be subsequently amended to include voting ordered for **ANY** Saturday or Sunday and must be posted on the political subdivision's website, if maintained.

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For more information on notice requirements related to early voting in person, see Tex. Sec'y of State Election Advisory No. 2022-07.

Notice for Bond Elections: Entities holding bond elections must provide additional notice per Section 4.003(f). A debt obligation order under Section 3.009 must be posted:

1. On election day and during early voting by personal appearance, in a prominent location at each polling place;
2. Not later than the 21st day before the election, in three public places in the boundaries of the political subdivision holding the election; and
3. During the 21 days before the election, on the political subdivision's Internet website, prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website.

The same requirements apply to the voter information document required by Government Code Section 1251.052(b) (see law for full contents of notice). The requirement referenced in Section 1251.052(b) of the Government Code applies to a political subdivision with at least 250 registered voters on the date the governing body of the political subdivision adopts the debt obligation election order.

Home-Rule Charter Cities: Home-rule cities MUST also give notice as provided in their charters.

Notice for Political Subdivisions other than Counties, School Districts, and Cities: Political subdivisions other than counties, school districts, and cities may have specific statutory election notice requirements either in their enabling acts or in the code governing them (such as the Water Code). In the absence of specific statutory requirements, such political subdivisions may post a copy of the notice on or before the 21st day before the election (i.e., Saturday, April 15, 2023) on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision. (Sec. 4.003(b)).

Note for All Political Subdivisions, Except Counties: The governing body of a political subdivision **must** deliver notice of the election to the county election officer and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day, Tuesday, March 7, 2023. (Sec. 4.008).

Note for Counties: 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. *See* Note for All Political Subdivisions above.

Notice of Nearest Polling Places in Countywide Election: EACH countywide polling place must post a notice, at that location, of the four nearest locations, by driving distance. (Sec. 43.007(o)). Notice of Four Nearest Countywide Polling Place Locations (PDF)

10. Note on Regular Days and Hours for Voting

NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 85.005 to modify the required days and hours for early voting by personal appearance at the main early voting location.

Counties: For elections in which the county is serving as the early voting clerk, early voting must be conducted at the main early voting location on each weekday that is not a legal state holiday for a period of at least **nine (9) hours**. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.

Political Subdivisions Other Than Counties: For all other elections in which the county is **NOT** the early voting clerk, early voting must be conducted at the main early voting location on each weekday that is not a legal state holiday for a period of at least **nine (9) hours** unless the territory has fewer than 1,000 registered votes. For territories with less than 1,000 registered voters, voting shall be conducted for at least **four (4) hours** each day. (Sec. 85.005(b)).

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NOTE for Cities: SB 1 (2021, 2nd C.S.) amended Section 85.005(d) to remove the provision that required cities 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).

11. Note on Extended Early Voting Hours and Branch Locations

Note for Counties: The county election officer may order early voting on a **Saturday or Sunday**, and determine the hours for such Saturday or Sunday early voting. This must be done by written order (PDF). (Secs. 85.006(b), 85.006(c)). Notice (PDF) of Saturday or Sunday early voting must be posted for at least 72 hours immediately preceding the first hour that voting will be conducted. (Sec. 85.007(c)). The county election officer must have early voting on Saturday or Sunday, *if* a written request (PDF) is received from at least 15 registered voters of the county in time to comply with the posting requirement. (Secs. 85.006(d), 85.007).

Note: The election notice must be subsequently amended to include voting later ordered for ANY Saturday or Sunday and must be posted on the political subdivision's website, if maintained. (Sec. 85.007).

All Political Subdivisions, *Except* Counties: Voting on **ANY** Saturday or Sunday must be included in the order and notice of election. The order and notice must include the dates and hours of Saturday or Sunday voting. (Secs. 85.006, 85.007). The political subdivision **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Sec. 85.006(d)). The election notice must be posted on the political subdivision's website, if the political subdivision maintains a website. (Sec. 85.007).

NOTE for Cities – NEW LAW: SB 1 (2021, 2nd C.S.) provides that in an election in which a city secretary is the early voting clerk, voting on any Saturday or Sunday **must** be included in the order and notice of election. City secretaries no longer have the authority to order Saturday or Sunday early voting 72 hours immediately preceding the first hour that voting will be conducted. However, the city **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Secs. 85.006, 85.007).

12. Note on Temporary Branch Locations

Effective September 1, 2021, the rules for temporary branch locations are different for counties with a population of 100,000 or more.

Note for Counties with a Population of 100,000 or More and Political Subdivisions Situated in Such a County: Early voting at any temporary branch polling place **MUST** be conducted on the same days that voting is required to be conducted at the main early voting polling place under Section 85.005 of the Code and **MUST** remain open for at least eight hours each day. For certain political subdivisions, this will require your temporary branch locations to be open on every weekday of the early voting period, for at least eight hours on each of those days. **This only applies to an election in which the territory served by the early voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the early voting clerk is situated in more than one county, this section applies if the sum of the populations of the counties is 100,000 or more.** (Secs. 85.005 and 85.064).

NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.068 of the Code to provide that if the early voting clerk is a county election officer or city secretary, the clerk must post notice (PDF) for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Sections 85.064(d) or 85.065(b). (Sec. 85.068).

NOTE for political subdivisions other than city or county – If the city or county election officer does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters, the temporary branch polling place(s) must be open for at least three hours each day that voting is required to be conducted at the main early voting polling place under Section 85.005 of the Code. **This applies if the territory served by the early voting clerk is in a county with a population of 100,000 or more. In an election in which**

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the territory served by the early voting clerk is situated in more than one county, this also applies if the sum of the populations of the counties is 100,000 or more. (Secs. 85.005 and 85.064).

NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.064 of the Code to provide that the section only applies to an election in which the territory served by the early voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the clerk is situated in more than one county, this section applies if the sum of the populations of the counties is 100,000 or more. (Sec. 85.064).

NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.068 of the Code to provide that if the early voting clerk is a county election officer or city secretary, the clerk must post notice (PDF) for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Sections 85.064(d) or 85.065(b). (Sec. 85.068).

Note for Counties with a Population of Less than 100,000 and Political Subdivisions Situated in Such a County: Early voting at any temporary branch polling place may be conducted on any days and during any hours of the period for early voting by personal appearance, as determined by the authority establishing the branch. However, voting at a temporary branch polling place must be conducted on at least two consecutive business days and for at least eight consecutive hours on each of those days. The authority authorized under Section 85.006 of the Code to order early voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. The schedules for conducting voting are not required to be uniform among the temporary branch polling places. **This applies only to an election in which the territory served by the early voting clerk is situated in a county with a population under 100,000. In an election in which the territory served by the early voting clerk is situated in more than one county, this applies if the sum of the populations of the counties is under 100,000.** (Sec. 85.065).

NOTE - NEW LAW: HB 3107 (2021, R.S.) added Section 85.065 of the Code to modify the requirements regarding the days and hours for early voting by personal appearance at any temporary branch polling place if the territory served by the early voting clerk is situated in a county with a population under 100,000 or if the territory served by the early voting clerk is situated in more than one county and the sum of the populations of the counties is under 100,000. (Sec. 85.065).

NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.068 of the Code to provide that if the early voting clerk is a county election officer or city secretary, the clerk must post notice (PDF) for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Sections 85.064(d) or 85.065(b). (Sec. 85.068).

NOTE for Cities – NEW LAW: SB 1 (2021, 2nd C.S.) provides that in an election in which a city secretary is the early voting clerk, voting on any Saturday or Sunday **must** be included in the order and notice of election. City secretaries no longer have the authority to order Saturday or Sunday early voting 72 hours immediately preceding the first hour that voting will be conducted. However, the city **must** have early voting on Saturday or Sunday, *if* a written request (PDF) is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Secs. 85.006, 85.007).

NOTE for Cities: If a city is contracting for election services with a county or is holding a joint election with the county, the city **must** amend their order and notice of election to include any weekend early voting that the county is conducting.

13. Note on Notice of Previous Polling Place

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

14. Note on Notice of Change of Polling Place Location

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For elections ordered by the **county judge only**, if the location of the polling place changes after notice has been given under Section 4.003 of the Texas Election Code, and the county election officer maintains a website to inform voters about elections, the notice of the change must be posted on the website. The notice on the website must be posted not later than the earlier of (1) 24 hours after the location was changed; or (2) 72 hours before the polls open on election day. (Sec. 43.061). If the county election officer is conducting a legislative vacancy election, the candidates listed on the ballot are entitled to receive notice directly from the county judge. **As a reminder, notice should also be provided to the Secretary of State regarding any changes made to the location of polling places.** Notice of Change to Polling Place (PDF).

15. Note on Testing Tabulating and Electronic Voting Equipment

Ballot Testing:

Once all candidate filing deadlines have passed, we recommend that you proof and test your ballot programming as soon as possible. Early testing will allow adequate time to locate any errors and make any necessary corrections in ballot programming. **We also strongly suggest that you have candidates proof their names and offices before finalizing the ballot to avoid the necessity for last minute ballot corrections.**

Logic and Accuracy Test:

We recommend establishing a date to perform the test of your electronic voting equipment (L&A, or Logic and Accuracy Test) as soon as possible. We recommend that this test be performed on a date that allows time to correct programming and retest, if necessary. A notice of this test must be published by the custodian of the electronic voting equipment at least 48 hours before the date of the test. (Sec. 129.023; Tex. Sec'y of State Election Advisory No. 2019-23). The L&A test must be conducted not later than 48 hours before voting begins on a voting system. (Sec. 129.023).

> **NOTE-NEW LAW:** SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).
>
> **NOTE-NEW LAW:** SB 1 (2021, 2nd C.S.) requires the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

Testing Tabulating Equipment:

The automatic tabulating equipment used for counting ballots at a central counting station must be tested three times for each election. (Ch. 127, Subch. D). We recommend you test the equipment as soon as possible; early testing will allow adequate time to locate any errors and make any necessary corrections in programming. However, the first test **must be conducted at least 48 hours before** the automatic tabulating equipment is used to count ballots voted in the election. The second test shall be conducted immediately before the counting of ballots with the equipment begins. The third test must be conducted immediately after the counting of ballots with the equipment is completed. Please note that the custodian of the automatic tabulating equipment must publish notice of the date, hour, and place of the first test in a newspaper at least 48 hours before the date of the test. (Sec. 127.096). The electronic files created from the L&A testing are what must be used for testing the tabulating equipment. (Tex. Sec'y of State Election Advisory No. 2019-23).

Precinct tabulators must also be tested in accordance with the procedures set forth in Chapter 127, Subchapter D of the Texas Election Code to the extent those procedures can be made applicable. (Sec. 127.152; Tex. Sec'y of State Election Advisory No. 2019-23).

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Our recommendation is that both L&A testing and testing of the automatic tabulating equipment take place prior to ballots by mail being sent out. However, should there be a reason to delay testing, please be advised that L&A testing must be conducted at least 48 hours before voting begins on a voting system. This means that L&A testing should be completed before early voting and possibly, before election day, if your election day system is different than your early voting system. Additionally, the automatic tabulating equipment may not be used to count ballots voted in the election until a test is successful. (See Chapters 127 and 129, Election Code).

For more information on testing tabulating equipment used at the central counting station, please see Chapter 127, Subchapter D of the Election Code and Tex. Sec'y of State Election Advisory No. 2019-23. See Chapter 129, Subchapter B of the Election Code and Tex. Sec'y of State Election Advisory No. 2019-23 **for other types of testing such as functionality tests, logic and accuracy tests, tests for central accumulators, etc**. Please see Tex. Sec'y of State Election Advisory No. 2019-23 for additional information regarding voting system equipment access, security and preservation, and chain of custody.

16. Note on Accepting Voters with Certain Disabilities

An election officer may accept a person with a mobility problem that substantially impairs a person's ability to ambulate who is offering to vote before accepting others offering to vote at the polling place who arrived **before** the person. "Mobility problem that substantially impairs a person's ability to ambulate" has the meaning assigned by Section 681.001, Transportation Code. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order priority. Notice of the priority given to persons with a mobility problem that substantially impairs a person's ability to ambulate **shall** be posted:

1. at one or more locations in each polling place where it can be read by persons waiting to vote;
2. on the website of the Secretary of State; **and**
3. on each website relating to elections maintained by a county. (Sec. 63.0015).

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) provides that a qualified individual with a disability may 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. (Sec. 1.022).

The voting order priority notice required under Section 63.0015 **must** read as follows:

> "Pursuant to Section 63.0015, Election Code, an election officer may give voting order priority to individuals with a mobility problem that substantially impairs the person's ability to move around. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order priority. Disabilities and conditions that may qualify you for voting order priority include paralysis, lung disease, the use of portable oxygen, cardiac deficiency, severe limitation in the ability to walk due to arthritic, neurological, or orthopedic condition, wheelchair confinement, arthritis, foot disorder, the inability to walk 200 feet without stopping to rest, or use of a brace, cane, crutch, or other assistive device."

The ***recommended*** time to include the voting order priority notice on a county website is when the Notice of Election is also posted on the website. (Sec. 85.007(d)). See Note 9 regarding Notice of Elections.

Cities, Schools, and Other Political Subdivisions: It is ***strongly recommended*** that the notice regarding accepting voters with certain disabilities also be posted on the subdivision's website, if one is maintained by the political subdivision.

If a voter is physically unable to enter the polling place without assistance or likelihood of injury to his or her health, an election officer shall deliver a ballot or voting machine to the voter at the entrance or curb of the polling place on the voter's request. On the voter's request, a person accompanying the voter to the polling place must be permitted to select the voter's ballot and to deposit the ballot in the ballot box after the voter has voted. (Sec. 64.009).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) provides that 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

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solely under Section 64.009 or if the person is providing additional assistance to the voter under Chapter 64, Subchapter B. Completed forms shall be delivered to the SOS as soon as practicable. The SOS shall retain a form delivered under Section 64.009 for the period for preserving the precinct election records and shall make the form available to the attorney general for inspection upon request. This provision 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).

17. Note on Law Regarding Faxed or Emailed ABBMs and Faxed FPCAs

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).

If a voter faxes or emails the ABBM or faxes the FPCA, the date the early voting clerk receives the fax or email is considered the date of submission. Essentially, the faxed or emailed form serves as a place-holder for the voter. Therefore, a voter whose application was faxed or emailed by the 11th day before election day (the deadline), and whose original application is received on or before the 4th business day after that date, would still be entitled to receive a ballot for the election (if otherwise eligible). The early voting clerk will have to hold the faxed or emailed ABBM or faxed FPCA until the clerk receives the original, and would only send the voter a ballot if the original is received by the 4th business day after the faxed or emailed ABBM or faxed FPCA was received. *See* Tex. Sec'y of State Election Advisory No. 2018-02.

The requirement to mail the original application does not apply to an **emailed** FPCA, but does apply to a faxed FPCA.

> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW**: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW**: HB 3107 (2021, R.S.) amended Section 84.008 of the Code to provide 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 now 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.) (Sec. 84.008).

18. Note on Opportunity to Correct Defects in Mail Ballots

NEW LAW: Pursuant to SB 1 (2021, 2nd C.S.), effective December 2, 2021, the early voting ballot board, or signature verification committee (if one is appointed), will need to provide voters voting a ballot by mail the opportunity to correct certain defects in the voter's carrier envelope containing the voter's ballot.

Early Voting Clerk: Section 86.011(d) 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 early voting 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 Application for Ballot By Mail and vote in person. The early voting clerk may utilize this provision for defects such as a missing signature by the voter, a partially completed witness or assistant box (if applicable), 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 SOS 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.

Early Voting Ballot Board: Section 87.0411 provides a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an early voting ballot board discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. Poll watchers are entitled to observe these activities by the early voting ballot board.

Signature Verification Committee (if appointed): Section 87.0271 provides a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after a signature verification committee discovers the defect and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, the committee shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the committee determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the signature verification committee takes one of the actions described above, the committee must take that action with respect to each ballot in the election that to which these options apply. Poll watchers are entitled to observe these activities by the signature verification committee.

For more information on the corrective action procedures, please see Tex. Sec'y of State Election Advisory No. 2022-08 and Tex. Sec'y of State Election Advisory No. 2022-12.

19. Note on Reconciliation Forms

NEW LAW: Pursuant to SB 1 (2021, 2nd C.S.), effective December 2, 2021, the presiding judge of the central counting station must prepare a preliminary reconciliation form (PDF) on election night and a final reconciliation form (PDF) after the canvass. The reconciliation form requirement only applies to entities that conducted voting in such a manner that they had a central counting station. The reconciliation forms must be posted on the county website with election returns and results after they are completed and signed. This posting requirement applies regardless of whether a local entity is contracting with the county for election services. We recommend that local entities post the reconciliation form on their website, if the entity maintains a website. We further recommend that the reconciliation forms remain posted at least until the next election, and that the forms are available for the full 22 month retention period for election records. An entity may choose to make older reconciliation forms available as part of historical results on its website.

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Calendar of Events

December

Monday, December 19, 2022 (30th day before Wednesday, January 18, 2023, first day to file an application for a place on the ballot)

Cities, Schools, and Other Political Subdivisions: Post Notice of Deadline to File Applications for Place on the Ballot in a building in which the authority maintains an office. The notice must be posted not later than the 30th day before the first day to file. (Sec. 141.040; Sec. 49.113, Water Code). This notice must be posted in addition to the posting the requirements and deadline for filing for candidacy under Section 2051.201, Government Code. (See Note 3, above.)

Water Districts: The notice must be posted at the district's administrative office or at the public place established by the district under Section 49.063 of the Water Code. (Sec. 49.113, Water Code).

NOTE: The delivery, submission, or filing of an application with an employee of the filing authority at the authority's usual place for conducting official business constitutes filing with the authority. (Sec. 1.007).

NOTE-NEW LAW: HB 3107 (2021, R.S.) requires the authority with whom an application for a place on the ballot is filed to designate an e-mail address in the notice required by Section 141.040 of the Code for the purpose of filing an application for a place on the ballot.

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include with the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

January

Sunday, January 1, 2023

First day for voters to submit an **application** for a ballot by mail (ABBM) for an election in 2023. The application is considered submitted at the time of receipt. (Secs. 84.001(e), 84.007).

First day for voters to submit an ABBM, an Annual ABBM, or a Federal Postcard Application (FPCA). The Annual ABBM and FPCA allows the voter to receive ballots for all elections in which they are eligible to vote held in 2023. Voters who will be 65 or older on election day or voters with a disability are eligible to submit an annual application. The application is considered submitted at the time of receipt. (Secs. 84.001(e), 84.007, 86.0015).

Wednesday, January 18, 2023 (30th day before Friday, February 17, 2023, regular filing deadline for a place on the ballot)

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First day to file an application for a place on the ballot or a declaration of write-in candidacy. (Secs. 143.007, 144.005, Election Code; Secs. 11.055, 130.082(g), Educ. Code). *See* Candidacy Filing outline for more details. The following forms are available on the Secretary of State's website:

- Application for Place on City/School/Other Political Subdivision Ballot (PDF)
- If your home rule city or special law district allows for a petition, the following petition may be used: Petition for Place on the City General Election Ballot (PDF)
- Declaration of Write-In Candidacy for City, School, or other Political Subdivisions (PDF)

NOTE: Most elective offices now require that a candidate be a registered voter of the territory that the office is elected from as of the filing deadline or as of other statutory deadlines. (Sec. 141.001). For more information on the candidate voter registration requirement, see Voter Registration Requirements for Candidates.

NOTE: We are often asked how filing can begin if you have not yet ordered the general election. You do not need to order your **general** (regularly occurring) election in order for the filing period to begin.

NOTE - Cities, Schools, and Other Political Subdivisions: There are political subdivisions that do not have office hours on all days of the business week (Monday through Friday) or do not have an office that is open for eight hours each day of the business week. The Elections Division recommends that political subdivisions take steps to have someone available for a few hours most days during the candidate filing period to accept filings, and that political subdivisions post a schedule on their websites and on the bulletin boards where notices of meetings are posted of the days and times when someone will be available to accept filings. The Elections Division also strongly recommends having someone available at the place of business on the filing deadline, especially from 2:00 PM to 5:00 PM, if you are otherwise closed. This guideline is based on the office-hour rule under Section 31.122 of the Election Code. Although a political subdivision may accept applications by mail, fax, or email without a person present at the office, the political subdivision will not be able to determine which applications were timely filed by 5:00 PM.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Sections 143.004 and 144.003 of the Code to provide that candidate applications, other than those that must be accompanied by a filing fee, may be filed via email. The application must be a scanned copy of the candidate application and must be sent to the filing authority's designated email address for accepting applications. (Secs. 143.004, 144.003).

Tuesday, January 31, 2023 (last weekday before February)

Recommended date that county election officials and local political subdivisions meet to discuss conducting elections at the same polling locations pursuant to Section 42.002, as well as any applicable joint election issues needed to be agreed upon. **NOTE: This is not a deadline; just a recommendation.**

February

Monday, February 6, 2023 (89th day before election day, extended from 90th day, Sunday, February 5, 2023, Sec. 1.006)

Last day for eligible political subdivisions to submit Notice of Exemption Under Section 61.013 or an Application of Undue Burden Status to the Secretary of State for exemption from the accessible voting system requirement. (Sec. 61.013). For additional information, consult the most current advisory on this topic, Tex. Sec'y of State Election Advisory No. 2021-02.

Tuesday, February 14, 2023 (81st day before election day; 3rd day before filing deadline)

Political Subdivisions Other Than Counties: If a candidate dies on or before this date, his or her name is not placed on the ballot, if the filing deadline is Friday, February 17, 2023. (Sec. 145.094(a)(1)).

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NOTE: Section 145.098 states if a candidate dies on or before the deadline for filing an application for a place on the ballot, the authority responsible for preparing the ballots MAY choose to omit the candidate. If the authority does choose to omit the candidate, the deadline for filing an application for a place on the ballot is extended to the fifth day after the filing deadline, Wednesday, February 22, 2023. This extended deadline only applies to the regular filing deadline. It **DOES NOT** apply to the write-in deadline.

Friday, February 17, 2023 (78th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM - Last day for a candidate in a political subdivision (other than a county) to file an application for a place on the ballot for general election for officers for most political subdivisions, except as otherwise provided by the Texas Election Code. (Secs. 143.007(c), 144.005(d); Sec. 11.055, Education Code; Chapter 286, Health & Safety Code). *See* Candidacy Filing outline for more details.

NOTE – A home-rule city's charter may **NOT** provide an alternate candidate filing deadline. (Secs. 143.005(a), 143.007).

NOTE – City Offices with Four-Year Terms: If no candidate has filed for a city office with a four-year term, the filing deadline is extended to 5:00 PM on Friday, March 10, 2023. (Sec. 143.008).

NOTE – An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b), 144.005(b)).

Deadline for political subdivisions to order a general election to be held on Saturday, May 6, 2023, unless otherwise provided by the Election Code. (Sec. 3.005). One of the following forms may be used:

- Order of Election for Municipalities
- Order of Election for Other Political Subdivisions (Including Schools)

Political Subdivisions Other Than Counties (Special Election): Deadline to order a special election on a measure to be held on Saturday, May 6, 2023. The following form may be used:

- Order of Special Election for Municipalities (PDF)
- Order of Special Election for Other Political Subdivisions (Including Schools) (PDF)

Counties: Deadline for counties to order a general election or a special election on a measure to be held on Saturday, May 6, 2023. (Secs. 3.004, 3.005). The following forms may be used:

- Order of Special Election for County-Ordered Measure Elections (PDF)

The order must include:

1. The date of the election;
2. The location of the main early voting polling place **including the street address, room number, and building name. The order must designate which location is the main early voting polling place;**
3. The offices or measures to be voted on;
4. **(*Recommended*)** Branch early voting polling places (*see* Notice of Elections above);
5. The dates and hours for early voting (recommended for counties and cities, but required for all other entities);
6. The dates and hours of any Saturday and Sunday early voting (if applicable, it is recommended that this information be included in the order for counties, but it must be included for all other entities); and
7. 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.

In addition to the information included above, an order for a debt obligation (bond) election **must** include (Sec. 3.009):

1. the proposition language that will appear on the ballot;
2. the purpose for which the debt obligations are to be authorized;

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

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 85.004 of the Code to provide that an election order and election notice must designate which location is the main early voting polling place. (Sec. 85.004).

Recommended date to order the lists of registered voters from the county voter registrar. The list should include both the voters' residences and mailing addresses in order to conduct early voting by mail. (Sec. 18.006). The political subdivision should confirm that the most recent maps or boundary changes have been provided to the voter registrar.

Recommended date to confirm telephone number for the county voter registrar's office on election day.

Recommended date to order election supplies, other than ballots. (Subchapter A, Chapter 51).

Political Subdivisions Other Than Counties: ***Recommended*** date to appoint **presiding and alternate judges**. Currently, the Election Code does not establish a deadline for appointing election officials; there is only a notification deadline. For further information concerning procedures for appointing judges and their alternates, see Sections 32.005, 32.008, and 32.011. General eligibility requirements are found in Subchapter C, Chapter 32. In addition to appointing a judge and alternate judge for each election precinct pursuant to Sections 32.001 and 32.005, the governing body must allow the judge to appoint no less than two clerks; however, the alternate judge must serve as one of the clerks as a matter of law. (Secs. 32.032, 32.033). The presiding judge then appoints an additional clerk(s), but not more than the maximum set by the governing body. (Sec. 32.033). Presiding judges and their alternates must be given a Notice of Appointment not later than the 20th day after the appointment is made. (Sec. 32.009). If the appointment is for a single election, the notice may be combined with the Writ of Election, which is required to be delivered to each presiding judge not later than the 15th day before the election, Monday, April 24, 2023. This deadline is extended to the next regular business day, which is Monday, April 24, 2023, due to the 15th day falling on San Jacinto Day, Friday, April 21, 2023. (Secs. 1.006, 4.007, 32.009(e)). If the notices are combined, both must be delivered by the date required by the earlier notice.

Water Districts: A water district is not required to provide a Notice of Appointment to a presiding judge, as required under Section 32.009, but must provide a Writ of Election. (Sec. 4.007; Sec. 49.110, Water Code).

Recommended date to appoint the **central counting station personnel** (manager, tabulation supervisor and assistants to the tabulation supervisor), if applicable. (Secs. 127.002, 127.003, 127.004, and 127.005). There is no statutory notice requirement for members of the central counting station, but good practice suggests that written notice be given to them.

Recommended date to appoint the **presiding judge and alternate presiding judge of the early voting ballot board** or to designate the election workers of one election precinct to serve as the early voting ballot board. (Secs. 87.001, 87.002, and 87.004). There is no statutory notice requirement for members of the early voting ballot board, but good practice suggests that written notice be given to them.

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NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 87.002 to require the early voting ballot board to have an alternate judge. The alternate judge is appointed in the same manner as the presiding judge.

Tuesday, February 21, 2023 (74th day before election day)

5:00 PM - Deadline for write-in candidates to file Declarations of Write-In Candidacy (PDF) for regular officers for city, school district, library district, junior college district, hospital district, common school districts, Chapter 36 and 49 Water Code districts, and other political subdivision elections, unless otherwise provided by law. (Secs. 144.006(b), 146.054(b), 146.055, Election Code; Secs. 11.056, 11.304, 130.0825, Education Code; Sec. 326.0431, Local Government Code; Sec. 285.131, Health and Safety Code; and Secs. 36.059, 49.101, 63.0945, Water Code). See Candidacy Filing outline for more details.

NOTE: An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b), 144.005(b)).

Wednesday, February 22, 2023 (73rd day before election day; 5th day after regular filing deadline)

If a candidate dies on or before the deadline for filing an application for a place on the ballot, the authority responsible for preparing the ballots MAY choose to omit the candidate. If the authority does choose to omit the candidate, the deadline for filing an application for a place on the ballot is extended to the fifth day after the filing deadline, February 23rd. This extended deadline only applies to the regular filing deadline. It does NOT apply to the write-in deadline. (Sec. 145.098).

Thursday, February 23, 2023 (72nd day before election day)

First day to post Notice of Drawing for Place on Ballot if drawing is to be conducted on Monday, February 27, 2023. This notice must be posted for 72 hours immediately preceding the time of the drawing. (Sec. 52.094(c)).

For an election held by a political subdivision, other than a city, a notice of ballot position drawing must be **mailed** to candidates by this day (not later than the 4th day before the drawing) if drawing is to be conducted on Monday, February 27, 2023. (Sec. 52.094(d)). Candidates who have not filed by this date should be given a copy of the notice at the time of filing.

The authority conducting the drawing shall provide notice of the date, hour, and place of the drawing to each candidate by:

1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or
2) written notice provided to the candidate at the time the candidate files an application with the appropriate authority. If notice was not provided at the time the candidate filed an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

Friday, February 24, 2023 (71st day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to withdraw, by submission of a notarized Certificate of Withdrawal or a notarized letter. **If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot**. (Secs. 145.092(f), 145.094(a)(4), 145.096(a)(4)). For special circumstances regarding withdrawal of a candidate before ballots are prepared, please contact the Elections Division of the Office of the Texas Secretary of State.

Political Subdivisions Other Than Counties: 5:00 PM – Last day to **withdraw** as a **write-in** candidate in the general election ordered by a political subdivision other than a county. (Secs. 144.006(c), 146.0301, 146.054(c)). (Candidates may use the Certificate of Withdrawal (PDF)).

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Recommended first day that an election may be cancelled **if** all filing deadlines have passed, each candidate for an office listed on the ballot is unopposed (except as discussed below), and write-in votes may be counted only for names appearing on a list of write-in candidates. (Sec. 2.052). The Certification of Unopposed Candidates for Other Political Subdivisions may be used to certify candidates as unopposed. Also, see our Sample Order of Cancellation and Tex. Sec'y of State Election Advisory No. 2022-16.

A special election of a political subdivision is considered to be a separate election with a separate ballot from a general election for officers of the same political subdivision held at the same time as the special election. Therefore, the fact that there may be a proposition on the ballot will not prevent a cancellation of an election for candidates who are unopposed. (Sec. 2.051(a)). If any members of the political subdivision's governing body are elected from territorial units, such as single member districts, an election **shall** be cancelled in a particular territorial unit if each candidate for an office that is to appear on the ballot in that territorial unit is unopposed **and no opposed at-large race is to appear on the ballot.** An unopposed at-large race **shall** be cancelled in an election regardless of whether an opposed race is to appear on the ballot in a particular territorial unit. (Sec. 2.051(b)). **This recommended cancellation deadline presumes a filing deadline of Friday, February 17, 2023 and a write-in deadline of Tuesday, February 21, 2023. Special elections may have different deadlines, and may now be cancelled separately.**

> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) amended Sections 2.053 and 2.056 of the Texas Election Code to make this cancellation process mandatory, rather than discretionary. For additional information, consult the outline on Cancellation of Election for Local Political Subdivisions.

NOTE: Political Subdivision Holding a Special Election to Fill a Vacancy: If you are having a special election to fill a vacancy for an unexpired (partial) term, you must not cancel the special election until after all deadlines to file for a special vacancy election have passed. Reminder: The cancellation procedures allow general and special elections to be considered separate elections for cancellation purposes. If the elections are separated, note there are procedures related to listing unopposed candidates in the same relative order on the ballot. See Sec. 2.053, Election Code and the Secretary of State's outline on Cancellation of Election for Local Political Subdivisions (Not County).

Saturday, February 25, 2023 (70th day before election day)

Last day to order a special election to fill a vacancy (if authorized to fill vacancies by special election) and have the filing deadline be the 62nd day before election day. (Secs. 201.054(a)(1), 201.052). Please note that the Election Code requires the election to be ordered as soon as practicable after the vacancy occurs. (Sec. 201.051). The following form may be used:

- Order of Special Election for Municipalities (PDF)
- Order of Special Election for Other Political Subdivisions (Including Schools) (PDF)

> **NOTE:** Section 201.054 provides that if the special election to fill a vacancy is ordered (1) on or before the 70th day before election day, the candidate application must be filed by 5:00 PM on the 62nd day before election day, OR (2) after the 70th day but on or before the 46th day before election day, the candidate application must be filed by 5:00 PM on the 40th day before election day. This is the first of the two possible ordering times. We do **not** interpret the 70th day order date here as "moving" to the next business day because the date falls on a Saturday, as this is not the last day to order a special election to fill a vacancy for this uniform election date.
>
> **NOTE-NEW LAW**: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

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NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

Monday, February 27, 2023 (68th day before election day)

Recommended date to conduct ballot position drawing. (Sec. 52.094). You should also certify today to the county election officer the offices, propositions (in all necessary languages), and candidates' names (including the order) as they are to appear on the ballot, **if you are contracting** to have the county conduct your election or if you are conducting a joint election with the county. *See* entry for February 23, 2023, referencing new law regarding ballot drawing.

> **NOTE:** After the ballot drawing has occurred, the Elections Division recommends that you proof and test your ballot programming as soon as possible and **prior to the deadline to mail a ballot** if the political subdivision will be using automatic tabulating equipment to count the mail ballots or if your mail ballots are printed from the same database used to program your precinct scanners and/or DREs (See Note 15 prior to Calendar of Events). **The Elections Division also recommends that you provide candidates with copies of ballot proofs so that candidates may verify the correctness of their names, positions sought, and order of names on the ballot.**

March

Monday, March 6, 2023 (61st day before election day, extended from 62nd day, Sunday, March 5, 2023, Sec. 1.006)

Political Subdivisions Other Than Counties: 5:00 PM – Last day to file an application for a place on the ballot in a special election to fill a vacancy, if the special election is ordered on or before the 70th day before election day, Saturday, February 25, 2023. (Secs. 1.006, 201.054(a)(1)). (For more details about Section 201.054 and the two possible special election deadlines, see entry for Saturday, February 25, 2023).

Political Subdivisions Other Than Counties: 5:00 PM – Deadline for write-in candidates to file Declarations of Write-In Candidacy for officers for city, school district, library district, junior college district, hospital district, and common school districts in a special election to fill a vacancy if the special election is ordered on or before the 70th day before election day, Saturday, February 25, 2023. (Sec. 201.054(a)(1) and 201.054(g)).

> **NOTE:** A declaration of write-in candidacy for a special election must be filed not later than the regular filing deadline to apply for a place on the ballot. The deadline to file an application for a place on the ballot in a special election to fill a vacancy, if the special election is ordered on or before the 70th day before election day, Saturday, February 25, 2023, is Monday, March 6, 2023. (Sec. 1.006).
>
> > **NOTE-NEW LAW**: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 52.094 of the Code to require the authority conducting the drawing to provide notice of the date, hour, and place of the drawing to each candidate by: 1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or 2) provided at the time the candidate files an application with the appropriate authority. If notice was not

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provided at the time the candidate files an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

Tuesday, March 7, 2023 (60th day before election day)

Political Subdivisions Other Than Counties: Last day for the governing body of a political subdivision to deliver notice of the election to the county clerk/elections administrator and voter registrar of each county in which the political subdivision is wholly or partly located. (Sec. 4.008).

> **NOTE FOR COUNTIES -** 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. *See* Note 9 for more information on the requirements related to the Notice of Election.
>
> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) requires the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).
>
> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) amended Section 83.010 to require 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).

Recommended date for county clerk/county elections administrator to deliver an initial list of voters who have submitted annual applications for ballot by mail under Section 86.0015 and scans or photocopies of those applications to the early voting clerk of any political subdivision located within the county that is holding an election on May 6, 2023. The list should only include voters that reside in the political subdivision holding the election. The list should only be created and sent to those political subdivisions that have provided notice of the election to the county clerk/elections administrator. *See also*, the note below and the entry at Tuesday, April 25, 2023, for more information about delivery of a final list of voters. *See* entry at Monday, April 24, 2023 for more information on the delivery of copies/images of the applications.

> **NOTE:** Section 86.0015 requires the county clerk/elections administrator to provide a list of voters that have submitted an annual application for ballot by mail to all political subdivisions in their county holding an election. The law only applies to elections for which the county clerk/elections administrator is not the early voting clerk via a contract for election services or joint election agreement. The Election Division *strongly recommends* that the county and political subdivisions **discuss the frequency and method for which these lists should be transmitted** to ensure that ballots are sent out in a timely manner. Finally, the county clerk/elections administrator **must deliver either photocopies or scanned images of the applications (under Section 87.126) to the early voting clerk** of the political subdivision before the ballots by mail are delivered to the early voting ballot board for qualifying and counting under Section 87.041.

Thursday, March 9, 2023 (58th day before election day, 20th day after February 17, 2023)

Last day to notify election judges of their appointment if they were appointed, as recommended, by Friday, February 17, 2023. (Sec. 32.009(b)). Presiding judges and their alternates must be notified of their appointment in writing, not later than the 20th day after the date the appointment is made. If the appointment is for a single election, the notice may be combined with the Writ of Election, which is required to be delivered to each presiding judge not later than the 15th day before the election, Monday, April 24, 2023. This deadline is extended to the next regular business day, which is Monday, April 24, 2023, due to the 15th day falling on San Jacinto Day, Friday, April 21, 2023. (Secs. 1.006, 4.007, 32.009(e)). If the notices are combined, both must be delivered by the date required by the earlier notice.

Friday, March 10, 2023 (57th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to file Certificate of Withdrawal in a special election, in which the filing deadline is the 62nd day before election day. If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot. (Secs. 145.092(b), (e) and 145.094(a)(3)).

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NOTE: For special circumstances regarding withdrawal of a candidate before ballots are prepared, please contact the Elections Division of the Office of the Texas Secretary of State.

Political Subdivisions Other Than Counties: 5:00 PM – City Offices with Four-Year Terms: Extended filing deadline in cities with four-year terms of office, when no candidate files for a particular office by the regular filing deadline of Friday, February 17, 2023. (Sec. 143.008). (*See* entry for Friday, February 17, 2023).

Friday, March 17, 2023 (50th day before election day)

Deadline to challenge the filing of an application for a place on the ballot as to form, content, and procedure. (Sec. 141.034). For more information on candidacy, see our Candidacy for Local Political Subdivisions outline.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 141.034 of the Code to provide that a candidate application cannot be challenged for "Form, Content, and Procedure" defects after the 50th day before the date of the election for which the application is made. (Sec. 141.034).

Friday, March 17, 2023 - Thursday, June 15, 2023 (50th day before election day – 40th day after election day)

Mandatory Office Hours: Each county clerk, city secretary, or secretary of a governing body (or the person performing duties of a secretary) must keep the office open for election duties for at least 3 hours each day, during regular office hours, on regular business days. (Sec. 31.122).

NOTE - Counties: This office hour rule applies to the entity's general election or special election ordered by that authority.

NOTE: Independent School Districts: A "regular business day" means a day on which the school district's main business office is regularly open for business. (Sec. 31.122(b)).

NOTE: If a school district's spring break falls during the mandatory office hour period under Section 31.122 of the Election Code, a school district is not required to have someone present for three hours during the days the school district's main business office is not regularly open for business. However, we strongly recommend posting notice with contact information for open records requests. You should also have one of your elections personnel check at least once a day in the event a voter sent an ABBM to the school district address, fax, or e-mail.

NOTE: Special Elections: In the case of a special election, the office hour rule is triggered starting the third day after the special election is ordered. (Sec. 31.122).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 31.096 of the Code, which addresses nontransferable functions under an election services contract. Specifically, an election services contract may not change the political subdivision's requirement to maintain office hours under Section 31.122. The amendment to Section 31.096 of the Code also allows a county that has contracted with a city to be the custodian of voted ballots for a city election. (Sec. 31.096).

NOTE: Good Friday falls during the mandatory office hour period under Section 31.122 of the Election Code. Section 31.122 applies to Good Friday, therefore entities, other than school districts, will need to be open for at least 3 hours that day. Section 31.122(b) grants school districts an exception if Good Friday is a local holiday and a day the school district's main business office is not regularly open for business. (Sec. 31.122)

Sunday, March 19, 2023 (48th day before election day)

Last day to publish notice for testing of automatic tabulation equipment testing and logic and accuracy testing (L&A testing) of a voting system that uses direct recording electronic (DRE) voting machines and precinct scanners **if test will be completed by recommended deadline of Tuesday, March 21, 2023.** Notice of the public tests must be published at least 48 hours before the test begins. (Secs. 127.093, 127.096, 129.022, 129.023). *See* Note 15, above.

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code,

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the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).

Tuesday, March 21, 2023 (46th day before election day)

Political Subdivisions Other Than Counties: Last day to order a special election to fill a vacancy (if authorized to fill vacancies by special election). If the election was ordered after the 70th day before election day, the filing deadline will be the 40th day before election day. (Secs. 201.052 and 201.054(a)(2)). Please note that the Election Code requires the election to be ordered as soon as practicable after the vacancy occurs. (Sec. 201.051). (For more information about the write-in declaration deadline, see Monday, March 27, 2023 note entry. For more details about Section 201.054 and the two possible special election deadlines, see Saturday, February 25, 2023 note entry.) The following forms may be used:

- Order of Special Election for Municipalities (PDF)
- Order of Special Election for Other Political Subdivisions (Including Schools) (PDF)

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

Recommended date to conduct the first test of the automatic tabulating equipment and for logic and accuracy (L&A test) test on precinct scanners and DREs. (Secs. 127.093, 127.096, 129.022, 129.023). The SOS recommends you complete your first round of testing **prior to mailing your mail ballots** if those ballots will be counted using automatic tabulation equipment. If you conduct your first round of testing by this date, you must publish notice of the test 48 hours prior to testing. *See* Note 15, above.

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) requires the general custodian of election to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

Wednesday, March 22, 2023 (45th day before election day)

Deadline to mail ballots to military or overseas voters who already submitted their ballot requests via a federal postcard application (FPCA) or via a standard application for ballot by mail (ABBM) and indicated that they are outside the United States. If the early voting clerk cannot meet this 45th-day deadline, the clerk **must** notify the Secretary of State within 24 hours. (Sec. 86.004(b)).

Reminder Regarding FPCAs and Overseas ABBMs: If the early voting clerk receives an FPCA (from a military or non-military voter) or an ABBM from an overseas voter after the 45th day deadline, then the ballot **must** be mailed within seven days after the early voting clerk **receives** the FPCA or ABBM. (Secs. 86.004(b), 101.104).

Reminder: In regards to mail ballots for other voters (not military voters using an FPCA or overseas voters using an FPCA or ABBM), the early voting clerk **must** mail a ballot not later than the 7th day after the later of: (1) the

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date the early voting clerk has accepted a voter's application for a ballot by mail or (2) the date the ballots become available for mailing. However, if the 7th day falls earlier than the 37th day before election day, the voter's mail ballot must be mailed no later than the 30th day before election day. (Sec. 86.004(a)). This means that for every application that comes in before the 37th day before election day, the balloting materials must be mailed by the 30th day before election day. Any application that comes in after the 37th day before election day will follow the 7-day timeline in Sec. 86.004.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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: Information on the early voting roster for both early voting in person and early voting by mail must be made available for public inspection and on the county's website if the county clerk or elections administrator is serving as the early voting clerk. For an election held by a political subdivision in which the county clerk or elections administrator is not serving as the political subdivision's early voting clerk, then the information on the roster must be made available on the Internet website of the authority ordering the election. The early voting roster shall be posted by 11:00 AM on the day after the information is entered on the roster (for early voting in person) or by 11:00 AM on the day after the early voting clerk receives a ballot voted by mail. If the entity does not maintain a website, the information must be on the bulletin board used for posting notices. (Sec. 87.121).

NOTE-NEW LAW: HB 1622 (2021, R.S.) amended Section 87.121 of the Code to provide that if an early voting clerk fails to post their early voting rosters in accordance with Section 87.121, a person registered to vote in the county where the early voting clerk is conducting early voting may file a complaint with the Secretary of State regarding the early voting clerk's noncompliance. The Secretary of State by rule shall create and maintain a system for receiving and recording these complaints. (Sec. 87.121).

Monday, March 27, 2023 (40th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day to file for a place on the ballot in a special election to fill a vacancy, if the special election is ordered after the 70th day before election day, but on or before the 46th day before election day, Tuesday, March 21, 2023. (Sec. 201.054(a)(2)). (For more details about Section 201.054 and the two possible special election deadlines, see Saturday, February 25, 2023 note entry.)

Political Subdivisions Other Than Counties: 5:00 PM – Deadline for write-in candidates to file Declarations of Write-In Candidacy (PDF) for officers for city, school district, library district, junior college district, hospital district, and common school districts in a special election to fill a vacancy if the special election is ordered after the 70th day before election day, but on or before the 46th day before election day, Tuesday, March 21, 2023. (Sec. 201.054(a)(1) and 201.054(g)).

NOTE - Sec. 201.054(g) provides that a declaration of write-in candidacy for a special election must be filed not later than the filing deadline.

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates

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of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board trustee must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 52.094 of the Code to require the authority conducting the drawing to provide notice of the date, hour, and place of the drawing to each candidate by: 1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or 2) provided at the time the candidate files an application with the appropriate authority. If notice was not provided at the time the candidate files an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

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Saturday, April 1, 2023 (35th day before election day; 5th day after 40th day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to file a Certificate of Withdrawal in a special election in which the filing deadline is the 40th day before election day. **If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot.** This deadline does not extend to the next business day under Section 1.006. (Secs. 145.092(a) and 145.094(a)(2)).

Thursday, April 6, 2023 (30th day before election day)

Last day to register to vote or make a change of address effective for the May 6, 2023 election. (Secs. 13.143, 15.025).

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. (Secs. 15.025, 63.0011).

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)).

First day of period during which notice of elections must be published 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 the governor 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) and (d)). This notice may be combined with the other notices you are required to publish. The election notice shall be posted on the political subdivision's website. *See* Note on Notice of Elections.

NOTE-NEW LAW: HB 3107 (2021, R.S.) requires the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

Recommended date for early voting clerk to issue order calling for appointment of signature verification committee. (Sec. 87.027). This form may be used to issue order: Order Calling for Signature Verification Committee. If the

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signature verification committee will start meeting on Sunday, April 16, 2023, the early voting clerk must post a copy of the order calling for appointment of the signature verification committee on or before this date, in order to give notice of the meeting. The order must remain posted continuously for at least 10 days before the first day the committee meets. (Secs. 87.027, 1.006).

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. 63.0015 & 85.007(d)). For more information on this requirement, *see* Note 16.

NOTE - Notice of Change of Polling Place Location: For elections **ordered by the governor**, if the location of the polling place changes after notice has been given under Section 4.003, and the county election officer maintains a website to inform voters about elections, **the notice of the change must be posted on the website.** The notice on the website must be given not later than the earlier of (1) 24 hours after the location was changed; or (2) 72 hours before the polls open on election day. (Sec. 43.061). If the county election officer is conducting a legislative vacancy election, the candidates listed on the ballot are entitled to receive notice directly from the county judge.

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 Previous Precinct (PDF) must be posted at the entrance of the previous polling place informing voters of the current polling place location, if possible. (Sec. 43.062).

Friday, April 7, 2023 (Good Friday, 29th day before election day)

Recommended last day for early voting clerk to coordinate with the voter registrar receipt of supplemental and registration correction lists, if applicable, or coordinate receipt of revised original list 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 that the office hour requirement of Sec. 31.122 does apply to Good Friday. For more information on the office hour rule, see the entry on March 17, 2023 – June 15, 2023.

Tuesday, April 11, 2023 (25th day before election day)

Recommended last date for the county election board (or governing body of a political subdivision, as appropriate) to appoint a signature verification committee (if one was ordered by the early voting clerk on Thursday, April 6, 2023). See entry under Thursday, April 6, 2023. (Secs. 51.002, 87.027). The members must be appointed not later than the fifth day after the order was issued by the early voting clerk. The appointing authority must post a notice of the appointment of committee members continuously until the last day the signature verification committee meets. This form may be used for the notice: Notice of Appointment of Signature Verification Committee.

Saturday, April 15, 2023 (21st day before election day)

Last day to post notice of election on bulletin board used for posting notices of meetings of governing body. (Sec. 4.003(b)). A Record of Posting Notice of Election should be completed at the time of posting. (Secs. 4.005). *See* Note on Notice of Elections.

Last day to post notice of election in each election precinct, if the method of giving notice is **not** specified by a law outside the Election Code and notice is given by this method in lieu of publication. (Secs. 1.006, 4.003(a)(2)). Cities and school districts **must** publish their notice in the newspaper. A Record of Posting Notice of Election should be completed at the time of posting. (Secs. 4.005).

> **All Political Subdivisions:** The election notice shall be posted on the political subdivision's website, if the political subdivision maintains a website. The order and notice should include all days and hours for early voting by personal appearance including voting on ***ANY*** Saturday or Sunday. (Secs. 85.006 & 85.007). **Note**

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for counties, the election notice **must** be subsequently amended to include voting later ordered for ***ANY*** Saturday or Sunday and **must** be posted on the political subdivision's website, if maintained.

NOTE FOR COUNTIES - 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, regardless of whether the entity is conducting their own election or contracting with the county.

For Bond Elections: First day a political subdivision must post on their Internet website prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website. (Sec. 4.003(f)).

The ***recommended*** time to include the notice of accepting voters with certain disabilities on a county website is when the notice of election is also posted on the website. (Secs. 63.0015 & 85.007(d)). *See* Note 16 regarding notice on accepting voters with certain disabilities.

Counties, Cities, and School Districts: NEW LAW: SB 1116 (2021, R.S.) amended Chapter 4 of the Election Code by adding Section 4.009 regarding candidate and polling place information which must be posted on county, city, and school district websites. 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).

Sunday, April 16, 2023 (20th day before election day)

First day that the signature verification committee may begin operating, if one is created. (Sec. 87.027).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) added Section 87.0271 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after a **signature verification committee** discovers the defect and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, the committee shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the committee determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the signature verification committee takes one of the actions described above, the committee must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0271). *See* Note 18; Tex. Sec'y of State Election Advisory No. 2022-08; Tex. Sec'y of State Election Advisory No. 2022-12.

Monday, April 17, 2023 (19th day before election day, extended from 20th day, Sunday, April 16, 2023, Sec. 101.052(i)(2))

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 May 6, 2023. A person 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* Friday, April 21, 2023 entry for timeliness of an FPCA received without a postmark. (Secs. 101.052(e), 101.052(i)(2)).

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NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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 (PDF), 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 (PDF), **or "my return is uncertain"** (2017 form) receive a federal ballot **only** regardless of the date filed. (Chapter 114). In a local election (where there is no federal office on the ballot), this means there is **no ballot to send the voter**.

Monday, April 17, 2023 – Tuesday, April 25, 2023 (19th day before election day – 11th day before election day)

A person submitting an FPCA (PDF) during this period who is **not** registered to vote is not entitled to receive a ballot for any non-federal election held on Saturday, May 6, 2023. This means that a person submitting an FPCA during this period is entitled to receive a federal ballot only, if not already a permanent registered voter. (Secs. 101.052(f), 114.002, 114.004). In a local election (where there is no federal office on the ballot), this means there is **no ballot to send the voter.**

The early voting clerk is required to maintain a copy of this application since it may be used for other elections and forward the original to the voter registrar. Also see entry below under Friday, April 21, 2023 (FPCA without a postmark). (Secs. 84.007, 101.052(e), (f)).

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 (PDF), 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 (PDF), 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**.

Tuesday, April 18, 2023 (18th day before election day)

If a **defective application to vote early by mail** is received on or before this date, the early voting clerk must mail the applicant a new application with explanation of defects and instructions for submitting the new application. For defective applications received after this date and before the end of early voting by personal appearance, the early voting clerk must mail only the Notice of Rejected Application for Ballot by Mail and a statement that the voter is not entitled to vote early by mail unless he or she submits a sufficient application by the deadline, which is Tuesday, April 25, 2023. (Secs. 84.007(c), 86.008).

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NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 86.001 to provide that if the information required by Section 84.002(a)(1-a) included on the application does not identify the same voter identified on the applicant's voter registration application, the clerk shall reject the application. (Sec. 86.001(f)). If an application is rejected under Section 86.001(f), the clerk shall provide notice of the rejection. The notice must include information regarding the ability to correct or add the required information through the online ballot by mail tracker described in Section 86.015(c). (Sec. 86.001(f-1)). If the applicant corrects the application for ballot by mail online and that application subsequently identifies the same voter identified on the applicant's voter registration application, the clerk shall provide a ballot to the voter. (Sec. 86.001(f-2)).

Wednesday, April 19, 2023 (17th day before election day)

Last day to publish notice of L&A test for voting systems or precinct scanners if test will be held on Friday, April 21, 2023, if testing was not already completed by March 21, 2023. Notice of the public L&A Test must be published at least 48 hours before the test begins. (Secs. 129.001, 129.023). See Note 15, above.

NOTE - NEW LAW: SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).

Last day to post notice (PDF) of 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) and (d)).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 85.062 to provide that the location of temporary branch polling places in an election in which countywide polling places are used must be determined with the same methodology that is used for the location of countywide polling places.

Friday, April 21, 2023 (15th day before election day)

Last day to conduct public L&A test of a voting system or precinct scanner. We highly ***recommend*** that this test is done on an earlier date to allow time for corrections to programming, if necessary. (*See* Note 15, above). Per Section 129.023, the L&A test shall be conducted not later than 48 hours before voting begins on such voting systems, assuming that the voting system will first be used for early voting in person.

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) requires the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

NEW LAW: ***Recommended date*** for a signature verification committee (if appointed) that has discovered a defect in a voter's carrier envelope to return the voted ballot in the carrier envelope to the voter. (Sec. 87.0271).

NOTE: If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by **phone or email** and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. (Sec. 87.0271). *See* Note 18.

Monday, April 24, 2023 (12th day before election day; day before the last day to apply for a ballot by mail)

First day to vote early in person. (Sec. 85.001(e)).

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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 – NEW LAW: Political Subdivisions Other than Counties: Early voting in person at the main early voting polling place must be conducted for 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 for at least **four (4) hours** per day. (Sec. 85.005(b)).

NOTE – NEW LAW: Counties: Early voting in person must be conducted on each weekday of the early voting period that is not a legal state holiday and for a period of at least **nine (9) hours**, except that voting may not be conducted earlier than 6:00 AM or later than 10:00 PM. (Sec. 85.005(a)).

NOTE – NEW LAW: Cities: SB 1 (2021, 2nd C.S.) amended Section 85.005(d) to remove the provision that requires cities 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.

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.

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 61.002 to provide that immediately before the opening of the polls on the first day of early voting and 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. Each election judge and alternate judge shall sign the printed tapes. (Sec. 61.002).

NOTE - NEW LAW: Temporary Branch Locations: Effective September 1, 2021, the rules for temporary branch locations differ based on the population size of the county. *See* Note 12 for additional information regarding temporary branch location days and hours.

First day a county with a population of 100,000 or more, or entities that are having joint elections or are contracting with such a county, may convene their early voting ballot board and begin processing and qualifying mail ballots; however, the mail ballots may not be counted until (i) the polls open on election day; or (ii) for 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). 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. (Sec. 87.0222). **NOTE: Results may not be released until the polls close on election day.**

NOTE – NEW LAW: HB 3107 (2021, R.S.) clarified that if a county with a population of 100,000 or more is conducting an election through a contract for election services for a political subdivision in May of an even-numbered year, the county's ballot board timeframes apply to the election. (Secs. 87.0222, 87.0241).

NOTE – The county clerk/elections administrator must ensure that photocopies or scanned images 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: SB 1 (2021, 2nd C.S.) added Section 87.0411 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an **early voting ballot board** discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be

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possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0411). *See* Note 18; Tex. Sec'y of State Election Advisory No. 2022-08; Tex. Sec'y of State Election Advisory No. 2022-12.

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 indicating **"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)). *See* entry for Monday, April 17, 2023.

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).

A voter who becomes sick or disabled on or after Monday, April 24, 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 (PDF). An application may be submitted after the last day of the period for early voting by personal appearance and before 5:00 PM on Election Day. (Sec. 102.003).

Tuesday, April 25, 2023 (11th day before election day)

Last day to receive an FPCA (PDF) 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)).

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 requirement to mail the original application does not apply to an **emailed** FPCA. For additional information on this law, please see Note 17, above.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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).

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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, April 25, 2023. (Sec. 84.008).

> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW:** HB 3107 (2021, R.S.) amended Section 84.008 of the Code to provide 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 effective September 1, 2021, voters may now 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 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 May 6, 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)).

NOTE for Counties: Deadline to file a petition (PDF) to require the county early voting clerk to conduct extended early voting on Saturday, April 29, 2023. Notice of weekend voting (PDF) must be posted beginning no later than Wednesday, April 26, 2023, and continuing through Friday, April 28, 2023. (Secs. 85.006(d), 85.007(c)).

Wednesday, April 26, 2023 (10th day before 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 of election ordered by the governor 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. (Secs. 4.003(c) and (d)).

> **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 notice **if method of giving notice is not specified by a law outside the Election Code** and this method of giving notice is selected. (Sec. 4.003(a)(3)).

Last day to post notice (PDF) of the precinct's consolidation and the location of the polling place in the consolidated precinct for each precinct that is combined to form a consolidated precinct under Section 42.008. This notice must be posted at the polling place used in the preceding general election **and** must remain posted continuously through election day. (Sec. 4.003(b)).

Counties – Weekend Early Voting Hours – Notice Requirement: Last day to post notice on bulletin board used for posting notice of meetings of the commissioners court, if early voting will be conducted on Saturday, April 29, 2023. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Saturday or Sunday. Notice (including the days and hours of early voting) must also be posted to the political subdivision's website, if one is maintained.

NOTE for Counties: If the county election officer on her/his own motion by written order orders early voting on Saturday or Sunday OR if the county election officer orders Saturday or Sunday voting after being petitioned to do so by at least 15 registered voters, such voting need not be included in the regular order or notice of the election. (Secs. 85.006(b), (d) and 85.007(b), (c)).

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NOTE – NEW LAW: All Political Subdivisions, Except Counties: SB 1 (2021, 2nd C.S.) provides that in an election in which a city secretary is the early voting clerk, voting on any Saturday or Sunday **must** be included in the order and notice of election. City secretaries no longer have the authority to order Saturday or Sunday early voting 72 hours immediately preceding the first hour that voting will be conducted. However, the city **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Secs. 85.006, 85.007).

NOTE for Counties: Deadline to file a petition (PDF) to require the county early voting clerk to conduct extended early voting on Sunday, April 30, 2023 (Sec. 85.006(d)). Notice of weekend voting (PDF) must be posted beginning no later than Thursday, April 27, 2023, and continuing through Saturday, April 29, 2023. (Sec. 85.007(c)).

Thursday, April 27, 2023 (9th day before election day)

Counties – Weekend Early Voting Hours – Notice Requirement: Last day to post notice on bulletin board used for posting notice of meetings of commissioners court, if early voting will be conducted on Sunday, April 30, 2023. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Saturday or Sunday. Notice (including the days and hours of early voting) must also be posted to the political subdivision's website, if one is maintained.

May

Monday, May 1, 2023 (5th day before election day, day before last day of early voting, 4th business day after the deadline to apply for a ballot by mail)

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, May 3, 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).

Deadline for the early voting clerk to receive, by mail, the original of an ABBM that was faxed or emailed or an FPCA that was faxed on the deadline to apply for a ballot by mail, Tuesday, April 25, 2023.

> A voter who faxed or emailed their ABBM or faxed their FPCA must mail the original 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**. For more information, see the entry under Tuesday, April 25, 2023 and Note 17.

Last day to publish notice of public test of automatic tabulating equipment, if test will be held on Wednesday, May 3, 2023, and testing was not already completed. The public notice of the test of automatic tabulating equipment must be published at least 48 hours before the test begins. (Sec. 127.096).

Tuesday, May 2, 2023 (4th day before election day)

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

5:00 PM – Deadline to submit a Request for Election Inspectors for election day, Saturday, May 6, 2023 to the Secretary of State. (Sec. 34.001).

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, May 3, 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).

> The Notice of Delivery of Early Voting Balloting Materials serves as notice of the convening of the early voting ballot board. Your entity should also post notice every time the early voting ballot board reconvenes.

Wednesday, May 3, 2023 (3rd day before election day; day after early voting in person ends)

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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):

First day those counties and political subdivisions 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).

Counties with a population less than 100,000 (or local subdivisions who are **NOT** conducting a joint election with a county with a population of 100,000 or more or conducting an election through a contract for election services with such a county):

First day those counties and political subdivisions may convene their early voting ballot board for **processing** and **qualifying** mail ballots, 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 (PDF).

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: SB 1 (2021, 2nd C.S.) added Section 87.0411 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an **early voting ballot board** discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0411). *See* Note 18.

First day to submit an Application for Emergency Early Ballot Due to Death in Family to vote a late ballot because of a death in the immediate family that occurred on or after Monday, May 1, 2023, and will require absence from the county on election day. (Secs. 103.001, 103.003(b)).

Last day to conduct public test of automatic tabulation equipment. Per Section 127.093, the test shall be conducted at least 48 hours before the automatic tabulating equipment is used to count ballots voted in an election and was not previously tested. We highly ***recommend*** that this test is done on an earlier date to allow time for corrections to programming, if necessary. (See Note 15, above).

Friday, May 5, 2023 (day before 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 e-pollbook.

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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, May 5, 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 office of the custodian of election records and pick up the provisional ballots and forms.

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

NOTE FOR MAY 2024 ELECTION: Chapter 2051 of the Government Code requires any political subdivision with the authority to impose a tax that maintained a publicly available Internet website at any time on or after January 1, 2019, to post on that website the requirements and deadline for filing for candidacy of each elected office of the political subdivision continuously for one year before the election day for that office. *See* Tex. Sec'y of State Election Advisory No. 2019-19.

Saturday, May 6, 2023 (Election Day)

7:00 AM – 7:00 PM	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). A voter may vote at the main early voting polling place if **electronic voting systems** are used at regular polling place(s) on election day **and** the voter has a sickness or physical condition that prevents the voter from voting in the regular manner without personal assistance or a likelihood of injuring the voter's health. (Secs. 104.001, 104.003). However, if the early voting ballots by mail are processed at a location other than the main early voting polling place, the early voting clerk may require the voting to be conducted at that location. (Sec. 104.003).
5:00 PM	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, April 26, 2023. (Sec. 102.003(b)).
7:00 PM	Regular deadline for receiving **early voting ballots** by mail. **BUT see entry for Monday, May 8, 2023 on "late domestic ballots," entry for Thursday, May 12, 2023, and entry for Friday, May 12, 2023 on other "late" ballots.** This is also the deadline for receiving **late ballots cast by voters who became sick or disabled** on or after Monday, April 26, 2023. (Secs. 86.007(a), 102.006(c)).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 61.002 to provide 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).

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NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) requires 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).

NOTE: Receipt of Mail Ballots: All early voting ballots sent by mail from inside the United States that are received by 7:00 PM on election day, May 6, 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 that 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 pm on election day may not be counted unless the ballot may be counted late, which applies to late domestic ballots (Sec. 86.007(a)(2)), ballots mailed from outside the United States (Sec. 86.007(d)), 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, May 8, 2023 on "late domestic ballots," entry for Thursday, May 11, 2023, and entry for Friday, May 12, 2023 on other "late" ballots. See Tex. Sec'y of State Election Advisory No. 2018-02**.**

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 chief of police or city marshal for city elections, the constable of the justice precinct in which the office of the political subdivision governing body's main office is located (or the sheriff, if there is no constable) for an election ordered by an authority of a political subdivision other than a county or city, and the sheriff for an election ordered by the Governor or a county authority. (Sec. 66.060). If ballots are to be delivered before election day, the early voting clerk must post notice at least 24 hours before each delivery at the main early voting polling place. Form AW6-6

Note on Delivery of Early Voting Ballot to Early Voting Ballot Board Before Election Day: Early voting ballots may be delivered to the early voting ballot board at any time after early voting by personal appearance ends. 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 at least 24 hours before each delivery at the main early voting polling place. Form AW6-6

> **Exception: Counties with a population of 100,000 or more, or entities that are having joint elections with counties with a population of 100,000 or more or who are conducting an election through a contract for election services with such a county, may process the mail ballots (i.e., qualify, and accept or reject, but not count) as early as the 8th day before the end of the early voting period; in such an election, votes may be counted 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 (PDF) at least 24 hours before each delivery at the main early voting polling place. (Secs. 87.0221(b), 87.023(b), 87.024(b))**.
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> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) amended Section 127.1232 to provide that in counties with a population of 100,000 or more (or political subdivisions contracting with a county with a population of 100,000 or more), 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

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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).

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 on Election Night: The county voter registrar may take possession of the 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). Form AW8-19

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 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, May 9, 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:
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> 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: NEW LAW: SB 1116 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.016 of the Code regarding 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;

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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).

Monday, May 8, 2023 (1st business day after election day)

5:00 PM – 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 Postcard 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 PM** at the location of the election on election day, May 6, 2023**.** (Secs. 86.007, 101.057 and 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 PM.

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 PM 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 PM** 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 who applied for a ballot using an ABBM or FPCA; 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 the **entry for Thursday, May 11, 2023, and the entry for Friday, May 12, 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 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: 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, May 6, 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 office of the custodian of election records 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, May 9, 2023 (3rd day after election day)

Last day to begin the **partial manual count** for entities using electronic voting systems for the counting of ballots. 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 Secretary of State not later than the 3rd day after the manual count is

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completed. (Sec. 127.201(e)). No partial manual count needs to be done of ballots cast on DRE voting machines, but partial manual count must be completed for mail ballots. (Sec. 127.201(g)).

> **NOTE:** For information on how to begin the partial manual count, please see Tex. Sec'y of State Election Advisory No. 2018-30.

The first possible day to conduct official local canvass of returns by governing authority of the political subdivision. However, the canvass may not be conducted until the 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 and 86.007).** Notice of canvass must be posted at least 72 hours continuously before the canvass is conducted.

> **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 be issued a certificate of election and take the oath of office. (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, who cannot qualify until the 6th day after election day. *See* entry on Friday, May 12, 2023.

Thursday, May 11, 2023 (5th day after election day)

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 PM on election day, Saturday, May 6, 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 a military FPCA) **cannot be counted** if it does **not** bear a cancellation mark or a receipt mark. (Sec. 86.007(c), (e), (f)). For military voters casting ballots who submitted an FPCA, please see entry for Friday, May 12, 2023.

> **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 PM** on election day.

Last day to receive ballots from **non-military voters** casting ballots from **overseas**, who submitted an **FPCA, AND** who placed their ballots in delivery by 7:00 PM on election day, Saturday, May 6, 2023. (Sec. 86.007(d) and (e)).

Friday, May 12, 2023 (6th day after election day)

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

> **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

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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."

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).

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 Monday, June 5, 2023 entry.

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 and 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 and 101.001).

NOTE: The carrier envelope or, if applicable, the envelope containing the carrier envelope sent by the military 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's office; 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)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 65.052 of the Code to provide that, for the general election for state and county officers, the voter registrar will now have 10 days to review a provisional voter's eligibility. **Please note this extended deadline does not apply to the May uniform election.** (Sec. 65.052).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.): 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). *See* Note 18.

Monday, May 15, 2023 (9th day after 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:

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

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carrier not later than 7:00 PM on election day, May 6, 2023, and were received not later than 5:00 PM on the first business day after election day, Monday, May 8, 2023. (Secs. 86.007(a) & (d-1), 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, May 11, 2023. (Secs. 86.007(d), 87.125(a)).
3. any ballots received by the 6th day after election day, Friday, May 12, 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)).

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-NEW LAW**: HB 3107 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.0581 to provide 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 – NEW LAW: SB 1 (2021, 2nd C.S.) requires 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, May 16, 2023 (10th day after election day)

The presiding judge of the EVBB shall mail a Notice of Rejected Ballot (PDF) to voters whose mail ballots were rejected no later than the 10th day after election day or as soon as practicable, depending on when the EVBB last convenes. (Sec. 87.0431).

Wednesday, May 17, 2023 (11th day after election day)

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

> **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).

Sunday, May 21, 2023 (15th day after election day)

Election records from the May 6, 2023 election must be available in an electronic format no later than this day, for a fee of not more than $50.00. (Sec. 1.012(e)).

NOTE: For information on when voted ballots may be inspected and produced, please see Texas Attorney General Opinion No. KP-0411 (PDF). You should also consult with your county attorney (or attorney for your local political subdivision) and any records management officers from your local entity when responding to public information requests. Additionally, the OAG has a hotline you can call for questions related to open government issues, including the Public Information Act. That number is (877) OPEN-TEX (673-6839).

Monday, May 29, 2023 – Monday, July 3, 2023 (20th day after the canvass through the 47th day after the canvass; 23rd day after election day; 12th day after last canvass date)

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Possible period for runoff election, depending on the date of the official canvass unless a charter provides for a later date. If Monday, May 29, 2023 (Memorial Day) is the first possible day, it does not move, since it is not the last possible day to hold a runoff election. If the 45th day is Saturday, July 1, 2023, that deadline will move to the next regular business day, Monday, July 3, 2023, under Section 1.006.

NOTE: The order of the names on the runoff ballot should be in the same relative order as they appeared on the general election ballot, so no ballot drawing is required for the runoff ballot. (Sec. 52.094).

Tuesday, May 30, 2023 (24th day after election day; extended from 21st day, Saturday, May 27, 2023, Sec. 1.006)

Last day for the presiding judge of the early voting ballot board to mail Notice of Outcome to Provisional Voter (PDF) to provisional voters, if the canvass was held on Wednesday, May 17, 2023. Such notices must be delivered to provisional voters by the presiding judge no later than the 10th day after the local canvass. (The deadline falls on Saturday, May 27, 2023, and is extended to Tuesday, May 30, 2023 under Section 1.006.) (Sec. 65.059; 1 T.A.C. § 81.176(e)).

Last day to complete the partial manual count, which is first business day after the 21st day after the election. (Secs. 1.006, 127.201(a)).

June

Monday, June 5, 2023 (30th day after 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).

> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) amended Section 18.069 of the Code by changing who is responsible for submitting voter history to the Secretary of State from the voter registrar to the general custodian of election records (early voting clerk). (Sec. 18.069).

Thursday, June 15, 2023 (40th day after election day)

Last day of the period for mandatory office hours. See entry for Friday, March 17, 2023. (Sec. 31.122).

July

Thursday, July 6, 2023 (61st day after election day)

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: For information on when voted ballots may be inspected and produced, please see Texas Attorney General Opinion No. KP-0411 (PDF). You should also consult with your county attorney (or attorney for your local political subdivision) and any records management officers from your local entity when responding to public information requests. Additionally, the OAG has a hotline you can call for questions related to open government issues, including the Public Information Act. That number is (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.

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2024-2025

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

First day that surveillance video of areas containing voted ballots from the May 6, 2023 election may be destroyed IF there is no unresolved election contest.

NEW LAW: SB 1 (2021, 2nd C.S.): amended Section 127.1232 to provide that in counties with a population of 100,000 or more (or political subdivisions contracting with a county with a population of 100,000 or more), 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).

Friday, March 7, 2025 (day after 22 months after May 6, 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, May 7, 2025 (day after Two Years after May 6, 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).

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From: Adam Bitter
Sent: Tuesday, August 30, 2022 8:18 PM
To: 'Angela Colmenero'
Subject: OSG Brief (Results Tapes)
Attachments: FINAL Response to Mandamus Petition.pdf

Sensitivity: Personal

AMERICAN OVERSIGHT

No. 22-0136

In the Supreme Court of Texas

In re Laura Pressley, Mauro Garza,
Marcia Strickler, and Michelle Evans,
Relators

On Petition for Writ of Mandamus
to the Texas Secretary of State, the Director of the Elections Division,
and the Legal Director of the Elections Division
of the Office of the Texas Secretary of State

RESPONSE TO EMERGENCY PETITION FOR WRIT OF MANDAMUS

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Statement of the Case

Nature of the Case:	Relators seek a writ of mandamus to direct Respondents to issue a statewide advisory to election officials that early-voting results tapes be printed immediately after early voting ends. Pet. 12.
Respondents:	John B. Scott, Texas Secretary of State; Keith Ingram, Director, Elections Division, Office of the Texas Secretary of State; and Christina Adkins, Legal Director, Elections Division, Office of the Texas Secretary of State
Respondents' Challenged Action:	Through the combination of an email and election advisories issued in 2017 and 2019, Respondents explained that county election officials may count early votes at a time they choose between the end of the early-voting period and election day. Pet. App. 1, 7, 8. Relators assert that an amendment to the Texas Election Code that took effect in December 2021 requires Respondents to issue a new advisory informing county election officials that they must instead run an official vote report immediately when early voting ends. Pet. 4–12.

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Issues Presented

Respondents have publicly explained their view that, under the Texas Election Code, county election officials may run results tapes for early voters' ballots any time between the end of the early-voting period and election day. Relators assert that a 2021 amendment to the Code rendered that guidance outdated by requiring that election officials immediately run the results tapes at the close of early voting. Respondents disagree with Relators' understanding of the law and stand by their existing explanation.

The issues presented are:

1. Whether Relators have satisfied the threshold requirements for obtaining mandamus relief.

2. Whether sections 61.002(c) and 81.002 of the Code require election officials to print early-voting results tapes immediately upon the close of early voting, such that Respondents' failure to provide a new advisory reflecting Relators' view of the law is a failure to perform a ministerial duty that this Court may correct through mandamus *(responsive to Relators' issues 1–3)*.

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To the Honorable Supreme Court of Texas:

Five days from now, on election day for the 2022 primary, Texas election officials will be required to run results tapes of voting machines immediately when polls close. Tex. Elec. Code § 61.002(c). Section 61.002(c) does not impose a similar requirement at the close of the early-voting period. But Relators contend that such a requirement can be found by reading section 61.002(c) together with section 81.002, which provides that other titles of the Code, including the title in which section 61.002(c) appears, "apply to early voting except provisions that are inconsistent with this title or that cannot feasibly be applied to early voting." *Id.* § 81.002.

Consonant with that theory, Relators ask this Court to compel Respondents to advise election officials that they must run results tapes for early ballots as soon as early voting ends. Early voting ends tomorrow. Yet Relators waited to ask this Court for relief until two days ago, even though their theory is not new.

That is the first reason that the mandamus petition should be dismissed or denied. Other threshold bases for that disposition include Relators' failure either to establish standing or to meet the burden that this Court recently announced in time-sensitive election litigation. And on the merits, no provision of the Code supports, much less compels, the result that Relators seek. Indeed, granting Relators' request would risk premature ballot counting criminalized by section 61.007, undermining the very election integrity that Relators claim to seek. Because Respondents do not have statutory authority, let alone a ministerial duty, to strongarm local election officials in the way Relators wish they would, the Court should deny the petition.

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Statement of Facts

Texas voters have enjoyed the right to vote early in every primary and general election for more than three decades. Tex. Elec. Code §§ 81.001, 81.003. Casting an early vote is convenient: any voter qualifies to vote early in person during business hours over a period of thirteen days. *Id.* §§ 82.005, 85.001(a), 85.002(a). And thanks to a wide array of safeguards, casting an early vote is a secure way for Texans to make sure their policy preferences are recorded. *See generally id.* chs. 61, 81 (describing extensive protocols and technologies used to ensure integrity of the early-vote count).

One of the tools that the Election Code uses to ensure that early votes are correctly counted is the printing of "results tapes" for ballot counters in all precincts where early voting is conducted, which Respondents consider a "count" of votes. *See* 1 Tex. Admin. Code § 81.52(h); Pet. App. 7 at 4. Those results tapes list the breakdown of votes for every race and proposition on a precinct's ballot. 1 Tex. Admin. Code § 81.52; *see* Pet. App. 8 at 21. They help election judges flag possible vote tampering, facilitate the aggregation of vote totals across precincts at central counting stations, and create a permanent record of votes that proves invaluable in election contests and randomized audits of state-approved voting systems. *See* Pet. App. 8 at 12; Pet. App. 7 at 4; Tex. Elec. Code § 127.001 (governing the establishment of central counting stations).

Last year, the Legislature amended the Code to require election officials to print results tapes for any precinct ballot counter used *on election day* immediately when polls close. Tex. Elec. Code § 61.002(c). Ballot counters used for early voting and on

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election day generally are kept completely separate, and it is unlawful for many Texas counties to count early votes before election day. *See* Tex. Elec. Code. § 61.007; 1 Tex. Admin. Code § 81.52(h)(6); Pet. App. 7 at 3. But Relators petitioned the Court—months after the relevant amendment took effect and just days before early primary voting ends—to force Respondents to advise county election officials that they must run results tapes the moment early voting ends. *See* Pet. 4–12. Relators file this response at the Court's request.

Standard of Review

"Mandamus relief is appropriate when a petitioner demonstrates a clear abuse of discretion and has no adequate remedy by appeal." *In re Geomet Recycling LLC*, 578 S.W.3d 82, 91 (Tex. 2019) (orig. proceeding).

Argument

I. The Petition Should Be Dismissed or Denied Because Relators Did Not Diligently or Adequately Seek Relief and Failed to Establish Standing.

Mandamus is "controlled largely by equitable principles," one of which is that "equity aids the diligent and not those who slumber on their rights." *In re Int'l Profit Assocs., Inc.*, 274 S.W.3d 672, 676 (Tex. 2009) (orig. proceeding) (per curiam) (citing *Rivercenter Assocs. v. Rivera*, 858 S.W.2d 366, 367 (Tex. 1993) (orig. proceeding)). Relators have not shown adequate diligence to warrant the "extraordinary remedy" of mandamus. *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding). Nor have they cleared other threshold hurdles to obtaining relief.

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The mandamus petition is premised on Relators' interpretation of Texas Election Code section 61.002(c)—which, in Relators' view, requires Respondents to amend an election advisory that the Secretary of State's office issued in October 2019. *See* Pet. 1; Pet. App. 8. The bill that enacted section 61.002(c) was signed by the Governor in September 2021, making the law effective December 2, 2021. *See* Act of Aug. 31, 2021, 87th Leg., 2d C.S., ch. 1, § 10.04. Yet Relators waited months to seek mandamus relief, filing their petition in this Court just two days ago.

That delay effectively renders mandamus relief unavailable. Relators request relief in connection with the ongoing 2022 primary election, the early-voting period for which ends tomorrow. *See* Pet. 5–11; Tex. Elec. Code § 85.001(a) (mandating that the period constituting early voting "continues through the fourth day before election day"). But as the Court explained just last month, in a proceeding involving another mandamus petition filed in connection with the 2022 election, "the court must receive the case early enough to order relief that would not disrupt the larger election." *In re Khanoyan*, No. 21-1111, 2022 WL 58537, at *1 (Tex. Jan. 6, 2022) (orig. proceeding); *see also Purcell v. Gonzalez*, 549 U.S. 1, 4–6 (2006) (per curiam) (refusing to allow judicial interference in electoral rules in light of an imminent election); *In re Hotze*, 627 S.W.3d 642, 645–46 (Tex. 2020) (orig. proceeding) (citing *Purcell* and other cases to explain the Court's refusal to interfere in an imminent election through mandamus). "Courts at every level, including the U.S. Supreme Court and this Court, have declined to implement even 'seemingly innocuous' alterations to election laws on the eve of an election, let alone after one has begun." *Khanoyan*, 2022 WL 58537, at *2 (citing examples).

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But Relators' lack of diligence is not their only problem. As the Court went on to say in *Khanoyan*,

> as the risk of judicial interference with an election rises, so does the duty of the party invoking judicial power to explain with precision how any relief will affect that election and the larger structure of our state's election machinery. At a bare minimum, a party who asks a court to take action that could disrupt the election calendar after the election process has begun has the duty to explain the practical consequences of the requested judicial action. That explanation must contain sufficient detail to allow the Court to weigh the need for the requested relief against the burdens the relief would impose on the election process and on the rights of other Texans.

Id.

Relators have not met that burden. True, they say that Respondents' refusal to embrace their view of the law supposedly "weakens the integrity of the vote and provides the potential for vote dilution." Resp. 5. But they offer no explanation, let alone evidence, in support of that charge. And it is unclear how they could do so, given the substantial safeguards that apply in this setting. *See* Tex. Elec. Code § 127.1232.

Relatedly, Relators fail to explain how any personal, concrete, and particularized injury actually exists and is fairly traceable to Respondents' challenged inaction. They have therefore also failed to meet their burden to establish standing. *See Heckman v. Williamson County*, 369 S.W.3d 137, 155 (Tex. 2012); *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992) (discussing "the irreducible constitutional minimum of standing" that this Court adopted in *Heckman* and explaining what plaintiffs must do to meet their burden at successive stages of litigation); *Andrade v. NAACP of Austin*, 345 S.W.3d 1, 15 (Tex. 2011) (explaining that "generalized grievances" suffered by litigants alongside "all or a large class of citizens" do

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not suffice to satisfy the standing requirement); Pet. 2, 3 (offering only conclusory assertions regarding Relators' interests and supposed harm).

On the other side of the balance, granting Relators' requested mandamus relief and requiring Respondents to issue new guidance to be implemented in all Texas counties on an emergency basis in the waning hours of the early-voting period would risk widespread confusion. And the problem would not arise only with the official close of early voting tomorrow. Under Texas Election Code section 127.007, election officials are required to finalize and make publicly available plans for the orderly operation of central counting stations by the end of today (the fifth day before the March 1 primary election day). Moreover, requiring premature printing of tapes would risk a release of confidential information that would give rise to criminal liability. *See* Tex. Elec. Code § 61.007.

For each of those reasons, the Court should dismiss or deny the petition without respect to the merits. But as explained below, the petition also fails on the merits.

II. The Petition Should Be Denied Because It Is Based on an Incorrect View of the Law.

Relators' request for mandamus relief is based on two provisions of the Texas Election Code: section 81.002 and, as already noted, section 61.002(c). *See* Pet. vii. Section 81.002 is part of Title 7 of the Code, which addresses "Early Voting." It provides that "[t]he other titles of this code apply to early voting except provisions that are inconsistent with this title or that cannot feasibly be applied to early voting." Tex. Elec. Code § 81.002. Section 61.002 appears in Title 6 of the Code, which addresses the "Conduct of Elections." So under section 81.002, section 61.002(c)

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could apply to early voting only if it were consistent with Title 7 or could feasibly be applied to early voting. It is not and could not be.

Section 61.002 has four subsections. Subsection (a) requires the printing of tape confirming that voting machines' counters were reset to zero immediately before both the "first day of early voting *and* on election day" (emphasis added). Subsection (b) requires polling places to be opened to voters at the right time. Subsection (c), the provision at the heart of Relators' petition, states (with emphasis added):

> Immediately after closing the polls for voting *on election day*, the presiding election judge or alternate election judge shall print the tape to show the number of votes cast for each candidate or ballot measure for each voting machine.

Subsection (d) requires the signing of a tape printed under section 61.002.

The language emphasized above highlights an important distinction between subsection (a) and subsection (c). It reflects that the Legislature knows how to make a requirement of section 61.002 applicable to both early voting and election day, as it did in subsection (a). Subsection (c), by contrast, applies only *after* the early-voting period ends—that is, "on election day." *See* Tex. Elec. Code § 41.001 (specifying general and special election days); *id.* § 41.007 (specifying primary election days); *id.* § 85.001 (defining the early-voting period, which naturally ends "before election day").

The reason that the Legislature did not make subsection (c) applicable to early voting is that it is inconsistent with provisions of Title 7. One such provision, for example, states that "[o]nce locked for use in an election, the early voting ballot box may not be unlocked except as provided by this subtitle." *Id.* § 85.032(a). Another

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requires ballot boxes to be delivered unopened to a central counting station. *Id.* § 87.101. A third requires tabulation at the same time of "[t]he early voting electronic system ballots counted at a central counting station, the ballots cast at precinct polling places, and the ballots voted by mail." *Id.* § 87.103. Requiring early-voting poll workers to print tapes at the close of early voting could lead to premature release of election results, which would violate the criminal prohibition found in section 61.007. *See also id.* § 87.062 (requiring early-voting ballot boards to remove early ballots from their containers and count them); *id.* § 87.1231 (requiring early-voting vote totals to be reported by precinct along with all other early-voting ballots); Tex. Att'y Gen. Op. No. KP-0118 at 4 (2016) (discussing these and related provisions). These provisions explain why the Secretary of State has provided by rule that, after a vote count is concluded, "the tabulation supervisor must store the vote tabulation on a tape or other electronic device (personal computer) without producing a printout or any other method of the vote count" and that, "[o]n election day, the counting of early votes and election day votes shall be conducted in accordance with the procedures set forth in the Texas Election Code." 1 Tex. Admin. Code § 81.36(i), (q).

Section 87.0241(b)(2) provides a limited exception: it allows for the counting of early-voting ballots at "the end of the period for early voting by personal appearance" in counties of a certain size. That is why, as Relators note, Respondents allow, in some instances, the printing of early-voting tapes between the close of early voting and election day. *See* Pet. 3.

But Relators can point to no provision of Texas law that requires Respondents to mandate the printing of early-voting tapes "immediately upon the close of early

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voting," as opposed to on election day. Pet. 4. The absence of such a provision distinguishes this original proceeding from those in which this Court has granted mandamus relief against the Secretary of State and other officials. *See* Pet. 12.

Prayer

The Court should dismiss or deny the petition.

Respectfully submitted.

Ken Paxton
Attorney General of Texas

Brent Webster
First Assistant Attorney General

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P.O. Box 12548 (MC 059)
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Judd E. Stone II
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/s/ Bill Davis
Bill Davis
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Christopher J.F. Galiardo
Assistant Attorney General

Counsel for Respondents

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TX-SOS-24-0322-C-000804

Certificate of Service

On February 24, 2022, this document was served on Roger B. Borgelt, lead counsel for Relators, via roger@borgeltlaw.com.

/s/ Bill Davis
Bill Davis

Certificate of Compliance

Microsoft Word reports that this document contains 2,349 words, excluding exempted text.

/s/ Bill Davis
Bill Davis

AMERICAN OVERSIGHT

TX-SOS-24-0322-C-000805

From: Christina Adkins
Sent: Saturday, July 22, 2023 12:15 PM
To: 'Michael Scarpello'
Subject: RE: [External Sender]RE: Central Counting Station Working Group
Attachments: Central Counting Station Working Group

Mike – here is the original email that was sent out on this topic. It has some CCS plans from other counties. We are currently working off the Williamson County plan as this is the version most broadly used since it was shared on the listserv. Each meeting we are addressing different sections of the template and discussing what needs to be added/subtracted or what we need to clarity legally. That said, you have some excellent items in your plan that we would like to incorporate into the final SOS template. We are trying to create something that can be used broadly across counties regardless of size –this is challenging but it's proving to be a good exercise. I hope you all can participate in the next couple of meetings. I would very much like to get your perspective on things and have you participate in the great discussions we've had so far.

Let me know if you need anything else from me.

Thanks!

Christina

From: Michael Scarpello <Michael.Scarpello@dallascounty.org>
Sent: Friday, July 14, 2023 1:04 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Williamson - Christopher Davis (cjdavis@wilco.org) <cjdavis@wilco.org>; Cameron - Remi Garza (remi.garza@co.cameron.tx.us) <remi.garza@co.cameron.tx.us>; Hays - Jennifer Anderson (elections@co.hays.tx.us) <elections@co.hays.tx.us>; Bexar - Jacque Callanen (jcallanen@bexar.org) <jcallanen@bexar.org>; Sherman - Laura Rogers (laurarogers@co.sherman.tx.us) <laurarogers@co.sherman.tx.us>; Lubbock - Roxzine Stinson (rstinson@lubbockcounty.gov) <rstinson@lubbockcounty.gov>; Tarrant - Troy Havard (tchavard@tarrantcountytx.gov) <TCHavard@tarrantcountytx.gov>; Fannin - Tammy Biggar (tbiggar@fanninco.net) <tbiggar@fanninco.net>; Bastrop - Kristin Miles (kristin.miles@co.bastrop.tx.us) <kristin.miles@co.bastrop.tx.us>; Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov) <Bridgette.Escobedo@traviscountytx.gov>
Cc: Charles Pinney <CPinney@sos.texas.gov>; Erik Buntin <EBuntin@sos.texas.gov>; Kristi Hart <KHart@sos.texas.gov>
Subject: RE: [External Sender]RE: Central Counting Station Working Group

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Colleagues, I had asked Christina to join your meeting on July 13th and she graciously invited me to the meeting. However, I had an unavoidable conflict pop up so I was unable to join.

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Nonetheless, I am very interested in seeing what other counties are doing with their Central Counting Station Plans and what the group might have in mind for a state template. So, if you meet again in the future, I would love to participate..

In the meantime, for your reference I've attached the plan that we used in the May Joint Election. We've recently made quite a few additions to the plan but we're looking to enhance it even more in the future and to possibly modify the format. One recent addition that I did not attach but you may want to consider in your template, is a "Daily Journal" that we currently utilize to track our daily activities within the Central Counting Station. We've found it to be useful to provide to poll watchers when they have questions about what took place within the station.

Thanks for your work on this project.

Mike

Michael Scarpello
Dallas County Elections Administrator
1520 Round Table Drive
Dallas, TX 75247
(214)819-6335

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Thursday, July 13, 2023 8:21 AM
To: Williamson - Christopher Davis (cjdavis@wilco.org) <cjdavis@wilco.org>; Cameron - Remi Garza (remi.garza@co.cameron.tx.us) <remi.garza@co.cameron.tx.us>; Hays - Jennifer Anderson (elections@co.hays.tx.us) <elections@co.hays.tx.us>; Bexar - Jacque Callanen (jcallanen@bexar.org) <jcallanen@bexar.org>; Sherman - Laura Rogers (laurarogers@co.sherman.tx.us) <laurarogers@co.sherman.tx.us>; Lubbock - Roxzine Stinson (rstinson@lubbockcounty.gov) <rstinson@lubbockcounty.gov>; Tarrant - Troy Havard (tchavard@tarrantcountytx.gov) <TCHavard@tarrantcountytx.gov>; Fannin - Tammy Biggar (tbiggar@fanninco.net) <tbiggar@fanninco.net>; Bastrop - Kristin Miles (kristin.miles@co.bastrop.tx.us) <kristin.miles@co.bastrop.tx.us>; Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov) <Bridgette.Escobedo@traviscountytx.gov>; Michael Scarpello <Michael.Scarpello@dallascounty.org>
Cc: Charles Pinney <CPinney@sos.texas.gov>; Erik Buntin <EBuntin@sos.texas.gov>; Kristi Hart <KHart@sos.texas.gov>
Subject: [External Sender]RE: Central Counting Station Working Group

Good Morning Everyone,

Here is the log-in information for today's call. I've also set up calls through the end of July in case we need them.

See you all at 9:00 am.

Thanks,

Christina

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Date	Time	Title	Attendee Link	Password	Audio Conference	Access Code	Password (Phone Only)
Thursday, July 13	9:00 AM	CCS Working Group	[redacted]		408-418-9388	[redacted]	[redacted]
Thursday, July 20	9:00 AM	CCS Working Group	h[redacted]	[redacted]	408-418-9388	[redacted]	[redacted]
Thursday, July 27	9:00 AM	CCS Working Group	h[redacted]	[redacted]	408-418-9388	[redacted]	[redacted]

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Wednesday, June 28, 2023 4:20 PM
Subject: Re: Central Counting Station Working Group

Hey Folks,

Here is the log-in information for tomorrow's call.

Thursday, June 29	9:00 AM	Central Counting Station Plan Working Group	[redacted]	[redacted]	408-418-9388	[redacted]	[redacted]

Looking forward to tomorrow's call!

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov

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Christina Worrell Adkins
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From: Christina Adkins
Sent: Monday, June 26, 2023 5:12:56 PM
To: Williamson - Christopher Davis (cjdavis@wilco.org) <cjdavis@wilco.org>; Cameron - Remi Garza (remi.garza@co.cameron.tx.us) <remi.garza@co.cameron.tx.us>; Hays - Jennifer Anderson (elections@co.hays.tx.us) <elections@co.hays.tx.us>; Bexar - Jacque Callanen (jcallanen@bexar.org) <jcallanen@bexar.org>; Sherman - Laura Rogers (laurarogers@co.sherman.tx.us) <laurarogers@co.sherman.tx.us>; Lubbock - Roxzine Stinson (rstinson@lubbockcounty.gov) <rstinson@lubbockcounty.gov>; Tarrant - Troy Havard (tchavard@tarrantcountytx.gov) <tchavard@tarrantcountytx.gov>; Fannin - Tammy Biggar (tbiggar@fanninco.net) <tbiggar@fanninco.net>; Bastrop - Kristin Miles (kristin.miles@co.bastrop.tx.us) <kristin.miles@co.bastrop.tx.us>; Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov) <Bridgette.Escobedo@traviscountytx.gov>
Subject: Central Counting Station Working Group

Hey folks,

If you are on this email, you volunteered to be a part of our working group for the Central Counting Station Plan. Originally, I wanted to try to meet tomorrow morning just to kick off discussion and map out the next couple of weeks. I have a few folks internally that I would like to have on the call that have conflicts for tomorrow morning. Would you all be opposed to moving the meeting to **Thursday at 9:30 am**? I'm sorry for the last minute change, but getting all the right folks on a call is proving to be a touch difficult.

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If you have a problem, let me know. Otherwise I will tentatively schedule for Thursday.

To help us get started I've attached sample plans from the counties that have provided me their working plans. I'm also including a few resources below to assist us.

Relevant Advisories:

October 17, 2017	No. 2017-16	Central Counting Station Plan
October 23, 2019	No. 2019-23	Electronic Voting System Procedures Advisory

Administrative Code Provisions – Please note that these are very outdated. I'll provide more context on the call.

§81.36	Counting Ballots Prior to Election Day in Counties with a Population of 100,000 or More
§81.37	Counting Late Ballots
§81.49	Irregularities in Seals or Serial Numbers
§81.50	Test Program
§81.51	Malfunction in Tabulating Equipment

Looking forward to working with you all on this project! Please let me know if you need anything before our meeting on Thursday.

Thanks,

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
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From: Christina Adkins
Sent: Monday, June 26, 2023 5:13 PM
To: 'Williamson - Christopher Davis (cjdavis@wilco.org)'; 'Cameron - Remi Garza (remi.garza@co.cameron.tx.us)'; 'Hays - Jennifer Anderson (elections@co.hays.tx.us)'; 'Bexar - Jacque Callanen (jcallanen@bexar.org)'; 'Sherman - Laura Rogers (laurarogers@co.sherman.tx.us)'; 'Lubbock - Roxzine Stinson (rstinson@lubbockcounty.gov)'; 'Tarrant - Troy Havard (tchavard@tarrantcountytx.gov)'; 'Fannin - Tammy Biggar (tbiggar@fanninco.net)'; 'Bastrop - Kristin Miles (kristin.miles@co.bastrop.tx.us)'; 'Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov)'
Subject: Central Counting Station Working Group
Attachments: CENTRAL COUNTING STATION PLAN_L23.pdf; Central Count Plan RO.docx; CCS Operation Plan.doc; CENTRAL COUNTING STATION PLAN-Aging Services.docx; CCS Plan - Nov. 2022.docx; 0523 _CENTRAL COUNTING STATION PLAN_draft.docx

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§81.51	Malfunction in Tabulating Equipment

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Christina Worrell Adkins
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Dyana Limon-Mercado
Travis County Clerk
P.O. Box 149325, Austin, Texas 78714
5501 Airport Blvd, Austin, Texas 78751
www.traviscountyclerk.org

TRAVIS COUNTY CLERK
ELECTIONS DIVISION
CENTRAL COUNTING STATION PLAN
May 6, 2023

PURPOSE:

Section 127.007 of the Texas Election Code requires the Manager of the Central Counting Station ("CCS") to "establish and implement a written plan for the orderly operation of the Central Counting Station." This plan must be made available to the public on request not later than 5:00 pm on the fifth day before the date of the election, which is Monday, May 1, 2023.

Section 127.007(b) provides that a CCS plan "must address the process for comparing the number of voters who signed the combination form with the number of votes cast for an entire election."

A. LOCATION:

The Travis County Central Counting Station will be located at Travis County Elections Division 5501 Airport Blvd. Austin, TX 78751. The Central Counting Station will convene at 10:00 am on Wednesday, May 3, 2023, and 3:00 pm on Saturday, May 6, 2023, and on 9:00 am Monday, May 15, 2023.

B. CENTRAL COUNTING STATION PERSONNEL:

The following are the roles and responsibilities inside the Central Counting Station, as contained in Sections 127.002-127.006 of the Texas Election Code:

Central Count Presiding & Alternate Judges: Charlene Casillas & Marco Ramirez
Central Station Manager: Bridgette Escobedo
Tabulation Supervisor: Charlie Johnson
Assistants to Tabulation Supervisor: Dan Hayes, Scott Flom, Cinnamon Babbitt, Jacqueline Augenbraun, Chris Baldenhofer, Emma Lever, MiShon Davis, Kyle Barsalou, Robert Espinosa, Adana Hess, employees of ES&S, and other qualified employees of Travis County (as needed)

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- The Elections Division Director, Bridgette Escobedo, will serve as the Central Counting Station Manager to manage the overall administration of the station and supervision of personnel. (Section 127.002)

- The Assistant Division Director, Charlie Johnson, will serve as the Tabulation Supervisor to operate automatic tabulating equipment. (Section 127.003)

- The Assistants to Tabulation Supervisors will assist the Tabulation Supervisor in the operation of the automatic tabulating equipment as directed by the Tabulation Supervisor. (Section 127.004)

- The Presiding Judge will serve to maintain order at the Central Counting Station, administer oaths, and receive ballots to be counted. (Section 127.005) Charlene Casillas will serve as Presiding Judge and Marco Ramirez as Alternate Judge.

  Note: The Presiding Judge is entitled to compensation at the same rate as a precinct Presiding Judge, except that the counting station judge is entitled to a minimum compensation of five hours' pay regardless of the amount of time worked. (Section 127.005(d))

- Central Counting Station Clerks may be appointed as needed by the Central Counting Station Manager, as well as the Presiding & Alternate Judges as needed as outlined Section 127.006 of the Election Code.

  Note: To be eligible to serve as a clerk a person must be a qualified voter of the county in which the central counting station is located. The general custodian of election records, an employee of the custodian, or any other employee of a political subdivision is not ineligible to serve as a clerk under this section because the person is a qualified voter of a county other than the county in which the Central Counting Station is located or because of the custodian's status as a candidate or officeholder. (Section 127.006(b))

  A clerk appointed by the Manager serves under the Manager and shall perform the functions directed by the Manager. A clerk appointed by the Presiding or Alternate Judge serves under the Presiding or Alternate Judge and shall perform the functions directed by the Judges. (Section 127.006(c))

  A clerk is entitled to compensation at the same rate as a precinct election clerk, except that a clerk who serves for the entire time a counting station is in operation is entitled to a minimum compensation of three hours' pay regardless of the amount of time worked. (Section 127.006(d))

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C. PROCEDURES FOR CONVENING THE CENTRAL COUNTING STATION:

Section 87.0241(b)(2) of the Texas Election Code dictates when an entity is permitted to count ballots.

The Central Counting Station will convene based on the size and type of election as determined by the Central Counting Station Manager and the Presiding Judge.

The Central Counting Station will begin the process to count ballots voted by mail and in-person ballots on Wednesday, May 3, 2023, at 10:00 am. In accordance with Section 127.093 of the Texas Election Code, the second test of tabulating equipment will be conducted prior to beginning the process to count early voting ballots on Wednesday, May 3, 2023.

The Central Counting Station will begin the process to count Election Day ballots on Saturday, May 6, 2023, starting at 7:00 pm or when the Election Judge arrives with the results stick.

E. ADMINISTRATION OF OATHS:

Section 127.0015 of the Texas Election Code prescribes a required oath for all CCS personnel.

This oath will be administered verbally to all members of the early voting ballot board and all personnel at the central counting station prior to the performance of any duties by the board or the Central Counting Station.

For use in the May 6, 2023, election:

"I swear (or affirm) that I will objectively work to be sure every eligible voter's vote is accepted and counted, and that only the ballots of those voters who violated the Texas Election Code will be rejected. I will make every effort to correctly reflect the voter's intent when it can be clearly determined. I will not work alone when ballots are present. I will faithfully perform my duty as an officer of the election and guard the purity of the election."

F. INTAKE OF BALLOTS, ELECTRONIC MEDIA AND SUPPLIES:

Section 129.051 & 129.052 of the Texas Election Code require the general custodian of election records to develop certain procedures related to inventory control and chain of custody of voting system equipment and electronic media associated with this equipment, providing for verification of equipment identifiers, verification of seals, and verification of chain of custody.

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1. Election Judge, or their designee, brings voted paper ballot cards (in locked and sealed blue ballot bin) and results sticks (in sealed green election results bag) to the Travis County Elections Division intake located in the Multipurpose Room at 5501 Airport Blvd., Austin, Texas 78751.
2. Intake personnel will verify location tags and verify the seals on the green results bags and blue ballot bins are the same as the seal numbers on the seal log.
3. Intake personnel will deliver the ballot bin to a secure area in the warehouse and deliver the green election results bag with the results stick to the Multipurpose Room where Central Counting Station Clerks will verify the seal numbers with the Ballot and Seal Certificate under the supervision of a clerk assigned by the Presiding Judges. A scan will be conducted on the outside label of the results stick for location tracking purposes in the Poll Asset Management System (PAMS). This is done to track the physical location of the results stick and to keep track of how many sticks have been received and processed and how many are still outstanding. A pie chart will be projected on the wall to show these statistics.

G. DUPLICATION OF BALLOTS:

Certain ballots that are counted with automatic tabulating equipment may have to be duplicated if the ballot is damaged or cannot be read with the scanning equipment.

1. The Central Count Station Manager will have any ballots that are damaged or otherwise unreadable by the scanner reduplicated in accordance with Section 127.126 of the Texas Election Code.

H. RESOLVING VOTER INTENT:

At the direction of the CCS Manager, CCS clerks will resolve any voter intent questions on the ballots as they are duplicated or manually counted, as applicable. (Section 127.125)

1. The Presiding Judges and other members will make a determination of voter intent prior to duplication of a ballot.
2. The duplicate ballot will then be created under the supervision of the Presiding Judges in the manner in which the voter's intent was determined.

I. TABULATION PROCEDURES:

<u>EVBB After Early Voting – Wednesday, May 3, 2023</u>

- Presiding Judges will confirm seals match the Seal Log for Green Early Voting Results Bags and Blue Ballot Bins.

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- Election results bags are opened, and results stick is verified and then placed into sealed containers and secured until the Tabulation Supervisor is ready to read results sticks into ElectionWare. Ballot Bins will be stored in a vault and remain unopened until needed.
- In ElectionWare, before any data from the tabulation test is loaded, a Zero Report will be printed from the ElectionWare software and signed by the Tabulation Supervisor and tabulation assistants and Presiding Judges of Central Count.
- The second test of the tabulation equipment will be conducted by counting of the public test full-page paper ballots by scanning them at the DS850 & DS450 and printing a paper copy of the results. The results will also be saved to the results stick. (Section 127.093 & 127.097)
- In ElectionWare, before any data from the early voting mail ballots are counted or results sticks are loaded, a Zero Report will be printed from the ElectionWare software and signed by the Tabulation Supervisor and tabulation assistants and Presiding Judges of Central Count.
- After Ballot Board completes their review of all Early Voting ballots by mail, approved ballots will be scanned by the DS850 & DS450, the resolution board under the direction of the Presiding Judges will resolve any ballots needing to be reviewed.
- After all Early Voting ballots by mail have been scanned; results will be saved to the results stick and read into ElectionWare, then sealed and stored in the vault by the Tabulation Supervisor and/or tabulation assistants.
- Ballots voted by mail will be placed back into the blue ballot bins, which will be sealed with the seal numbers recorded by the Presiding Judges of Early Voting Ballot Board and stored in the vault.

Election Day – Saturday, May 6, 2023

- All results will be read into the ElectionWare software by the Tabulation Supervisor with tabulation assistants present and the Presiding Judges of Central Count.
- Any un-scanned approved ballots will be scanned at the DS850 & DS450, and any ballots needing to be reviewed will be resolved by the resolution board under the direction of the Presiding Judges.
- Results will be saved onto the results stick and loaded into the ElectionWare.
- Tabulation Supervisor and tabulation assistants will confirm the results sticks for each site have been loaded and are all accounted for.
- On Election Day, early voting ballots, including ballots by mail received up to that point will be tabulated before 7:00 pm, but in no case will results reports be released to the public before that time.
- Results tapes will be printed and signed at the Central Counting Station by the Presiding Judges.

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J. RECONCILIATION:

The process for comparing the number of voters listed as having voted and the number of ballots cast is done in three ways:

1. Early Voting in Person – Compare the number of early voting check-ins from Precinct Central (electronic poll book) to the number of ballots cast.
2. Early Voting by Mail – Compare the number of ballots entered on the "Ballot Transmittal Form" from the early voting ballot board to the number of ballots counted. (Section 87.021, 87.1221)
3. Election Day – Compare the number of Election Day check-ins from Precinct Central (EPB) to the number of ballots cast. (Section 127.007(b))

Additionally, in accordance with Texas Election Code Section 127.131(f), the Presiding Judges of the Central Counting Station shall provide and attest to a written reconciliation of votes and voters at the close of tabulation for election day and again after the Central Counting Station meets for the last time to process late-arriving ballots by mail and provisional ballots using a form created and rules promulgated by the secretary of state to facilitate compliance with this subsection. Once completed, the form shall be posted on a website maintained by the county along with election returns and results.

K. PRINTING OF PRECINCT RETURNS AND ELECTION TOTALS:

Under Section 127.127, the Tabulation Supervisor and the assistants to the Tabulation Supervisor are the only ones authorized to operate the automatic tabulating equipment or handle ballots that are automatically counted. After the counting of ballots (or accumulation of vote totals) has occurred, under the direction of the Presiding Judges of the CCS the precinct election returns are prepared. The Presiding Judges are required to sign a copy of the precinct returns to certify their accuracy. (Section 65.014, 127.131)

The printed "precinct by precinct" report will be adjusted to include any hand-counted ballots (if necessary) and constitutes our certified precinct returns. (Section 127.131(e))

The unofficial election results shall be released as soon as available after the polls close. Alternatively, the Presiding Judges of the CCS, in cooperation with the Elections Division Director may withhold the release of unofficial results until the last voter has voted. (Section 66.056, 127.1311)

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Unofficial election results will be released via the Travis County Clerk Elections Division webpage, beginning no earlier than 7:00 pm on Election Day. Election Day results will be released incrementally as processed through acceptance and tabulation until all results are in.

L. REPORTING RESULTS TO THE SECRETARY OF STATE:

For certain elections, including primary elections, the general election for state and county officers, and constitutional amendment elections, the SOS is required to tabulate the unofficial results statewide. (Section 68.001)

M. POLL WATCHERS:

Poll watchers are entitled to be present during the time the CCS has convened for the "purpose of processing or preparing to process election results and until the election officers complete their duties at the station." (Section 33.055)

The poll watcher must deliver both the certificate of appointment and the certificate of completion of the Texas SOS Poll Watcher Training to the Presiding Judges of the CCS and the watcher must countersign their certificate in the presence of the Presiding Judges. (Section 33.051) A watcher may not be accepted for service if the watcher has possession of a device capable of recording images or sound unless the watcher agrees to disable or deactivate the device. (Section 33.051(c)) A watcher serving at Central Counting Station may be present at any time the station is open for the purpose of processing or preparing to process election results and until the election officers complete their duties at the station. The watcher may serve during the hours the watcher chooses, except as provided by Subsection (b) a watcher may not leave during voting hours on Election Day without the Presiding Judge's permission if the counting of ballots at the Central Counting Station has begun.

Poll watcher(s) are entitled to sit or stand near enough to see and hear the activities (33.056). To ensure that all Poll Watchers can observe the activities in the tabulation room, the Presiding Judges will implement a system whereby Watchers will rotate into the tabulation room at predetermined intervals. Watchers will be selected sequentially from a roster that the Watchers will sign upon their arrival at the Central Counting Station. No more than two watchers will be permitted in the tabulation room at any given time, and party parity will be followed.

All activities of poll watcher(s) shall be in compliance with the current Poll Watchers Guide issued by the Secretary of State.

A poll watcher may request a printed copy of an audit log produced by a central accumulator:

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(1) before any votes are tabulated;
(2) after early voting results are tabulated; and
(3) immediately following the completion of the vote tabulation.

N. DELIVERY OF MATERIALS TO THE GENERAL CUSTODIAN OF ELECTION RECORDS:

After the completion of the counting of ballots both on Election Day and after Election Day, if necessary, voted ballot cards, electronic media, election records, and election equipment will be retained by this office, who is the general custodian of election records, through the appropriate retention period.

O. SECURITY PROCEDURES:

A Licensed Peace Officer will be posted at the CCS as required (Section 127.1232(a), Texas Election Code) at any time that the CCS is convened. Live video streaming will be active during the time the CCS is convened on the Travis County Clerk's Website (Section 127.1232(b), Texas Election Code).

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Bexar County Central Counting Station Plan

The Central Counting Station is established by the authority adopting the voting system for the Election. For a county ordered election this would be the Bexar County Commissioner's Court. The rules for the Central Counting Station can be found in Chapter 127 of the Texas Election Code.

1. Participants
    a. Central Count Manager: Elections Administrator, Jacque Callanen
        i. Is in charge of the overall administration of the CCS, and supervisor of personnel.
    b. Presiding Judge for Central Count: Rose Marie DeHoyos
        i. Is responsible for maintaining order and has the same authority as a precinct presiding judge.
        ii. Is responsible for determining voter intent for ballot.
        iii. Must sign off on precinct returns.
    c. Tabulation Supervisor: Technical Support Manager, James Huerta
        i. Is in charge of operation of the tabulating equipment
    d. Assistant to Tabulation Supervisor: Jorge Fernandez
        i. Is the assistant to the Tabulation Supervisor
    e. Counting Station Clerks: Technical Support Specialists
    f. ES&S site support
    g. Sheriff Deputies
2. Equipment
    a. The tabulation computers, server, equipment, and software are on a secure independent network, and are locked in a secure room only accessible by key cards.
    b. All equipment/media has been serialized with a unique barcode, and is tracked throughout the election
    c. Election Ware Tabulation Software, ES&S
        i. Certified System is on its own independent network
        ii. Election Night Reporting System
        iii. RSS Laptops is linked to the Election Night Reporting system through a secure Bexar County Network with a secure VPN provided by ES&S
    d. 4 DS450's and DS850 – Central count tabulators for the mail ballots
    e. Express Vote - touch screen unit that prints the voters marked ballot
    f. DS200 – Precinct Tabulator that records the Express Vote ballots
    g. Express Touch - Touch Screen curbside unit
    h. USB Flash Drives – contains the ballot definition and election results
3. Programming
    a. The Central Counting Station staff will perform the Programming, with assistance from ES&S.
    b. A unique Qualification Code (EQC) and passwords are created for each election.
    c. The Central Counting Station Staff will proof the programming.
    d. All the Entities will sign off on the paper ballots and screen shots
    e. The Tabulation Supervisor and Assistant to Tabulation Supervisor will load the programming on to the Sever.
4. Testing
    a. Testing is performed by the Central Counting Station Staff.

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b. A Public L&A Test is performed, this is the first test on May 3, 2023 at 3:00 pm.

5. Resetting the Election Ware Software
    a. After the testing is completed, backed up and locked away; the Tabulation Supervisor and Assistant to Tabulation Supervisor will:
        i. Zero out the results database,
        ii. Import the final number of voters by precinct,
        iii. Print and export a Zero Report for the website.
6. Prepare and inventory the equipment for Early Voting and Election Day, keeping a chain of custody.
    a. Burn the USB Flash Drives
        i. Express Vote USB Flash Drives
        ii. DS200 USB Flash Drive – one for each Vote Center and Early Vote Site
        iii. Express Touch USB Flash Drive – one for each unit for Vote Center and Early Vote Site
        iv. Qualification USB Flash Drives – burn one and make as many copies as necessary
    b. Load the election on to the equipment
        i. Load the DS200
            1. Load and open the election
            2. Run test ballots through
            3. Close the unit and print a results tape
            4. Put the results through Election Ware RSS laptop
            5. Reset the DS200
        ii. Load the Express Vote
            1. Load and Open the Express Votes
            2. Print a test ballot
        iii. Load and open the Express Touch
    c. Seal the USB Flash Drives and ballot box
    d. Inventory the equipment, USB Flash Drives, and seals for each site
7. Backup the Election
    a. A back up of the Certified System is made
        i. A copy is transferred to the Election Night Reporting System
        ii. A Copy is taking offsite to the EOC
8. Oaths
    a. Oaths are required for all election officers appointed under Chapter 127 for the Central Counting Station and the Regional Sending Sites.
    b. The Central Counting Station Manager will administer the oaths.
9. Tabulation
    a. Mail Ballots
        i. Assignment:
            1. The Central Count Manager and Tabulation Supervisor will oversee, verify tabulation and are the resolution team.
            2. The Assistant to Tabulation Supervisor will verify the equipment is working properly and counting procedures are followed.

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3. Counting Station Clerks will process the ballot though the DS450s and DS850
4. ES&S site support resolves any equipment malfunction.

ii. Test deck is processed before tabulation is to begin, this is the second test. The test deck results must match on all of the DS450's and the DS850
iii. The test is compared to previous test results from the first public test.
iv. The DS450's and DS850 are reset and a Zero Report is printed.
v. Ballots and transmittal forms are received from the Early Ballot Board (EBB).
vi. The ballot transmittal form contains the number of accepted mail ballots that will be counted.
vii. The EBB will secure the ballots for delivery to the Central Counting Station.
viii. Ballots are processed through the DS450s and DS850

1. Write-ins are placed in the box on top of the tabulator
    a. The CCS Judge is in charge of counting the write-ins.
2. Any anomalies get placed in a resolution box
    a. Resolution team will look over ballots
        i. Over Vote and Blank Ballots will be determined as to voter intent.
        ii. Black and white dots will used to for corrections, to preserve the original vote, and so the tabulator can read the ballots.
        iii. Any remakes will be made, if the ballot is unreadable.
    b. Resolved ballots will be placed back in queue to be tabulated.
3. Scanned ballots are placed in cardboard boxes labeled with the name and date of the Election, box number, and tabulator number.
4. At the end of each box the count is saved.
5. A count is taken at every save.
6. Overnight a back-up is saved to a USB Flash Drive, and a count is taken from each tabulator.
7. After all ballots are tabulated:
    a. The Central Count Manager and Tabulation Supervisor will verify the count of each tabulator and make sure they match up to the transmittal forms.
    b. The Tabulation Supervisor and Assistant to Tabulation Supervisor will save a USB Flash Drive from each tabulator.
    c. The USB Flash Drives are accumulated into the Absentee Results into the Certified System.

b. Early Vote

i. Early Voting site:

1. At the end of each night
    a. A count of each DS200 and Express Touch are recorded and is matched up with the number of voter signatures and in Vote Safe.

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b. The Early Voting Presiding Judge will call the office with the count of each DS200 and Express Touch, and the count is recorded in the office.

2. At the end of Early Voting each DS200 and Express Touch is closed and the USB Flash Drives are pulled. The USB Flash Drive contains the cast vote record.
3. The USB Flash Drives are placed in the purple bag that is sealed.

ii. Warehouse:

1. The Early Voting Site Presiding Judge brings the Purple Bag, and supplies to the warehouse.
2. The Purple Bag is inspected by the Assistant to Tabulation Supervisor, to make sure that it is sealed and all USB Flash Drives are accounted for.
3. The Purple bags is transported to the Tabulation Room.

iii. Central Counting Station

1. At the end of Early Voting:
   a. The purple bag is opened by the Tabulation Supervisor and Assistant to Tabulation Supervisor
   b. Each USB Flash Drive is verified that the corresponding DS200 and Touch has been closed and the results data is there.
   c. All DS200 and Touch serial numbers are compared to the master list.
   d. All flash cards are secured back in their corresponding Purple Bag and locked in the Tabulation Storage Room.
2. Election Day:
   a. A Zero Report is run and printed from Election Ware Certified System
   b. The Counting Station Manager and Tabulation Supervisor open the Purple Bags to tabulation/accumulation the Early Voting USB Flash Drives.
      i. The Counting Station Manager will place the USB Flash Drive in to the Certified System and read in the results.
      ii. The Tabulation Supervisor will verify the site and USB Flash Drive serial numbers against the master list.
   c. After all USB Flash Drives have been accounted for and collected in to Certified System the CSM will accumulate the Early Voting results.
   d. The CSM will accumulate the mail ballot USB Flash Drive at this time.
   e. Early Voting results are verified for total number of votes by the Counting Station Manager and Tabulation Supervisor.
   f. At 7 pm the Early Voting results are printed and exported to a USB Flash Drive, and sent over to the Webmaster to be posted to the web site.

c. Election Night - Regional Sending Sites (RSS)

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i. There are up to 6 Regional Sending Sites (RSS) locations that will assist 40 to 60 Election Day (ED) sites. The RSS location will process the Election Day Judges. The RSS location is an extension of the Central Counting Station, and the RSS Staff reports the Central Counting Station.

ii. Participants:

1. RSS Manager
    a. Responsible for all aspects of the Sub Central Counting Station.
    b. Manages RSS Personnel and work flow for each work station.
    c. Monitors and controls all incoming traffic into the Sub Central Counting Station.
    d. Responsible for communicating with the Main Central Counting Station any issues, discrepancies or problems that arise for further instructions before proceeding.
    e. Responsible for reporting accurate and timely result totals to the Main Central Counting Station.
2. Auditor – 2
    a. Makes sure zero tape, results tapes and USB Flash Drives are accounted for
    b. Responsible for auditing zero tapes and results
    c. Makes sure total number of signatures match the total number of votes
    d. Notifies RSS Manager of any issues or problems that arise during the audit process
3. Greeter
    a. Scans RSS Bar Code into RSS Web Application to let the Central Counting Station knows that the site has arrived
    b. Does initial check of all necessary paperwork and supplies needed for processing
    c. Notifies RSS Manager of any issues or problems that arise after initial check
4. Transmission Clerk
    a. Makes sure successful connection of laptop to Main Central Count Station
    b. Transmits the USB Flash Drives to Main Central Count Station
    c. Verifies successful transmission of results to Main Central Count Station
    d. Notifies RSS Manager of any issues or problems that arise during process
5. Reporting Clerk
    a. Enters Result Tape totals by precinct for each site onto RSS Web Portal in timely manner
    b. Responsible for organizing RSS Folder with complete paperwork for storage/transport to Main Central Count Station
6. Warehouse Clerk

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a. Responsible for collecting all necessary supplies, paperwork, and equipment
b. Organizes all collected supplies and prepares them for transport
c. Loads all location material, supplies and equipment at the end of the night onto truck for transport to Main Central Count Station

7. Election Day (ED) Judges
8. Sheriff Deputy
    a. Makes sure location is secure and is to remain visible at all times
    b. Directs traffic as needed to ensure safety of Election Day Judges and staff reporting to location
    c. Escorts truck with all supplies and equipment back to the Main Central Counting Station. Ensuring a chain of custody of the equipment and voting records.

iii. Procedures

1. The Election Day Judges will close down their sites
    a. Verify their signatures against the number that voted on the DS200 and Express Touch.
    b. Closed their DS200 and Express Touch, and print 2 summary results tapes for each unit.
    c. Sign the zero and results tapes.
    d. They will pull the seal and the USB Flash Drives out of the DS200 and Express Touch
    e. Seal up the USB Flash Drives, zero tape and results tape inside of the Purple bag.
    f. Complete their Ballot and Seal certificate.
    g. They will proceed to the RSS location.
2. RSS Meeting at Central Counting Station at 4 pm Election Day.
    a. Give instructions and Equipment to the RSS Mangers.
    b. Administer Oaths to the RSS Manager.
3. Set up
    a. RSS Manager and Transmission Clerk needs to start prepping and setting up their stations at 5 pm.
    b. The Transmission Clerk needs to set up the laptops with the RSS Election Ware software, login in with a secure password, and connect to the Server at 6 pm.
    c. The rest of the staff arrives by 6 pm to set up their stations.
    d. The Sheriff Deputy arrives by 6pm.
    e. The RSS Manager will administer the Oaths the RSS Staff.
4. Processing Election Day Judges
    a. Station #1: Check-in
        i. The Greeter will greet the Election Day (ED) Judge and scan the barcode on the clear RRS Folder. This lets us

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know time and which sites have made it to the RSS location.

ii. The Greeter will make sure the ED Judge has all the necessary items and that the paper work is filled out and placed in the Clear RSS Folder.

1. If not they will help the ED Judge organize the Clear RSS Folder, and have them complete the paper work correctly.

b. Station #2: Equipment, Supplies and Hardware

i. The Warehouse Clerk will collect the following:

1. Green Provisional Bag
2. Yellow Envelope #4
3. Cell phone with charger
4. Keys to the cart or facility
5. Completed Statement of Compensation (Payroll) and Oaths.
6. Canvas Bag:
    a. Folder #3
    b. Brown Canceled Mail Ballots
    c. Statement of Residence Cards
    d. Gray Spoiled Ballots Envelope
    e. Any other completed forms
7. The Warehouse Clerk will also take any kits or laptops that are brought to the RSS site.

c. Station #3: Auditing, Checks and Balances

i. The Auditors will use the Regional Site Audit Log to check the following:

1. Clear RSS Folder has the following items inside:
    a. Sealed Purple Bag with
        i. Zero and Results Tape from the DS200
        ii. USB USB Flash Drives from the DS200
        iii. Zero and Results Tape from the Express Touch.
        iv. USB USB Flash Drives from the Express Touch
        v. Access Card (Express Touch Card)
    b. Ballot and Seal Certificate Form
    c. Zero Tape Affidavit
2. Verify that the Total Public Count on the Results Tapes matches Ballot and Seal Certificate Total,

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and also match the totals against the Total Number of Signatures.
3. Note the Public Count on the Audit Log.
4. Write the Site # on the top of the Zero and Results Tape.
5. Note the Provisional Count on the Audit Log.
6. Note the Write-in Count on the Audit Log.
7. Sign the Audit log if complete.

ii. If any of these items are missing or the audit has discrepancies, the RSS Manager must call the Central Counting Station for further instructions.
iii. If the Audit Log is accurate and complete; the Auditor will:
1. Sign the Ballot and Seal Certificate.
2. Place Audit Log and all the paper work back in the Clear Plastic RSS Folder.
3. Send the USB Flash Drives, and the Clear RSS Folder to Transmission Clerk to transmit the results.
iv. The ED Judge will have a seat until the results are transmitted.

d. Station #4: Transmit the Election Results
i. The Results from each ED site are transmitted from the USB Flash Drives
ii. Verify the site number, and that it is 100% transmitted before pulling out the USB Flash Drives and moving on to the next ED site.
iii. If the results were transmitted successfully, the Transmission Clerk will give the ED Judge the pink copy of the Ballot and Seal Certificate, and release them.
iv. Pack up the USB Flash Drives in the Purple Bag
v. Hand off the Clear RSS Folder to the Reporting Clerk.

e. Station #5: Reporting
i. The Reporting Clerk will take the Results Tapes and record the total public count from each tape on to the website; this will be used to verify the count at the end of the night at the Central Counting Station.
ii. The Reporting Clerk will organize all the paper work and place the Clear RSS Folder inside the banker's box in site order.

5. At the end of the night, everything is packed up and put on the truck to be taken to the Elections Warehouse. The Sheriff Deputy will follow the truck down.

d. Election Night - Central Counting Station

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i. Participants:
    1. Presiding Judge
        a. Is responsible for maintaining order and has the same authority as a precinct presiding judge.
        b. Is responsible for determining voter intent for ballot.
        c. Must sign off on precinct returns.
        d. Will monitor the Poll watcher and Media.
    2. Central Counting Station Manager
        a. Is in charge of the overall administration of the CCS, and supervisor of personnel.
        b. Will monitor the results coming in, and print the reports.
    3. Tabulation Supervisor
        a. Is in charge of operation of the tabulating equipment.
        b. Is in charge of getting reports out to the webmaster
        c. Will communicate with the RSS locations.
        d. Will monitor the precinct and sites that are in, and those that are still out.
        e. Will verify the count of voters matches the count of actual votes
    4. Assistant to Tabulation Supervisor
        a. Will make sure the equipment it up and running.
        b. Will monitor the RSS connections.
        c. Will communicate with the RSS locations.
    5. Counting Station Clerks
        a. Will monitor the Election Day Sites as the close.
        b. Alert the Central Counting Station of any issues out in the field.
        c. Keeps in contact with the technical support staff in the field.
    6. Poll watchers
        a. May stand or sit conveniently to observe the activity in the CCS.
    7. Media
        a. May stay in the Early Voting room and observe through the window.
    8. Sheriff
        a. A Sheriff Deputy is required by law when tabulation is in process.

ii. Closing of the Election Day Sites
    1. The Counting Station Clerks will be monitoring the ED Site as they close.
    2. The techs in the field will inform the CCS of any equipment that had issues closing. They will inform the Central Counting Station of all the issues that need to be resolved, before that ED Site's data can be transmitted.
    3. ES&S onsite support, along with one of the Central Counting Station Team, will take care of any equipment problems and retrieve the votes.

iii. Start up the Election Night Reporting Equipment
    1. Turn on and login to the Election Night Reporting System.

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2. Make sure that the Election Night Reporting system has been updated with the Early Voting results, and that it matches the Certified System.
3. Turn on the fire wall and link to the secure network.
4. The RSS Sites will connect to the secure network and login.
5. The Assistant to Tabulation Supervisor will monitor the connections.
6. The Election Reporting System will be monitored by the Central Counting Station Manager and the Tabulation Supervisor
7. The Central Counting Station Manager will verify to make sure Election Day is still Zero; Early Vote has already been processed and posted at 7 pm.
8. The Central Counting Station Manager will start the accumulation process in the Election Night Reporting System and monitor the progress throughout the night.
9. The Tabulation Supervisor will monitor and record which sites have come in.
10. The Tabulation Supervisor will monitor the percentage of votes and the sites left uncounted.
11. On a separate computer system, the Tabulation Supervisor will also monitor the website, RSS location check-ins, and total number of voters by site.

iv. Processing the votes

1. Throughout the night the data is transmitted from the RSS locations to the Election Night Reporting System server.
2. The Election Night Reporting System will accumulate the results, if there is data present, it processes the sites data and adds those votes in to the database. The audit log will record what time each site came in and the number of votes.
3. The Central Count team will be in constant contact with the RSS locations.
    a. To make sure that all sites are transmitted accurately.
    b. If there were any discrepancies between votes and signatures, we will not transmit until it is explained.
    c. Convey any tabulation items left at the polling location. We need to coordinate with the location to retrieve those items.

v. Reporting Election Day Results

1. Periodically the Central Count Manger will stop the accumulation process to print the results at that point. The CCM will also export a report for the website.
2. Update the Secretary of State Election Night Reporting website (if needed).
3. After the reports are printed the CCM will start the accumulation process again.

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4. The Tabulation Supervisor will copy the web results to a USB Flash Drive, and will send it to the web master using the separate computer system.
5. Then the web master will update the County's website.

vi. Audit votes vs. signatures for each site
1. The Tabulation Supervisor will export a precinct report from the Election Night Reporting System and compare it with the web by precinct data, making sure that all votes were transmitted.
2. Once the by precinct totals have been audited, we can post the 100 percent on the website. This is considered the unofficial results.

vii. A backup of the entire system is conducted and a copy is taken off site.

viii. Shut down and lock the computers.

e. Presiding Judge prepares and signs the Election Reconciliation Report.
1. Central Count Manager will arrange for the report to be uploaded to the Election Department website

f. Post-Election Night process
i. Print and export the results and by precinct reports for each entity.
ii. The Early Ballot Board reconvenes to process the late mail and provisional ballots.
iii. Tabulate the late mail and provisional ballots.
iv. Print the Canvas reports for each entity.
v. Send the ASCII files to the Secretary of State and the Legislative Council.
vi. Conduct the third and final test of the tabulators.
vii. Presiding Judge prepares the final Reconciliation Report for posting
viii. Backup all data to CD
ix. Package and seal all testing, ballots, reports, and data for the required retention period.

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PLAN FOR OPERATION OF CENTRAL COUNTING STATION

Location: Hays County Government Center
712 S. Stagecoach Trail, Suite 1045
San Marcos, Texas 78666

Purpose

Section 127.007 of the Texas Election Code requires the Manager of the central counting station ("CCS") to establish and implement a written plan for the orderly operation of the central counting station plan.

Location

The Hays County Central Counting Station is located at the Hays County Government Center, 712 S. Stagecoach Trail, Suite 1012, San Marcos, Texas 78666.

Preparation

- All personnel take the prescribed oath for election officials.
- Assign functions to personnel
- Perform second test count

Central County Station Personnel

Central Count Station Judge:	Brian McAulliffe
Central Count Station Alt. Judge	Jon Leonard
Central Count Station Manager	Jennifer Doinoff
Tabulation Supervisor	Jeff McGill
Central Count Station Clerk	Cliff Ormiston
Central Count Station Clerk	Larry Rayos

- The Elections Division Director, Jennifer Anderson, will serve as the Central Counting Station manager to manage the overall administration of the station and supervision of personnel.

- The Hays County IT Director, Jeff McGill, will serve as the Tabulation Supervisor to operate the automatic tabulating equipment

- The Central Counting Station clerks are appointed by the Central Counting Station Manager and the Presiding Judge as outlined in section 127.006 of the Texas Election Code. A clerk appointed by the Manager serves under the Manager and shall perform the functions directed by the Manager. A clerk appointed under the Presiding Judge works under the Presiding Judge and shall perform the functions directed by the Presiding Judge (127.006c)

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- The Presiding Judge/Alternate Judge will serve to maintain order at the Central Counting Station, administer oaths, and receive ballots to be counted.

Controller and Scan Check-In at Counting Station CCS Clerk

- Verify that seal number on Scan corresponds to assigned serial number
  - When all is in order, release Scan to the Count process

Preparation to read V Drive into Count – CCS Clerk

- Make sure the totals on the Scan Report match the counted totals
- If all is in order, save results
- Print results and place seal and tape in quarantine envelope.

Central Counting Station Manager

- Enter Vote Center and number of ballots to be counted on form
- Release to Tabulation Supervisor
- Place Scan in a designated area
- Responsible for overall supervision of Central Counting Station

Tabulation Supervisor

- Responsible for Tabulating Votes
- Preparing Final Reports
- Security of Tabulation System
- Process V Drive
  - Note: Make sure the number on the V Drive equals the number of votes tallied.
- At conclusion of count of ballots for precinct, announce number of ballots cast to Station Manager
  - Note: Station Manager will verify V Drive and log votes tallied for that V Drive
- At designated intervals, prepare election return reports and deliver to Administrator

Central Counting Station Presiding Judge

- Responsible for maintaining order and has same authority as precinct presiding judge. Responsible for determining voter intent on ballots. (*Always have a party chair or non-employee of elections involved*)
- Administer oaths
- Appointed in the same manner as Polling Place Judges
- Authority of District Judge – Includes Authority to Issue Arrest Warrants
- Maintains the order of the Central Counting Station
- Custodian of testing materials until delivered custodian of records.
- Certify precinct reports –canvass reports
- Resolving Voter Intent (Write-Ins)
- Assist with Counting Write-Ins with Tabulation Supervisor

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Note: Section 127.0015 of the Texas Election Code prescribes a required oath for all CCS personnel.

This oath will be administered verbally to all members of the early voting ballot board and all personnel at the central counting station prior to the performance of any duties by the board or the central count station.

OATH

"I swear (or affirm) that I will objectively work to be sure every eligible voter's vote is accepted and counted, and that only the ballots of those voters who violated the Texas Election Code will be rejected. I will make every effort to correctly reflect the voter's intent when it can be clearly determined. I will not work alone when ballots are present. I will faithfully perform my duty as an officer of the election and guard the purity of the election."

Primary Elections: Each Party Chair should be onsite and involved as needed.

Receipt of Controller, Scan and Supply Box from Precincts (CCS Clerk) - Intake Team
(#Personnel: minimum of 3)

Sections 129.051 and 129.052 of the Texas Election Code require the general custodian of election records to develop certain procedures related to inventory control and chain of custody of voting system equipment and electronic media associated with this equipment, providing for verification of equipment identifiers, verification of seals, and verification of chain of custody.

- Examine seal number on each Controller and Scan to ensure that it corresponds to serial number assigned by Administrator.
- Write in the # of Voters Checked in on the TouchPad, the # of ballots issued from the Controller and the # of ballots scanned from the Scanner. Let the Central Count Station Manager know of any discrepancies.
- Verify that precinct representative has delivered envelopes Nos. 1, 2 and 4 for contents of election records.
- Examine contents of envelope No. 2 to ensure that it contains the register of official ballots and the combination form of poll list and signature roster.
- Write the # of Signatures, Provisional Signatures and cancelled booth on spreadsheet.
- If all is in order, sign and deliver Controller and Scan to Central Count Station.

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- Remove provisional ballot envelopes, if any, and verify that number of envelopes corresponds to number of voters shown on list of provisional voters
- Record number of provisional ballots on summary of provisional ballots

1. Election Judge, or their designee, brings paper ballots (in locked and sealed ballot bin) to the secure room and Scan and Controller equipment is brought by Central Count Station Clerk to the tabulation room.

Absentee Ballot Scanning (# of personnel minimum of 3 – Ballot Resolution Board)

- All paper ballots will be processed through scanner
- Totals will be verified for each batch.
- Ballots will be resolved by the Ballot Resolution Board containing individuals of each party, or jurisdiction.
- Central Counting Station Judge will determine the intent of any questionable determinations.
- During the time that the Central Counting Station (CCS) has convened, the general custodian shall post a guard to ensure the security of ballot boxes containing voted ballots throughout the period of tabulation at the CCS. (Section 127.1232).

Duplication of Ballots

- Certain ballots that are counted with automatic tabulating equipment may have to be duplicated if the ballot is damage or cannot be read with the equipment.

    1) The Presiding Judges of the Early Voting Ballot Board, Bob Parks, Dr. Mark Trahan, and Larry Rayos, with any assistants they deem necessary, will duplicate any damaged ballots in accordance with Section 127.126 of the Texas Election Code.

Resolving Voter Intent

- At the direction of the presiding Judge, CCS Clerks will resolve any voter intent questions and resolve write-in votes on the ballots as they are duplicated or manually counted, as applicable

    1) The Presiding Judge and at least two other members will decide of voter intent prior to duplication of a ballot.
    2) The duplicate ballot will then be created under the supervision of the Presiding Judge in the way the voter's intent was determined.

Printing of Early Voting Tally Summary Report

- Once Central Count convenes on Election Day, the Early Voting Tally Summary Report will be printed prior to processing the Early Voting Controller and Scanners in the Tabulation Room in view of the appointed Central Count Team members, poll watchers, and inspectors "Appointed Persons." No results will be

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viewed prior to 7:00 PM. Tapes will be placed in a envelope and sealed with a tamper proof seal that will signed by all present poll watchers.

Tabulation Procedures for Early Voting and Election Day

- Central Count Team will assemble and will take Oath.
- Central Count Team will process scanners and controllers in the Tabulation Room in the view of appointed Central Count Team members, poll watchers and inspectors "Appointed Persons."
- The seals will be verified and broken in view of all appointed persons.
- Once the seals are verified and broken, the USB's will be read into the tabulation system.
- Provisional bags will be brought in, and the seals verified in front of appointed persons. Bags will then be handed to elections personnel for processing.

Checks and Balances

1. All ballot boxes are delivered, and comparison of serial numbers of seal and log is made to be sure the correct seal has been placed on the box, according to the log of distributed seals. Wire seals are properly kept.
2. All election records are received at central counting station.
3. Precinct report is printed showing the number of ballots counted for each precinct.
4. Cumulative report is printed indicating all votes from all precincts are included in the cumulative report, signed by Central Counting Station Judge.
5. The audit log is examined for counting interruptions, unauthorized equipment tampering, or any other activity that might make the vote totals questionable.
6. The Unofficial Precinct report is printed and signed by Central Counting Station Presiding Judge on Election Night.
7. The third test is successful, and results are verified with test results. All ballot boxes containing voted ballots are properly locked, with an indication on the outside of each box showing which election's ballots are contained in that box. Box is labeled with a chain of custody log.

** Unofficial Results will be released via the Hays County Elections Office webpage, beginning no earlier than 7:00 PM on Election Day. Election Day results will be released incrementally as processed through acceptance and tabulation until all results are complete.

Reporting of Results to the Secretary of State

After each primary election, general election for state and county officers, and constitutional amendment elections, results are required to be reported to the Secretary of State. For these elections, those totals are transmitted through an online portal established and maintained by the Secretary of State.

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Poll Watchers

Poll watchers are entitled to be present during the time the CCS has convened for the "purpose of processing or preparing to process election results and until the election officers complete their duties at the station." (Section 33.055, Texas Election Code)

- The poll watcher must deliver their certificate of appointment and certificate of completion of mandatory training to the Presiding Judge of the CCS and the Presiding Judge must countersign their certificate.
- Poll watchers are permitted to stand or sit to observe and hear the counting activities. The Presiding Judge has the authority to intervene if there is interference by a poll watcher with the duties of the CCS personnel.
- All activities of poll watchers shall be following the guidelines in the current Poll Watchers Guide issued by the Secretary of State and reiterated in the mandatory training.
- If more than (3) poll watchers are present, they will be rotated in the Tabulation Room (3) at a time due to space limitations.

Deliver of Materials to the General Custodian of Election Records

The Hays County Elections office is the custodian of election records. Upon the completion of the counting of ballots, all voted ballots, electronic media, election records and election equipment will be retained by this office for the appropriate retention period.

V Drive Informational Codes:

- "V Drive Not Closed" code: Check totals on Controller
  - If totals match; close V drive properly, then proceed to tabulate V Drive
  - If Controller not operable, verify totals on Signature Combination Form and Paper with totals on V Drive. (If applicable, count provisional and limited ballot signatures)
    - If the totals match proceed with counting V Drive. Make notes on the V Drive log.

**** If there is any indication of tampering. Tabulation will stop and the Office of Secretary of State will be notified immediately.**

Recovery Plan

Equipment Storage – 24 Hour Camera Security

Verity Duos, Controllers, Scans, Election Building Software, and Tabulation Equipment will remain stored in locked areas with secured access either by badge scan access, or digital keypad lock always.

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- During election transport Duo's, Scans and Controllers will be equipped with numbered wire seals and security tape to prevent tampering.
    - During Early Voting, equipment will be sealed, logged, and placed in a locked area at night.
    - Each morning, Early Voting Clerk will check the seals and tape and log them in on the Seal Report.
    - Scans, touch pads and controllers will be always kept in the Custody of the Judge/Clerk.

**** If seal is broken, or number is different than what was logged the previous evening, immediately call the Election Office. The Election Office will immediately notify the Office of Secretary of State. New equipment will be deployed to the polling location.**

Equipment Chain of Custody

- The Controller and Scan will always remain in a secured location.
    - Controller, Scan, touch pad and supplies will be signed out to the Election Judge, or Early Voting Clerk by Election Staff at the beginning of the Early Voting period, or Election Day
    - Controller, Scan and touch pad will be returned with Equipment and Signature Combination Log at the end of the voting period. Staff will check paperwork and ensure that the "Close Polls" report is affixed to the Controller and Scan upon return. If all is in order, the Staff and Judge will sign the Chain of Custody back over to the Elections Office.

    - PVR – Printed Vote Records will be sealed in the gray PVR bag, with a Chain of Custody tag that will document anyone that has transferred that bag from the polling location back to the Election Office.
    - Poll watchers and Inspectors will be rotated into the Tabulation Room to observe the best opportunity for keeping the process moving.
    - Poll Watchers that are not in the Tabulation Room will have the opportunity to watch through the observation window until their time to rotate into the Tabulation Room.

Reconciliation Process:

- **Early Voting in person** – Compare the number of early voting check-ins from Precinct Central to the number of ballots cast.
- **Early Voting by Mail** – Compare the number of ballots entered on the "Ballot Transmittal Form" from the early voting ballot board to the number of ballots counted. (87.021, 87.1221)
- **Election Day** – Compare the number of Election Day check-ins from Precinct Central to the number of ballots cast. (127.007 (b))

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Printing of Precinct Returns and Election Totals – Signed by Presiding Judge

Replacement Equipment Chain of Custody

- Equipment replaced at a polling place will be logged on the "Election Equipment Log" by date, serial number, and polling location.
- Equipment will be in a separate secured location until tabulation

**** If the Central Count Station needs to reconvene, appointed members will be emailed and called by phone to be informed of the time and date of reconvening.**

Note: Candidates, press and anyone not an election official will not be allowed in the area secured for Election Day and Central Count. All elections officials will be required to wear a name badge stating their name and position. There will be a security guard on duty.

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CENTRAL COUNTING STATION-WRITTEN PLAN

EARLY VOTING BALLOT BOARD

At the designated time the Ballots by Mail will be delivered to the Early Voting Ballot Board (EVBB) Judge at the Central Counting Station at the Aging Services Building. The Early Voting Ballot Board (EVBB) convenes to verify the signatures for the "Absentee Ballots by Mail" ballots then opens the accepted ballots and gets them ready to be sent through the central counting station process.

ELECTION DAY

At 9:00 am, Early Voting Ballots and Ballots by Mail will be delivered to the Central Counting Station Judges at the Aging Services Building. Here they will be sorted by the resolution committee and ran through the automatic tabulation machine by the Tabulation Team. Once the ballots are processed they will then be separated by precinct and Party (if applicable). These ballots will then be placed into labeled bags and sealed into a ballot box for record retention.

ELECTION NIGHT

All supplies and ballot boxes are delivered to the Central Counting Station for processing. In the sally port of the aging services, the supplies are delivered to the equipment team for check-in and the ballot box with the ballots are delivered to the receiving team.

EQUIPMENT TEAM: LOCATED IN THE SALLY PORT OF THE AGING SERVICES BUILDING

Responsible for assisting Judges with the unloading of Election supplies and ensuring that distributed Election supplies are accounted for based off of the list from Elections Administrator.

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RECEIVING TEAM: **LOCATED IN THE SALLY PORT OF THE AGING SERVICES BUILDING**

Responsible for receiving and confirmation of serial numbers on the ballot boxes. A list of seals used to seal the ballot boxes before Election Day and a list of serial numbers of seals given to the Election Day judge to use to seal the slot of the box on election night must be prepared and given to the team by the general custodian (Elections Administrator). When the team receives the boxes, they need to make sure the serial numbers of the seal used to secure the boxes before Election Day and at the close of the polls are the same as the serial numbers on the list. If there is a discrepancy in the serial numbers, a notation of this is made. The team must then inspect each box for its contents and make sure all records are delivered with the box and check that the ballot and seal certificate is delivered in the ballot box, as well as the blue copy of the combination form of the voters that voted in that precinct. Once confirming the ballot box serial numbers and paperwork are accounted for a Receipt of Ballot Transfer case will be completed. The receiving clerk will confirm that all other forms are filled out completely by the Election Day Judge and fills out the check-off sheet and then will hand a copy of the receipt to the Judge before they may leave.

Then the Voted Ballots Boxes are taken to the REVIEW AND SORTING TEAM:

LOCATED IN THE TABULATION ROOM OF THE AGING SERVICES BUILDING.

Responsible for doing a preliminary sort of the ballots before counting. Verifying the number of provisional ballots received. The provisional ballots are delivered to the general custodian (Elections Administrator) along with the list of provisional ballots and the other ballots are sorted for:

- WRITE-IN VOTES
- PARTIALLY INVALID BALLOTS
- DAMAGED BALLOTS
- IRREGUALARYLY-MARKED BALLOTS
- EMERGENCY BALLOTS

THIS SORTING MUST BE COMPLETED BEFORE BALLOTS ARE COUNTED!

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TABULATION TEAM: **LOCATED IN THE TABULATION ROOM OF THE AGING SERVICES BUILDING**

Responsible for running the required L&A Test, counting the ballots, running all reports as set out in the election day procedures placing counted ballots in plastic bags, labeling bags and placing them in a locked ballot box for storage (do not lock ballot box until reports are reviewed.)

RESOLUTION TEAM: **LOCATED IN THE TABULATION ROOM OF THE AGING SERVICES BUILDING.**

Responsible for duplicating ballots after the Voter's intent is determined by the presiding judge. The ballot is duplicated by recording the serial number of the original ballot on the duplicated ballot and vice versa, then the duplicated ballot is placed with the other voted ballots, and the original damaged ballot is placed in a brown envelope that is marked (original Damaged Ballots, Precinct # ___.), which will be placed in the ballot box with voted ballots after the duplicate is counted. After making the appropriate determinations and taking the appropriate actions, the manager shall approve the ballots for counting.

TALLY AND HANDCOUNT TEAM: **LOCATED IN THE TABULATION ROOM OF THE AGING SERVICES BUILDING.**

Responsible for manual hand counting of the paper ballots generated by Emergency Ballots and FPCA sent electronically and recording them in a Tally Sheet booklet. The one Tally Sheet booklet is delivered to the general custodian (Elections Administrator) the additional Tally Sheet booklets and the ballots are delivered to the Tabulation Team for placement in a plastic bag and locking them in a ballot box for storage.

Final Report

Telephone & Report Team: **LOCATED ON THE 1st FLOOR OF THE COUNTY ANNEX OR IN THE TABULATION ROOM OF THE AGING SERVICES BUILDING**

Following election night after 7:00 pm early voting totals may be released when Tabulating Supervisor, Manager, and Presiding Judge verify that the results. Then after all ballots are counted for a precinct the combined totals may be released after being verified. Responsible for answering the telephone and getting results to The Secretary of State, media, and candidates.

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FANNIN COUNTY ELECTIONS DEPARTMENT
CENTRAL COUNTING STATION PLAN
November 8, 2022

A. PURPOSE:

Section 127.007 of the Texas Election Code requires the *Manager* of the central counting station ("CCS") to "establish and implement a written plan for the orderly operation of the central counting station." This plan be made available to the public on request not later than 5 p.m. on the fifth day before the date of the election.

Section 127.007(b) provides that a CCS plan "must address the process for comparing the number of voters who signed the combination form with the number of votes cast for an entire election."

B. LOCATION:

The Fannin County Central Counting Station will be located at Fannin County Fannin County Clerk's Office – Election Division located at 800 E. 2nd Street, Bonham, Texas, 75418. The Central Counting Station will convene at 10:00a.m. on Tuesday, November 8, 2022.

C. CENTRAL COUNTING STATION PERSONNEL:

The following are the roles and responsibilities inside the Central Counting Station, as contained in Sections 127.002-127.006 of the Texas Election Code:

- The County Clerk (Tammy Biggar) will serve as the *Central Counting Station Manager* to manage the overall administration of the station and supervision of personnel.

- The Manager will operate automatic tabulating equipment.

- The *Presiding Judge* will serve to maintain order at the Central Counting Station, administer oaths, and receive ballots to be scanned for counting as well as observe procedures executed by the CCS Manager and acknowledge Logic and Accuracy testing pre-count and post-count.

  Jeralee Smith will serve as the *Republican Presiding Judge.*

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May Kay Wilson will serve as the *Democratic Alternate Judge.*

Note: The *Presiding Judge* is entitled to compensation at the same rate as a precinct *Presiding Judge*, except that the counting station judge is entitled to a minimum compensation of five hours' pay regardless of the amount of time worked. (127.005 d)

- *Central Counting Station Clerks* may be appointed as needed by the *Central Counting Station Manager* and the *Presiding Judge* as outlined Section 127.006 of the Election Code.

  Note: To be eligible to serve as a clerk a person must be a qualified voter of the county in which the central counting station is located. The general custodian of election records, an employee of the custodian, or any other employee of a political subdivision is not ineligible to serve as a clerk under this section because the person is a qualified voter of a county other than the county in which the central counting station is located or because of the custodian's status as a candidate or officeholder. (127.006 b)

  A clerk appointed by the *Manager* serves under the *Manager* and shall perform the functions directed by the *Manager*. A clerk appointed by the *Presiding Judge* serves under the *Presiding Judge* and shall perform the functions directed by the *Presiding Judge.* (127.006 c)

  A clerk is entitled to compensation at the same rate as a precinct election clerk, except that a clerk who serves for the entire time a counting station is in operation is entitled to a minimum compensation of three hours' pay regardless of the amount of time worked. (127.006 d)

D. PROCEDURES FOR CONVENING THE CENTRAL COUNTING STATION:

Section 87.0241 of the Texas Election Code dictates when an entity is permitted to count ballots.

The Central Counting Station will convene based on the size and type of election as determined by the *Central Counting Station Manager* and the *Presiding Judge*. The Signature Verification Committee will meet commencing Tuesday, November 1, 2022 and continue through Thursday, November 3, 2022 if needed.

The Early Voting Ballot Board will commence on Friday, November 4, 2022 at 8am; the Board will continue on Monday at 8am and Tuesday, time dependent upon how many ballots are left to process.

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The Central Counting Station will begin the process of adjudicating write in candidates at 10:00 a.m. on November 8, 2022.

In accordance with Section 127.093 of the Texas Election Code, the second test of tabulating equipment will be conducted prior to tabulating early voting ballots.

The Central Counting Station will begin the process of counting Election Day ballots on Tuesday, November 8, 2022 at 7:00 p.m. or as soon as the equipment arrives and seals and serial numbers of equipment are verified.

The Central Counting Station will begin the process of counting accepted provisional ballots and accepted late ballots by mail on Wednesday, November 16, 2022.

E. ADMINISTRATION OF OATHS:

Section 127.0015 of the Texas Election Code prescribes a required oath for all CCS personnel. The administration of oaths must take place prior to those individuals commencing any of their duties at the central counting station.

This oath should be administered verbally to all members of the early voting ballot board and all personnel at the central counting station prior to the performance of any duties by the board or the central counting station.

For use in November 8, 2022 election:

For use in Primary Elections, General Election for State and County Officers, Elections ordered by the Governor: "I swear (or affirm) that I will objectively work to be sure every eligible voter's vote is accepted and counted, and that only the ballots of those voters who violated the Texas Election Code will be rejected. I will make every effort to correctly reflect the voter's intent when it can be clearly determined. I will not work alone when ballots are present and will work only in the presence of a member of a political party different from my own. I will faithfully perform my duty as an officer of the election and guard the purity of the election."

F. INTAKE OF BALLOTS, ELECTRONIC MEDIA AND SUPPLIES:

Sections 129.051 and 129.052 of the Texas Election Code require the general custodian of election records to develop certain procedures related to inventory control and chain of custody of voting system equipment and electronic media associated with this equipment,

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providing for verification of equipment identifiers, verification of seals, and verification of chain of custody.

1. Election Judge, or their designee, brings paper ballots (in sealed ballot canvass bag) and V-Drives (sealed in the Controller and Scanner) to the Fannin County Elections Department intake.
2. Intake personnel will verify location tags and verify the seals on the bags and equipment are the same as the seal numbers on the seal log.
3. Intake personnel will deliver the ballot bags and V-drives to the Tabulation Room where *Central Counting Station Clerks* will verify the seal numbers with the Ballot and Seal Certificate under the supervision of the *Presiding Judge.*
4. A receipt will be given to poll workers delivering the sealed canvass bags.

G. DUPLICATION OF BALLOTS:

Certain ballots that are counted with automatic tabulating equipment may have to be duplicated if the ballot is damaged or cannot be read with the equipment.

1. The *Presiding Judge and Alternate Judge*, with any assistants they deemed necessary, will duplicate any damaged ballots in accordance with Section 127.126 of the Texas Election Code.

H. RESOLVING VOTER INTENT:

At the direction of the *Presiding Judge and Alternate Judge*, CCS clerks will resolve any voter intent questions on the ballots as they are duplicated or manually counted, as applicable

1. The *Presiding Judge and Alternate Judge* will make a determination of voter intent prior to duplication of a ballot.
2. The duplicate ballot will then be created by the *Presiding Judge, Alternate Judge* and CCS clerks in the manner in which the voter intent was deciphered.

I. TABULATION PROCEDURES:

After Early Voting – November 8, 2022

- *The CCS Presiding Judge* will confirm seals match the Seal Log for Early Voting USB Bags, Ballot Bins, Provisional Bags, and Emergency Bags.
- Early Voting V-drives and Emergency Bags will be returned to the Tabulation Room to be opened on Election Day by the *Tabulation Supervisor*. Once seals have been verified, Early Voting Provisional Bags will be given to Elections Staff for processing.
- After Ballot Board completes their review of the Early Voting ballots by mail, approved ballots will be scanned at the CCS Scanner. Any ballots needing to be

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reviewed will be resolved by the Board under the direction of the *CCS Presiding Judges* on Election Day.

- After all Early Voting ballots by mail have been scanned, results will be saved to a V-drive, and stored in the Tabulation Room to be read into the Tally Computer on Election Day.
- Ballots by mail will be kept in the canvass ballot box which will be sealed by the *Presiding Judge* and stored in the Tabulation Room.

Election Day – November 8, 2022

- Beginning at 10:00 a.m., the *Presiding Judges of Central Count*, and the Tabulation Supervisor will complete the 2nd Testing of the Tabulation Equipment.
- The *Tabulation Supervisor* will break the seals on all Early Voting equipment, and Serial numbers will be checked against the Seal Log with the *tabulation assistants*.
- In Tally, before any data from the V-drives are loaded, a Zero Report will be printed from the Tally software and signed by the *Tabulation Supervisor* and *Presiding Judge and Alternate Judge of Central Count*.
- All V-drives will be read into the Tally computer by the *Tabulation Supervisor* with *Presiding Judge and Alternate Judge* present.
- Any un-scanned approved ballots will be scanned at the Verity CCS Scanner, and any ballots needing to be reviewed will be resolved by the resolution board under the direction of the *Presiding Judge*.
- *Tabulation Supervisor* and *tabulation assistants* will confirm the V-drives for each site have been loaded and are all accounted for.
- On Election Day, Early Voting ballots, including ballots by mail received up to that point, will be tabulated before 7p.m., but in no case will results reports be created before 7p.m.

J. RECONCILIATION:

The process for comparing the number of voters listed as having voted and the number of ballots cast is done in three ways:

1. Early Voting in Person – Compare the number of early voting check-ins from Combination Forms, plus the spoiled ballot log, to the number of ballots cast.
2. Early Voting by Mail – Compare the number of ballots entered on the "Ballot Transmittal Form" from the early voting ballot board to the number of ballots counted. (87.021, 87.1221)
3. Election Day – Compare the number of early voting check-ins from Combination Forms and ePulse from Poll Pads, plus the spoiled ballot log, to the number of ballots cast. (127.007(b))

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TX-SOS-24-0322-C-000848

Additionally, in accordance with Texas Election Code Section 127.131(f), the *Presiding Judges* of the central counting station shall provide and attest to a written reconciliation of votes and voters at the close of tabulation for election day and again after the Central Counting Station meets for the last time to process late-arriving ballots by mail and provisional ballots using a form created and rules promulgated by the Secretary of State to facilitate compliance with this subsection. Once completed, the form shall be posted on a website maintained by the County along with election returns and results.

K. PRINTING OF PRECINCT RETURNS AND ELECTION TOTALS:

Under Section 127.127, the *Tabulation Supervisor* and the *Tabulation Assistants* are the only ones authorized to operate the automatic tabulating equipment or handle ballots that are automatically counted. After the counting of ballots (or accumulation of vote totals) has occurred, the *Presiding Judges* of the CCS are responsible for preparing the precinct election returns. The *Presiding Judges* are required to sign the precinct returns to certify their accuracy.

The printed "precinct by precinct" report will be adjusted to include any hand-counted ballots (if necessary) and constitutes certified precinct returns. (Section 127.127(e)), Texas Election Code.

The unofficial election results shall be released as soon as available after the polls close. Alternatively, the *Presiding Judges* of the CCS, in cooperation with the County Clerk shall withhold the release of unofficial results until the last voter has voted. (Section 121.1311, Texas Election Code).

Unofficial election results will be released via Fannin County's Elections Department webpage, beginning no earlier than 7:00p.m. on Election Day. Election Day results will be released incrementally as processed through acceptance and tabulation until all results are in.

L. REPORTING RESULTS TO THE SECRETARY OF STATE:

For certain elections, including primary elections, the general election for state and county officers, and constitutional amendment elections, the SOS is required to tabulate the unofficial results statewide. (68.001, Texas Election Code). For this election, this information will be reported to the SOS through an online portal established by the SOS.

M. POLL WATCHERS:

Poll watchers are entitled to be present during the time the CCS has convened for the "purpose of processing or preparing to process election results and until the election officers complete their duties at the station." (Section 33.055, Texas Election Code).

AMERICAN OVERSIGHT

The poll watcher must deliver their both certificate completion of the Texas SOS Poll Watcher Training and their certificate of appointment to the appropriate *Presiding Judge* of the CCS and the *Presiding Judge* must countersign their certificate of appointment.

Poll watcher(s) are permitted to stand or sit to observe the counting activities. The *Presiding Judges* may dictate where the poll watcher(s) may stand and/or sit in order to prevent interference with the duties of the Central Counting Station personnel while still being able to observe all activities. There will be a maximum limit of four (4) poll watchers at any time in the -*Tabulation Room*. There will be a maximum limit of ten (10) poll watchers at any time in -*CCS Main Room*.

All activities of poll watcher(s) shall be in compliance with the current *Poll Watchers Guide* issued by the Secretary of State.

N. DELIVERY OF MATERIALS TO THE GENERAL CUSTODIAN OF ELECTION RECORDS:

After the completion of the counting of ballots both on Election Day and after Election Day, if necessary, printed vote records (cast ballots), electronic media, election records, and election equipment will be retained by this office, who is the general custodian of election records, through the appropriate retention period.

AMERICAN OVERSIGHT

WILLIAMSON COUNTY
1848
Christopher Davis
ELECTIONS ADMINISTRATOR

WILLIAMSON COUNTY ELECTIONS DEPARTMENT
CENTRAL COUNTING STATION PLAN
MAY 6, 2023

A. PURPOSE:

Section 127.007 of the Texas Election Code requires the *Manager* of the central counting station ("CCS") to "establish and implement a written plan for the orderly operation of the central counting station." this plan be made available to the public on request not later than 5 p.m. on the fifth day before the date of the election.

Section 127.007(b) provides that a CCS plan "must address the process for comparing the number of voters who signed the combination form with the number of votes cast for an entire election."

B. LOCATION:

The Williamson County Central Counting Station will be located at Williamson County Elections Administration, 301 SE Inner Loop, Ste. 104 (Rooms 400-*Warehouse*, 402-*CCS Main Room* and 412-*Tabulation Room*), Georgetown, TX 78626. The Central Counting Station will convene at 11:00a.m. on Saturday, May 6, 2023.

C. CENTRAL COUNTING STATION PERSONNEL:

The following are the roles and responsibilities inside the Central Counting Station, as contained in Sections 127.002-127.006 of the Texas Election Code:

- The Elections Administrator (Chris Davis) will serve as the *Central Counting Station Manager* to manage the overall administration of the station and supervision of personnel.

- The Voting Systems Analyst (Brandon Jenkins) will serve as the *Tabulation Supervisor* to operate automatic tabulating equipment.

- The following personnel will serve as the *Assistant Tabulation Supervisors* to assist the Tabulation Supervisor: Matthew Dutton, Peter Bazan, Vikki Farrow, Yajaira Gonzalez, David Nielsen, Lorraine McKay, Jaime Newton, Judith Ritchie, Stephen Soto, Jennifer Wiita, Ann Morrison, Savannah Roberts, Kristine Heimerman, David Kohn, employees of ES&S, and other qualified employees (as needed).

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- The *Presiding Judges* will serve to maintain order at the Central Counting Station, administer oaths, and receive ballots to be counted.

  Pamela Sherrin will serve as the *Presiding Judge.*

  Mary Griffith will serve as the *Alternate Presiding Judge.*

  Note: The *Presiding Judges are* entitled to compensation at the same rate as a precinct *Presiding Judge*, except that the counting station judge is entitled to a minimum compensation of five hours' pay regardless of the amount of time worked. (127.005 d)

- *Central Counting Station Clerks* may be appointed as needed by the *Central Counting Station Manager* and the *Presiding Judges* as outlined Section 127.006 of the Election Code.

  Note: To be eligible to serve as a clerk a person must be a qualified voter of the county in which the central counting station is located. The general custodian of election records, an employee of the custodian, or any other employee of a political subdivision is not ineligible to serve as a clerk under this section because the person is a qualified voter of a county other than the county in which the central counting station is located or because of the custodian's status as a candidate or officeholder. (127.006 b)

  A clerk appointed by the *Manager* serves under the *Manager* and shall perform the functions directed by the *Manager*. A clerk appointed by the *Presiding Judge* serves under the *Presiding Judge* and shall perform the functions directed by the *Presiding Judge.* (127.006 c)

  A clerk is entitled to compensation at the same rate as a precinct election clerk, except that a clerk who serves for the entire time a counting station is in operation is entitled to a minimum compensation of three hours' pay regardless of the amount of time worked. (127.006 d)

D. PROCEDURES FOR CONVENING THE CENTRAL COUNTING STATION:

Section 87.0241 of the Texas Election Code dictates when an entity is permitted to count ballots.

The Central Counting Station will convene based on the size and type of election as determined by the *Central Counting Station Manager* and the *Presiding Judges*.
The Early Voting Ballot Board will begin the process to count early voting mail ballots on Wednesday, May 3, 2023 at 9:00a.m.

AMERICAN OVERSIGHT

The Central Counting Station will begin the process to count early voting in-person ballots on Saturday, May 6, 2023 after 11:00a.m. In accordance with Section 127.093 of the Texas Election Code, the second test of tabulating equipment will be conducted prior to beginning the process to count early voting ballots.

The Central Counting Station will begin the process to count election day ballots on Saturday, May 6, 2023 at 7:00p.m.

The Central Counting Station will begin the process to count accepted provisional ballots and accepted late ballots by mail on Saturday, May 13, 2023 at 10:00a.m.

E. ADMINISTRATION OF OATHS:

Section 127.0015 of the Texas Election Code prescribes a required oath for all CCS personnel. The administration of oaths must take place prior to those individuals commencing any of their duties at the central counting station.

This oath should be administered verbally to all members of the early voting ballot board and all personnel at the central counting station prior to the performance of any duties by the board or the central counting station.

For use in May 6, 2023 election (all Other Elections that do not contain Party Affiliation):

"I swear (or affirm) that I will objectively work to be sure every eligible voter's vote is accepted and counted, and that only the ballots of those voters who violated the Texas Election Code will be rejected. I will make every effort to correctly reflect the voter's intent when it can be clearly determined. I will not work alone when ballots are present. I will faithfully perform my duty as an officer of the election and guard the purity of the election."

F. INTAKE OF BALLOTS, ELECTRONIC MEDIA AND SUPPLIES:

Sections 129.051 and 129.052 of the Texas Election Code require the general custodian of election records to develop certain procedures related to inventory control and chain of custody of voting system equipment and electronic media associated with this equipment, providing for verification of equipment identifiers, verification of seals, and verification of chain of custody.

1. Election Judge, or their designee, brings paper ballots (in sealed ballot bin) and USB-Drives (in sealed election bag) to the Williamson County Elections Department warehouse intake.
2. Intake personnel will verify location tags and verify the seals on the bags and bins are the same as the seal numbers on the seal log.

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3. Intake personnel will deliver the ballot bin and USB bag to the Tabulation Room where *Central Counting Station Clerks* will verify the seal numbers with the Ballot and Seal Certificate under the supervision of the *Presiding Judges.*

G. DUPLICATION OF BALLOTS:

Certain ballots that are counted with automatic tabulating equipment may have to be duplicated if the ballot is damaged or cannot be read with the equipment.

1. The *Presiding Judge*, with any assistants they deemed necessary, will duplicate any damaged ballots in accordance with Section 127.126 of the Texas Election Code.

H. RESOLVING VOTER INTENT:

At the direction of the *Presiding Judge*, CCS clerks will resolve any voter intent questions on the ballots as they are duplicated or manually counted, as applicable

1. The *Presiding Judge* and *Resolution Board* will make a determination of voter intent prior to duplication of a ballot.
2. The duplicate ballot will then be created by the *Presiding Judge* and CCS clerks in the manner in which the voter intent was deciphered.

I. TABULATION PROCEDURES:

EVBB After Early Voting – Wednesday, May 3, 2023

- *The Presiding Judge* of Ballot Board will designate 2 Ballot Board members who will confirm seals match the Seal Log for Provisional Bags.
- Early Voting Provisional Bags will be given to Elections Staff for processing.
- After Ballot Board completes their review of the Early Voting ballots by mail, ballots will be placed in a ballot box which will be sealed by the *EVBB Presiding Judge* and stored in the Tabulation Room.

Election Day – May 6, 2023

- Beginning at 11:00am, the *Presiding Judge of Central Count*, and the Tabulation Supervisor will complete the 2nd Testing of the Tabulation Equipment.
- The *Presiding Judge of Central Count and the Alternate Presiding Judge of Central Count* will confirm the seal match the Seal Log for Early Voting USB Bags, Ballot Bins, and Emergency Bags.
- Early Voting USB bags and Emergency Bags will be returned to the Tabulation Room to be opened by the *Tabulation Supervisor*.

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TX-SOS-24-0322-C-000854

- The *Tabulation Supervisor* will scan the Early Voting ballots by mail approved by Ballot Board at the DS850.
- Any ballots needing to be reviewed will be resolved by the resolution board under the direction of the *Presiding Judge*.
- After all Early Voting ballots by mail have been scanned, results will be saved to a USB drive, and stored in the Tabulation Room to be read into the ElectionWare Results Module.
- The *Tabulation Supervisor* will break the seals on all Early Voting USB Bags, and Serial numbers will be checked against the Seal Log with the *tabulation assistants*.
- In ElectionWare, before any data from the USB drives are loaded, a Zero Report will be printed from the ElectionWare software and signed by the *Tabulation Supervisor* and *Presiding Judge of Central Count*.
- All USBs will be read into the ElectionWare Results Module by the *Tabulation Supervisor* with the *Presiding Judge of Central Count* present.
- Any un-scanned approved ballots will be scanned at the DS850, and any ballots needing to be reviewed will be resolved by the resolution board under the direction of the *Presiding Judge*.
- Results of the remaining un-scanned ballots will be saved onto a USB drive and loaded into the ElectionWare Results Module.
- *Tabulation Supervisor* and *tabulation assistants* will confirm the USB drives for each site have been loaded and are all accounted for.
- On Election Day, Early Voting ballots, including ballots by mail received up to that point, will be tabulated before 7p.m., but in no case will results reports be released before 7p.m.
- After the polls close at 7:00p.m., one (1) or more *tabulation assistants* will use the Early Voting DS200 USB drives to print the results tapes for each Early Voting Site.
- The following reports will be generated and will be made available at request on a County Provided USB Drive along with any reports generated during Central Count: Admin Audit Events Report, Election Audit Events Report, Machine Audit Events Report.

J. RECONCILIATION:

The process for comparing the number of voters listed as having voted and the number of ballots cast is done in three ways:

1. Early Voting in Person – Compare the number of early voting check-ins from Tenex ePollbooks, plus the spoiled ballot log, to the number of ballots cast.
2. Early Voting by Mail – Compare the number of ballots entered on the "Ballot Transmittal Form" from the early voting ballot board to the number of ballots counted. (87.021, 87.1221)

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3. Election Day – Compare the number of election day check-ins from Tenex ePollbooks, plus the spoiled ballot log, to the number of ballots cast. (127.007(b))

Additionally, in accordance with Texas Election Code Section 127.131(f), the *Presiding Judge* of the central counting station shall provide and attest to a written reconciliation of votes and voters at the close of tabulation for election day and again after the central counting station meets for the last time to process late-arriving ballots by mail and provisional ballots using a form created and rules promulgated by the secretary of state to facilitate compliance with this subsection. Once completed, the form shall be posted on a website maintained by the county along with election returns and results.

K. PRINTING OF PRECINCT RETURNS AND ELECTION TOTALS:

Under Section 127.127, the *Tabulation Supervisor* and the *Tabulation Assistants* are the only ones authorized to operate the automatic tabulating equipment or handle ballots that are automatically counted. After the counting of ballots (or accumulation of vote totals) has occurred, the *Presiding Judge* of the CCS is responsible for preparing the precinct election returns. The *Presiding Judge* is required to sign the precinct returns to certify their accuracy.

The printed "precinct by precinct" report will be adjusted to include any hand-counted ballots (if necessary) and constitutes our certified precinct returns. (Section 127.127(e)), Texas Election Code.

The unofficial election results shall be released as soon as available after the polls close. Alternatively, the *Presiding Judge* of the CCS, in cooperation with the Elections Administrator may withhold the release of unofficial results until the last voter has voted. (Section 121.1311, Texas Election Code).

Unofficial election results will be released via Williamson County's Elections Department webpage, beginning no earlier than 7:00p.m. on Election Day. Election Day results will be released incrementally as processed through acceptance and tabulation until all results are in.

L. REPORTING RESULTS TO THE SECRETARY OF STATE:

For certain elections, including primary elections, the general election for state and county officers, and constitutional amendment elections, the SOS is required to tabulate the unofficial results statewide. (68.001, Texas Election Code).

AMERICAN OVERSIGHT

M. POLL WATCHERS:

Poll watchers are entitled to be present during the time the CCS has convened for the "purpose of processing or preparing to process election results and until the election officers complete their duties at the station." (Section 33.055, Texas Election Code).

The poll watcher must deliver both their certificate completion of the Texas SoS Poll Watcher Training and their certificate of appointment to the *Presiding Judge* of the CCS and the *Presiding Judge* must countersign their certificate of appointment.

Poll watcher(s) are permitted to stand or sit to observe the counting activities. The *Presiding Judge* may dictate where the poll watcher(s) may stand and/or sit in order to prevent interference with the duties of the Central Counting Station personnel while still being able to observe all activities. There will be a maximum limit of four (4) poll watchers at any time in Room 412-*Tabulation Room*. There will be a maximum limit of ten (10) poll watchers at any time in Room 402-*CCS Main Room*.

All activities of poll watcher(s) shall be in compliance with the current *Poll Watchers Guide* issued by the Secretary of State.

N. DELIVERY OF MATERIALS TO THE GENERAL CUSTODIAN OF ELECTION RECORDS:

After the completion of the counting of ballots both on election day and after election day, if necessary, voted ballot cards, electronic media, election records, and election equipment will be retained by this office, who is the general custodian of election records, through the appropriate retention period.

AMERICAN OVERSIGHT

From: Michael Scarpello <Michael.Scarpello@dallascounty.org>
Sent: Friday, July 14, 2023 1:04 PM
To: Christina Adkins; Williamson - Christopher Davis (cjdavis@wilco.org); Cameron - Remi Garza (remi.garza@co.cameron.tx.us); Hays - Jennifer Anderson (elections@co.hays.tx.us); Bexar - Jacque Callanen (jcallanen@bexar.org); Sherman - Laura Rogers (laurarogers@co.sherman.tx.us); Lubbock - Roxzine Stinson (rstinson@lubbockcounty.gov); Tarrant - Troy Havard (tchavard@tarrantcountytx.gov); Fannin - Tammy Biggar (tbiggar@fanninco.net); Bastrop - Kristin Miles (kristin.miles@co.bastrop.tx.us); Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov)
Cc: Charles Pinney; Erik Buntin; Kristi Hart
Subject: RE: [External Sender]RE: Central Counting Station Working Group
Attachments: CCS-Plan - 23-05-06.pdf

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Colleagues, I had asked Christina to join your meeting on July 13th and she graciously invited me to the meeting. However, I had an unavoidable conflict pop up so I was unable to join.

Nonetheless, I am very interested in seeing what other counties are doing with their Central Counting Station Plans and what the group might have in mind for a state template. So, if you meet again in the future, I would love to participate..

In the meantime, for your reference I've attached the plan that we used in the May Joint Election. We've recently made quite a few additions to the plan but we're looking to enhance it even more in the future and to possibly modify the format. One recent addition that I did not attach but you may want to consider in your template, is a "Daily Journal" that we currently utilize to track our daily activities within the Central Counting Station. We've found it to be useful to provide to poll watchers when they have questions about what took place within the station.

Thanks for your work on this project.

Mike

Michael Scarpello
Dallas County Elections Administrator
1520 Round Table Drive
Dallas, TX 75247
(214)819-6335

AMERICAN OVERSIGHT

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Thursday, July 13, 2023 8:21 AM
To: Williamson - Christopher Davis (cjdavis@wilco.org) <cjdavis@wilco.org>; Cameron - Remi Garza (remi.garza@co.cameron.tx.us) <remi.garza@co.cameron.tx.us>; Hays - Jennifer Anderson (elections@co.hays.tx.us) <elections@co.hays.tx.us>; Bexar - Jacque Callanen (jcallanen@bexar.org) <jcallanen@bexar.org>; Sherman - Laura Rogers (laurarogers@co.sherman.tx.us) <laurarogers@co.sherman.tx.us>; Lubbock - Roxzine Stinson (rstinson@lubbockcounty.gov) <rstinson@lubbockcounty.gov>; Tarrant - Troy Havard (tchavard@tarrantcountytx.gov) <TCHavard@tarrantcountytx.gov>; Fannin - Tammy Biggar (tbiggar@fanninco.net) <tbiggar@fanninco.net>; Bastrop - Kristin Miles (kristin.miles@co.bastrop.tx.us) <kristin.miles@co.bastrop.tx.us>; Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov) <Bridgette.Escobedo@traviscountytx.gov>; Michael Scarpello <Michael.Scarpello@dallascounty.org>
Cc: Charles Pinney <CPinney@sos.texas.gov>; Erik Buntin <EBuntin@sos.texas.gov>; Kristi Hart <KHart@sos.texas.gov>
Subject: [External Sender]RE: Central Counting Station Working Group

Good Morning Everyone,

Here is the log-in information for today's call. I've also set up calls through the end of July in case we need them.

See you all at 9:00 am.

Thanks,

Christina

Date	Time	Title	Attendee Link	Password	Audio Conference	Access Code	Password (Phone Only)
Thursday, July 13	9:00 AM	CCS Working Group	[redacted]	[redacted]	408-418-9388	[redacted]	[redacted]
Thursday, July 20	9:00 AM	CCS Working Group	[redacted]	[redacted]	408-418-9388	[redacted]	[redacted]
Thursday, July 27	9:00 AM	CCS Working Group	h[redacted]	[redacted]3	408-418-9388	[redacted]	[redacted]

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Wednesday, June 28, 2023 4:20 PM
Subject: Re: Central Counting Station Working Group

AMERICAN OVERSIGHT

Hey Folks,

Here is the log-in information for tomorrow's call.

Thursday, June 29	9:00 AM	Central Counting Station Plan Working Group	h[redacted]	[redacted]	408-418-9388	[redacted]	[redacted]

Looking forward to tomorrow's call!

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov| www.sos.texas.gov
For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
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From: Christina Adkins
Sent: Monday, June 26, 2023 5:12:56 PM
To: Williamson - Christopher Davis (cjdavis@wilco.org) <cjdavis@wilco.org>; Cameron - Remi Garza (remi.garza@co.cameron.tx.us) <remi.garza@co.cameron.tx.us>; Hays - Jennifer Anderson (elections@co.hays.tx.us) <elections@co.hays.tx.us>; Bexar - Jacque Callanen (jcallanen@bexar.org) <jcallanen@bexar.org>; Sherman - Laura Rogers (laurarogers@co.sherman.tx.us) <laurarogers@co.sherman.tx.us>; Lubbock - Roxzine Stinson (rstinson@lubbockcounty.gov) <rstinson@lubbockcounty.gov>; Tarrant - Troy Havard (tchavard@tarrantcountytx.gov) <tchavard@tarrantcountytx.gov>; Fannin - Tammy Biggar (tbiggar@fanninco.net) <tbiggar@fanninco.net>; Bastrop - Kristin Miles (kristin.miles@co.bastrop.tx.us) <kristin.miles@co.bastrop.tx.us>; Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov) <Bridgette.Escobedo@traviscountytx.gov>
Subject: Central Counting Station Working Group

Hey folks,

If you are on this email, you volunteered to be a part of our working group for the Central Counting Station Plan. Originally, I wanted to try to meet tomorrow morning just to kick off discussion and map out the next couple of weeks. I have a few folks internally that I would like to have on the call that have conflicts for tomorrow morning. Would you all be opposed to moving the meeting to **Thursday at 9:30 am**? I'm sorry for the last minute change, but getting all the right folks on a call is proving to be a touch difficult.

If you have a problem, let me know. Otherwise I will tentatively schedule for Thursday.

To help us get started I've attached sample plans from the counties that have provided me their working plans. I'm also including a few resources below to assist us.

Relevant Advisories:

October 17, 2017	No. 2017-16	Central Counting Station Plan
October 23, 2019	No. 2019-23	Electronic Voting System Procedures Advisory

Administrative Code Provisions – Please note that these are very outdated. I'll provide more context on the call.

§81.36	Counting Ballots Prior to Election Day in Counties with a Population of 100,000 or More
§81.37	Counting Late Ballots
§81.49	Irregularities in Seals or Serial Numbers
§81.50	Test Program

AMERICAN OVERSIGHT

§81.51 Malfunction in Tabulating Equipment

Looking forward to working with you all on this project! Please let me know if you need anything before our meeting on Thursday.

Thanks,

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
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For Voter Related Information, please visit:

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AMERICAN OVERSIGHT

Dallas County Elections Department

Central Counting Station Operating Plan
2023 Joint and Special Election

AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

Purpose

The following plan has been established and written for the orderly operation of the Central Counting Station. This plan is available to the public on request not later than 5 p.m. on the fifth day before the date of the election. This plan is subject to change.

Location

The Dallas County Central Counting Station will be located at the Dallas County Elections Office at 1520 Round Table Dr, Dallas, Texas 75247 in Room 129.

Convening the Central Counting Station

The Central Counting Station will convene for the purpose of receiving and tabulating Early Voting Mail Ballots, Early Voting In-Person Ballots, and Election Day Ballots for the 2023 Joint and Special Election at the following times (all times and dates are subject to change):

May 2, 2023 8:00 pm – until completion	• Receive Early Voting Election Media and Secure it in locked safe in Ballot Storage Area • Receive Early Voting Voted Ballots and Securing in Ballot Storage Area
May 4, 2023 10:00 am – 4:30 pm	• Receiving of Early Voting By-Mail Ballots • Processing of Early Voting By-Mail Ballots
May 5, 2023 10:00 am – 4:30 pm	• Tabulate Early Voting In-Person Results • Tabulate Early Voting By-Mail Ballots • Tabulation of Provisional Ballots/Limited Ballots • Assign Write-In Votes
May 6, 2023 5:00 pm – until completion	• Second Tabulation Test • Tabulate Early Voting by Mail Ballots (Election Day deliveries) • Receive Election Day Media from all vote center locations • Tabulate Election Day Results
May 13, 2023 2:00 pm – 5:00 pm (if necessary)	• Tabulate outstanding Provisional Ballots • Tabulate outstanding Early Voting Mail Ballots • Print Early Voting In-Person Results Tapes

Security Procedures

The statutory requirements for maintaining the security of voted ballots and election media in a county with a population over 100,000 are addressed in the following ways:

- A licensed Peace Officer will be on post in the Central Counting Station when the station is convening
- Authorization and identification will be required of all individuals prior to admittance into the Central Counting Station
- Video surveillance of the Central Count Station is viewable on-line, and it is recorded
- Video surveillance of the Election Storage Area is viewable on-line, and it is recorded

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000865

Roles and Responsibilities

The following are roles and responsibilities of Central Counting Station personnel and appointees, as contained in Sections 127.002-127.006 of the Texas Election Code:

Elections Administrator and Central Counting Station Manager	*Michael Scarpello* The Administrator/Manager responsible for the overall administration of the Central Counting Station and the supervision of the personnel working in the station.
Tabulation Supervisor	*Danielle Grant* The Tabulation Supervisor is responsible for overseeing and operating the automatic tabulating equipment, which includes the • Tabulation Equipment – the part of the Election Management System that tabulates and/or consolidates vote totals for multiple precincts and races. • DS850 (2) /DS450 (2) – High-speed central scanner and vote tabulator for all vote types
Assistant Tabulation Supervisors	Katherine *Gilstrap, Angelica Munoz, Michelle Lee, Mildred West* The Assistant Tabulation Supervisors are responsible for assisting with the operation of the automatic tabulating equipment as directed by the Tabulation Supervisor to include: • operating tabulating equipment • processing unofficial election results
Presiding Judge	*Ruby Lee* The Presiding judge is responsible for maintaining order, administering oaths, and receiving ballots to be counted.
Alternate Presiding Judge	*Paris Long* The alternate judge is responsible for performing duties assigned by the presiding judge. In the absence of the presiding judge, the alternate judge will serve in the capacity of the presiding judge.
Central Counting Station Clerks	*Part-Time Staff* Central Counting Station Clerks are responsible for performing duties as assigned by the tabulation supervisor and/or the Judge. These duties include, but are not limited to, receiving of Election Media from the regional site designee, duplicating ballots, and assisting with tabulation equipment.

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000866

Poll Watcher Rights & Responsibilities

The comportment of a poll watcher must comply with Sections 33.055, 33.056, 33.060 of the Texas Elections Code and the provisions of the Poll Watchers Guide issued by the Secretary of State. Copies of this guide will be available in the Central Counting Station and on the Secretary of State website.

To be accepted into the Central Counting Station, a poll watcher will need the following:

- A printed Certificate of Poll Watcher training from the SOS (Sept. 1-Dec. 31)
- Complete the Oath of Office (for Poll Watcher) with the Presiding Judge
- A **completed** certificate of Appointment for Central Count Station

A poll watcher may

- Observe without obstructing or interfering in the orderly the conduct of an election
- Sit or stand near enough to see and hear the elections officers conducting the observed activity
- Inspect the returns and other records prepared by elections officials at the time the Central Counting Station is convened
  - If a record has been generated during a previous meeting of the CCS, the watcher does not have the authority to stop the current CCS and ask for older records
  - If a watcher wants to inspect older records, they are permitted to do so under the Public Information Act
- Request a digital copy of an audit log produced by the central accumulator (Dallas County will print these reports and have them available at the Poll Watchers request)
  - before any votes are tabulated
  - after early voting results are tabulated
  - immediately following the completion of the vote tabulation
- Report on irregularities in the conduct of any election

Administration of Oath

The Oath for Central Counting Station Personnel will be administered verbally to all Central Counting Station personnel by the judge prior to the performance of any duties in the Central Counting Station. (AW 8-3a Sec. 87.006, 127.0015)

The Oath

> "I swear (or affirm) that I will objectively work to be sure every eligible voter's vote is accepted and counted, and that only the ballots of those voters who violated the Texas Election Code will be rejected. I will make every effort to correctly reflect the voter's intent when it can be clearly determined. I will faithfully perform my duty as an officer of the election and guard the purity of the election."

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000867

Intake of Early Voting Ballots, Media, and Supplies

The Central Counting Station will use the following procedures related to chain of custody of ballots and media associated with voting system equipment:

- Presiding Election Officers or designees from each early voting location will deliver to the Elections Training Warehouse located at 1460 Round Table Drive —Election Media in a sealed black pouch, voted paper ballots in a sealed blue ballot box, and election supplies.
- Election Department intake personnel will verify the vote center location information and take possession of Election Media, ballot boxes, and election supplies.

After all early voting locations have checked in and all equipment and supplies received,

- Central Counting Station personnel will place the sealed black pouches containing Election Media in a safe in the Ballot Storage Area, locking both the safe and the storage area.
- Warehouse personnel will place in the sealed blue ballot boxes in Elections Warehouse under live stream video surveillance.
- Election Department personnel will distribute supplies to appropriate offices.

Tabulation of Early Voting In-Person Media

The tabulation process is conducted by Central Counting personnel at multiple processing stations.

At the Media-Intake Station, Central Counting Station Clerks will

- Break the seal on the black pouch and place the seal inside the pouch
- Remove the Election Media from the pouch
- Place the Election Media in a red “To Be Tabulated” bin
- Deliver the red “To Be Tabulated” bin to the Accumulation Tabulation Station

At the Accumulation Tabulation Station, Assistant Tabulation Supervisors will

- Distribute the red “To Be Tabulated” bins among themselves
- Upload the Election Media into the central accumulator
- Wait for “Upload 100%” message to appear on the central accumulator screen
- Record the total number of votes
- Place the tabulated Election Media in the green “Tabulated” bin
- Deliver the green “Tabulated” bin to the Storage Inventory Station

AMERICAN OVERSIGHT

TX-SOS-24-0322-C-000868

Tabulation of Early Voting Mail Ballots

The Signature Verification Committee will process all eligible Mail Ballots (Sec.87.041) and place them into transfer cases. The transfer cases will be delivered to the Central Counting Station (Sec.87.101) after the polls close on the last day of Early Voting.

Central Counting Station personnel will use the following process to tabulate the ballots in each transfer case:

The Tabulation Supervisor or designee will

- Accept transfer cases from Signature Verification Committee
- Verify that the security seal number on the transfer case matches the seal number written on the Mail Ballot Chain of Custody Form
- Record the seal number and number of Ballots on Ballot Transfer Log
- Break the security seal on the transfer case and place the seal into the transfer case
- Deliver the transfer case to an Assistant Tabulation Supervisor at the Central Tabulation Station

At the Central Tabulation Station, the Assistant Tabulation Supervisor will

- Process the ballots on the DS850 or DS450 Central Tabulator
- Verify the total number of ballots processed matches the number of ballots shown on the Mail Ballot Chain of Custody Form
- Write the number of ballots processed on the Mail Ballot Chain of Custody Form on the *Number of ballots counted by Tabulation Machine* line
- Place the ballots back into the transfer case
- Print a Batch Report
- Save the results to a USB
- Place the USB in the "To Be Tabulated Bin" on the top of the DS850/DS450
- Place Batch Report on top of Transfer Case
- Call for Closing Station Runner to pick up Transfer Case
- Call for Assistant Tabulation Supervisor to deliver the "To Be Tabulated Bin" to the Central Accumulation Station

At the Closing Station, a Central Counting Station clerk will

- Select a seal and record the seal # on the Ballot Box Chain of Custody form
- Make a copy of the of the Batch Report and the Chain of Custody form
- Place the Chain of Custody form in the sleeve on the top of the Transfer Case
- Place the Batch Report inside the Transfer Case
- Close and seal the Transfer Case
- Place report copies in tray
- Take the Transfer Case to the storage area

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000869

Tabulation of Provisional Ballots

The Ballot Board will process all eligible Provisional Ballots and place them into transfer cases to be delivered to Central Counting Station.

Central Counting Station personnel will use the following process to tabulate the ballots in each transfer case:

At the Transfer Case Receiving Station, the Tabulation Supervisor or designee will

- Accept transfer cases from Ballot Board
- Verify that the security seal number on the transfer case matches the seal number written on the Early Voting or Election Day Provisional Ballot Chain of Custody Form
- Record the seal number and number of Ballots on the Ballot Transfer Log
- Break the security seal on the transfer case and place the seal into the transfer case
- Deliver the transfer case to a team of Central Counting Station Clerks at the Ballot Preparation Station

At the Voted Ballot Preparation Station, Central Counting Station Clerks will

- Remove the Provisional Ballot from the Secrecy Envelope
- Count the Provisional Ballots
- Verify the total number of ballots removed from Secrecy Envelopes matches the number of ballots shown on the Early Voting or Election Day Provisional Ballot Chain of Custody Form
- Deliver the transfer case to an Assistant Tabulation Supervisor at the Central Tabulation Station

At the Central Tabulation Station, the Assistant Tabulation Supervisor will

- Process the ballots on the DS850 or DS450 Central Tabulator
- Verify the total number of ballots processed matches the number of ballots shown on the Mail Ballot Chain of Custody Form
- Write the number of ballots processed on the Mail Ballot Chain of Custody Form on the *Number of ballots counted by Tabulation Machine* line
- Place the ballots back into the transfer case
- Print a Batch Report
- Save the results to a USB
- Place the USB in the “To Be Tabulated Bin” on the top of the DS850/DS450
- Place Batch Report on top of Transfer Case
- Call for Closing Station Runner to pick up Transfer Case
- Call for Assistant Tabulation Supervisor to deliver the “To Be Tabulated Bin” to the Central Accumulation Station

At the Closing Station, a Central Counting Station clerk will

- Select a seal and record the seal # on the Ballot Box Chain of Custody form
- Make a copy of the of the Batch Report and the Chain of Custody form
- Place the Chain of Custody form in the sleeve on the top of the Transfer Case
- Place the Batch Report inside the Transfer Case
- Close and seal the Transfer Case
- Place report copies in tray
- Take the Transfer Case to the storage area

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000870

Tabulation of Election Day Media

The Vote Center Judges or designees deliver vote center materials to designated regional site drop-off locations after they close the polls on Election Day.

Regional Site intake personnel will

- Verify the vote center location information
- Take possession of vote center Election Media in a sealed black pouch, voted paper ballots in a sealed blue ballot box, and election supplies
- Complete a Regional Site Media Chain of Custody Record
- Designate election personnel to deliver the Regional Site Media Chain of Custody Record and the Election Media in sealed black pouches to the Central Counting Station.

At the Media In-Take Station, a team of Central Counting Station clerks will

- Receive the Election Media in sealed black pouches and the Regional Site Media Chain of Custody Record
- Break the seal on one black pouch at a time and place it in the pouch
- Remove the Election Media from the pouch
- Call the vote center number that is printed on the Election Media
- Place a check mark on the Regional Site Media Chain of Custody Record beside the vote center number that is called
- Place the Election Media in a red bin labeled “To Be Tabulated”
- Sign the Regional Site Media Chain of Custody Record after all black pouches have been opened
- Give a copy of the signed Regional Site Media Chain of Custody Record to the election delivery personnel
- Place a copy of the signed Regional Site Media Chain of Custody Record in the red “To Be Tabulated” bin with the Election Media
- Deliver the red “To Be Tabulated” bin to the Accumulation Tabulation Station

At the Accumulation Tabulation Station, Assistant Tabulation Supervisors will

- Upload the Election Media into the central accumulator
- Wait for “Upload 100%” message to appear on the central accumulator screen
- Record the total number of votes
- Place the tabulated Election Media in the green “Tabulated” bin
- Deliver the green “Tabulated” bin to the Storage Inventory Station

Tabulation of Write-In Votes

The Secretary of State provides each county with a List of Declared Write-In Candidates. As contained in Section 124.0621 of the Texas Election Code, a blank write-in line is provided on the ballot only for offices where a declared write-in candidate has been certified.

All names of certified write-in candidates for Dallas County contested races have been listed in the Election Management System. The tabulation of write-in votes occurs after data from Election Media has been uploaded into the Accumulation Tabulator.

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000871

Tabulation of Write-In Votes (continued)

At the Accumulation Tabulation Station, Counting Clerks will

- Analyze the Write-In Review Report on the computer screen
- Compare the handwritten or typed image on the screen to the List of Declared Write-In Candidates certified by the Secretary of State
- Call the name of the handwritten or typed image and state "Certified" or "Not Certified" (Team member #1)
- Repeat the name (Team member # 2) and select the corresponding name of "certified candidates." If the handwritten or typed name is not certified, team member # 2 selects "Un-Certified"
- Verify that the name selected by team member # 2 was the correct name. (Team member #1)

Ballot Duplication

The ballot duplication process is initiated when ballots cannot be processed on the central tabulator because they are torn, contain irregular voter markings, or has impaired alignment.

At the Central Tabulation Station, an Assistant Tabulation Supervisor will

- Identify ballots to be duplicated
- Call a clerk from the Ballot Duplicating Station to retrieve the ballot

At the Ballot Duplicating Station, Central Counting Station clerks will

- Work in teams of two people.
- Write the ballot style and serial number from the original ballot on the duplication log
- Print a blank ballot card for the precinct and ballot style listed on the duplication log
- Place a "DUP sticker" on the original ballot, at the bottom-center
- Compare the precinct number on the original ballot to the precinct number on the new blank ballot to ensure they match.
- Write on the Duplication Log, the DUP sticker number and the serial number printed on new blank ballot
- Write on the new ballot (at the bottom-center) the serial number from the original ballot AND the DUP sticker number
- Write on the original ballot, to the right of the DUP sticker, the serial number from the new ballot
- Insert the new ballot into the ExpressVote
- Read aloud the voter's selection from the original ballot
- Select (or type in) the corresponding name/selection on the ExpressVote
- Exchange roles to confirm the selection on the original ballot
- Place the original ballots in a transfer case labeled Original Duplicated Ballots
- Place the newly voted ballots in a transfer case labeled Duplicated Ballots
- Retain both transfer cases in the Ballot Duplicating Station
- Sign the bottom of the Duplication Log after all ballots have been duplicated
- Deliver the transfer case labeled Duplicated Ballots to the Central Tabulation Station after all duplications from all vote centers have been completed

AMERICAN OVERSIGHT

TX-SOS-24-0322-C-000872

Ballot Duplication (continued)

At the Central Tabulation Station, the Assistant Tabulation Supervisor will

- Process the ballots on the DS850 or DS450 Central Tabulator
- Verify the total number of ballots processed matches the number of ballots shown on the Mail Ballot Chain of Custody Form
- Write the number of ballots processed on the Mail Ballot Chain of Custody Form on the *Number of ballots counted by Tabulation Machine* line
- Place the ballots back into the transfer case
- Print a Batch Report
- Save the results to a USB
- Place Batch Report and USB on top of Transfer Case
- Call for Closing Station Runner to pick up Transfer Case

At the Closing Station, a Central Counting Station clerk will

- Place the USB in a red "To be Tabulated Bin"
- Select a seal and record the seal # on the Ballot Box Chain of Custody form
- Make a copy of the of the Batch Report and the Chain of Custody form
- Place the Chain of Custody form in the sleeve on the top of the Transfer Case
- Place the Batch Report inside the Transfer Case
- Close and seal the Transfer Case
- Place report copies in tray
- Take the Transfer Case to the storage area

Ballot Adjudication

The ballot adjudication process is initiated when the voter's choice is uncertain and extra scrutiny of a ballot is necessary to determine the voter's intent. Over-votes and irregular marks on ballots are the primary precipitators for ballot adjudication.

At the Central Tabulation Station, an Assistant Tabulation Supervisor will

- Identify the ballots to be adjudicated
- Call a clerk from the Adjudication Station to retrieve the ballot

At the Adjudication Station, Presiding Judge/Alternate Judge will Inspect each under-voted or over-voted ballot to ascertain the intent of the voter (Sec 127.157). The Tabulation Supervisor will follow the direction of the Presiding Judge/Alternate Judge.

AMERICAN OVERSIGHT

TX-SOS-24-0322-C-000873

Reconciliation

The reconciliation of unofficial totals occurs at the end of election night. The Tabulation Supervisor is required to print the reconciliation form and the Presiding Judge is required to sign the form.

The reconciliation compares the number of voters who cast valid ballots with the number of ballots counted by the central tabulation system. The basic reconciliation formula is

Total Number of Voters (In-Person and By Mail) **minus**
– Rejected or Pending Ballots (Provisional and Mail) **equals**
= Counted Ballots

Early Voting In-Person	Compares the number of Early Voting *check-ins on the E-PollBook* to the *number of ballots cast* ***minus Spoils and Provisionals***
Early Voting by Mail	Compares the *number of ballots on the Ballot Transmittal form* to the *number of ballots counted*
Election Day	Compares the *number of Election Day check-ins on the E-PollBook* to the *number of ballots cast* ***minus Spoils and Provisionals***

Results Reporting

The election results reported to the public on election night are always preliminary Unofficial Election Results. It takes several days before all ballots are counted and results are finalized.

Canvass is the period, between the close of the Central Counting Station on election night and the determination of the final election results, is to account for every ballot cast and ensure that every valid vote cast is included in the election totals.

Unofficial Election results will be released via Dallas County Election Night Results webpage beginning no earlier than 7:00 p.m.

Early Voting results will be released at 7:00 p.m.

Election Day results will be released every hour beginning at 9:00 pm

Write-In results will be viewable on the Election Summary PDF only

Precinct results will be available after data from all Election Media has been uploaded into the accumulation tabulator

Secretary of State results will be uploaded through the SOS online portal (TEAM)

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000874

Storage of Election Materials

The Election Media, voted ballots, and other records created as part of the election are retained for twenty-two months in a sealed or locked container.

At the Closing Station, a Central Counting Station clerk will

- Close and seal the Transfer Case
- Take the Transfer Case to the storage area

At the Storage Inventory Station, Central Counting Station clerks will

- Receive Election Media in a green "Tabulated bin
- Locate the vote center number in the Early Voting In-Person Storage Binder (EV Mail, EV In-Person, Election Day)
- Place the tabulated Election Media in the slot with the matching vote center number
- Deliver the binder to the Tabulation Supervisor after all Election Media has been tabulated and placed in the binder

At the close of Central Counting Station convening, the Tabulation Supervisor will

- Place all Election Media binders in a safe in the Central Counting Station Storage Area
- Lock both the safe and the storage area

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000875

From: [redacted]
Sent: Thursday, October 15, 2020 12:09 AM
To: Christina Adkins
Cc: [redacted]; [redacted]
Subject: RE: CCS Convening more than one day - Tex. Admin. Code 81.36(n)

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Christina,

Thank you...we look forward to getting your interpretations soon.

Regards,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
About True Texas Elections
512-762-3825
"I am in politics because of the conflict between good and evil, and I believe that in the end, good will triumph." - *Margaret Thatcher*

On Thursday, October 15, 2020 at 12:18 AM, Christina Adkins <CAdkins@sos.texas.gov> wrote:

> Laura,
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> Thanks for the email. I'm working on a response. I have a good handful of CCS questions that have come in this last week. I will get you something as soon as possible as I know timing is critical. Please be patient with us right now. These last two weeks (in particular the last two days) have been extremely busy for us and we've had to prioritize things related to the start of early voting.
>
> I'll be in touch very soon.
>
> Thanks,
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> Christina

AMERICAN OVERSIGHT

From: [redacted]
[redacted]>
Sent: Tuesday, October 13, 2020 12:37 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: [redacted];
[redacted]
Subject: CCS Convening more than one day - Tex. Admin. Code 81.36(n)

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Hello Christina,

Hope you are doing well. Need your help on some EV issues for Collin County - that are also issues in Dallas, Travis, Bexar, and Parker counties, etc. Copying watchers in Collin, Dallas, Travis, Bexar and Parker counties, respectively.

Issue 1: Collin County has published their central counting station control plan and their procedures for early voting scanning and counting appear to violate a provision of the Tex. Admin. Code 81.36(n). It is our understanding that 81.36(n) specifies, "The Central Counting Station personnel may convene only once to election day to count early votes. Any ballots received after the board judge delivered the ballots to the manager shall be counted on election day." Collin County's plan outlines their central counting station will operate continually for 4-5 days which does not seem to be the intent of 81.36(n).

Collin County states:

On Saturday, October 31, 2020, the CCS will start counting the mail ballots that have been processed and submitted to CCS by the Ballot Board.

On Sunday, November 1, 2020 and Monday, November 2, 2020, the Ballot Board will begin closing the early voting machines and will submit the vote total media sticks containing votes and the vote total tapes to the CCS. Mail ballots will continue to be counted on these days, if necessary. CCS personnel will begin uploading the vote total memory media to the server.

The issue here is that volunteer watchers are unduly heavily burdened if Collin County violates 81.36(n) and causes the watchers to have to be present when the county
a) convenes more than one day in central counting to scan absentee ballots, and
b) convenes on another day, other than election day, to load EV memory devices onto the central accumulator.

AMERICAN OVERSIGHT

The scanning of absentee ballots is a central counting station activity because the tabulation supervisor can only handle the ballots after they leave the Ballot Board (Tex. Elec. Code 127.127). Note the scanning software of the absentee ballot scanners actually count the ballots, stores the total number of ballots, and transfers those totals, precinct, etc. to the central accumulator via a USB device.The EV polling location scanners operate similarly.

Issue 2

Since the early voting tapes must be printed at the central counting station (Tex. Elec. Advisory 2019-23 Sec. 6(5)b), the printing of early voting results tapes seems to be only be permitted on election day. Thus, the early voting memory sticks should not be removed from the early voting machines until election day and that limits the input of those USB devices into the central accumulator to be on election day.

Can you please help with an interpretation of

1) if the county can, or cannot, convene more than one day at the central counting station, and
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Thank you in advance,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

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AMERICAN OVERSIGHT

From: Christina Adkins
Sent: Wednesday, October 14, 2020 7:18 PM
To: [redacted]
Cc: [redacted]
Subject: RE: CCS Convening more than one day - Tex. Admin. Code 81.36(n)

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AMERICAN OVERSIGHT

From: [redacted]
Sent: Friday, October 23, 2020 1:45 PM
To: Christina Adkins
Cc: [redacted]
Subject: RE: CCS Convening more than one day - Tex. Admin. Code 81.36(n)

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Hello Christina,

We are seriously needing an interpretation of the issues below. The issues are occurring in Dallas, Travis, Bexar, Collin and other counties.

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
About True Texas Elections
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From: [redacted]
Sent: Tuesday, October 13, 2020 12:37 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: [redacted]
Subject: CCS Convening more than one day - Tex. Admin. Code 81.36(n)

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Hello Christina,

Hope you are doing well. Need your help on some EV issues for Collin County - that are also issues in Dallas, Travis, Bexar, and Parker counties, etc. Copying watchers in Collin, Dallas, Travis, Bexar and Parker counties, respectively.

Issue 1: Collin County has published their central counting station control plan and their procedures for early voting scanning and counting appear to violate a provision of the Tex. Admin. Code 81.36(n). It is our understanding that 81.36(n) specifies, "The Central Counting Station personnel may convene only once to election day to count early votes. Any ballots received after the board judge delivered the ballots to the manager shall be counted on election day." Collin County's plan outlines their central counting station will operate continually for 4-5 days which does not seem to be the intent of 81.36(n).

Collin County states:

On Saturday, October 31, 2020, the CCS will start counting the mail ballots that have been processed and submitted to CCS by the Ballot Board.

On Sunday, November 1, 2020 and Monday, November 2, 2020, the Ballot Board will begin closing the early voting machines and will submit the vote total media sticks containing votes and the vote total tapes to the CCS. Mail ballots will continue to be counted on these days, if necessary. CCS personnel will begin uploading the vote total memory media to the server.

The issue here is that volunteer watchers are unduly heavily burdened if Collin County violates 81.36(n) and causes the watchers to have to be present when the county
a) convenes more than one day in central counting to scan absentee ballots, and
b) convenes on another day, other than election day, to load EV memory devices onto the central accumulator.

AMERICAN OVERSIGHT

The scanning of absentee ballots is a central counting station activity because the tabulation supervisor can only handle the ballots after they leave the Ballot Board (Tex. Elec. Code 127.127). Note the scanning software of the absentee ballot scanners actually count the ballots, stores the total number of ballots, and transfers those totals, precinct, etc. to the central accumulator via a USB device.The EV polling location scanners operate similarly.

Issue 2

Since the early voting tapes must be printed at the central counting station (Tex. Elec. Advisory 2019-23 Sec. 6(5)b), the printing of early voting results tapes seems to be only be permitted on election day. Thus, the early voting memory sticks should not be removed from the early voting machines until election day and that limits the input of those USB devices into the central accumulator to be on election day.

Can you please help with an interpretation of

1) if the county can, or cannot, convene more than one day at the central counting station, and
2) how does it practically work to print the EV Results tapes at the central counting station?

Thank you in advance,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

About True Texas Elections
512-762-3825
"I am in politics because of the conflict between good and evil, and I believe that in the end, good will triumph." - *Margaret Thatcher*

AMERICAN OVERSIGHT

From: [redacted]
Sent: Friday, October 23, 2020 6:02 PM
To: Christina Adkins
Subject: RE: CCS Convening more than one day - Tex. Admin. Code 81.36(n)

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Christina,

I've removed the other recipients in hopes we can resolve some inconsistencies.

1. What are the Texas Election Code statute(s) that supersede 81.36(n) regarding dates CCS may convene? It appears that 81.36(n) is the current governing procedure limiting CCS date operations for counting. I can find no other rule or statute and the counties follow the current procedures?

2. Texas Elec. Code 61.0007, governs when EV results may be revealed, therefore, it appears that counties shall not print the early voting in person results tapes *before* the close of polls on election day. Can you please make sure the counties understand this?

Can you please help us with further clarifying these complex issues so we can be consistent with the code and procedures? Help. Help.

Thank you,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
About True Texas Elections
512-762-3825
"I am in politics because of the conflict between good and evil, and I believe that in the end, good will triumph." - *Margaret Thatcher*

On Friday, October 23, 2020 at 9:24 PM, Christina Adkins <CAdkins@sos.texas.gov> wrote:

Laura,

Thanks for the questions. Here are my answers to your questions.

AMERICAN OVERSIGHT

1. Rule 81.36 of the Texas Administrative Code was promulgated by the Secretary of State's office in 2002. The following year, the legislature codified parts of Rule 81.36, thus superseding our rule. The codification did not include the same language on limiting the number of times that the central counting station can convene; therefore, the CCS can convene more than one time. If poll watchers find it difficult to attend multiple sessions, I would recommend that the appointing authority find multiple poll watchers and have them work in shifts or on different days.

2. Section 87.0241 of the Texas Election Code provides that for counties with a population of 100,000 or more, ballots can be counted at the end of the period for early voting by personal appearance. For counties under 100,000 in population, they may not begin counting until the polls open on election day. For larger counties that can count before election day, they would have the authority to print tapes during the time that the CCS has convened after the end of early voting by personal appearance. If present, poll watchers must be allowed to view this process. We detail these activities in Advisory 2020-20, which was issued earlier this year.

Please let me know if you have any other questions or concerns.

Thanks,

Christina

From: [redacted]
Sent: Friday, October 23, 2020 1:45 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: [redacted]
Subject: RE: CCS Convening more than one day - Tex. Admin. Code 81.36(n)

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AMERICAN OVERSIGHT

Hello Christina,

We are seriously needing an interpretation of the issues below. The issues are occurring in Dallas, Travis, Bexar, Collin and other counties.

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

About True Texas Elections
512-762-3825
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On Thursday, October 15, 2020 at 12:18 AM, Christina Adkins <CAdkins@sos.texas.gov> wrote:

> Laura,
>
> Thanks for the email. I'm working on a response. I have a good handful of CCS questions that have come in this last week. I will get you something as soon as possible as I know timing is critical. Please be patient with us right now. These last two weeks (in particular the last two days) have been extremely busy for us and we've had to prioritize things related to the start of early voting.
>
> I'll be in touch very soon.
>
> Thanks,
>
> Christina

From [redacted]
Sent: Tuesday, October 13, 2020 12:37 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: [redacted]
Subject: CCS Convening more than one day - Tex. Admin. Code 81.36(n)

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AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

From: [redacted]
Sent: Wednesday, October 14, 2020 10:30 PM
To: Christina Adkins
Subject: Re: CCS Convening more than one day - Tex. Admin. Code 81.36(n)-REPLY THANKS

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In a message dated 10/14/2020 7:18:21 PM Central Standard Time, CAdkins@sos.texas.gov writes:

Laura,

Thanks for the email. I'm working on a response. I have a good handful of CCS questions that have come in this last week. I will get you something as soon as possible as I know timing is critical. Please be patient with us right now. These last two weeks (in particular the last two days) have been extremely busy for us and we've had to prioritize things related to the start of early voting.

I'll be in touch very soon.

Thanks,

Christina

From: [redacted]
Sent: Tuesday, October 13, 2020 12:37 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: [redacted]
Subject: CCS Convening more than one day - Tex. Admin. Code 81.36(n)

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AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

From: Christopher Lynch <clynch@rockwallcountytexas.com>
Sent: Monday, October 3, 2016 12:00 PM
To: Ashley Fischer
Subject: RE: Ensuring Election Integrity In Texas

Ok that's what I thought thanks for the help.

Christopher J. Lynch
Rockwall County Elections Administrator
915 Whitmore Dr. Rockwall, TX
Office: 972.204.6200
Cell: 760.927.2925
www.rockwallvotes.com

From: Ashley Fischer [mailto:AFischer@sos.texas.gov]
Sent: Monday, October 03, 2016 11:55 AM
To: Christopher Lynch
Subject: RE: Ensuring Election Integrity In Texas

Chris,

Thanks for checking in with us. I hope all is going well.

In answer to your question, the law has not changed. Further, I am attaching a brief submitted by our office to the Texas Attorney General regarding this issue. The brief is in response to a Request for Opinion submitted by the District Attorney of the 33rd and 424th Judicial District, which may be found here: https://texasattorneygeneral.gov/opinions/opinions/51paxton/rq/2016/pdf/RQ0126KP.pdf

The discussion on early voting results tapes starts on p. 8, and just to summarize:

-The Election Code does *not* provide *any* procedures or authority for an early voting poll worker to count early voting by personal appearance ballots. (By printing a results tape, these ballots are counted.) Instead, it is the duty of Early Voting Ballot Board (if using paper ballots) or the duty of the Central Counting Station (if using optical scan or DRE ballots) to count early voting by personal appearance ballots. In the case of Rockwall County, it is the duty of the Presiding Judge of the Central Counting Station to complete the precinct returns for early voting by personal appearance ballots. [TEX. ELEC. CODE § 87.101; TEX. ELEC. CODE § 87.103; TEX. ELEC. CODE § 127.131.]

-Further:

-The Election Code does not allow early voting poll workers to even have a key to the early voting ballot box. [TEX. ELEC. CODE § 85.032.]

-The Election Code provisions for poll watchers do not mention that a poll watcher may be present for the counting of early voting by personal appearance ballots at an early voting location. All other provisions related to poll watchers specifically state that they may watch the counting of ballots and provide limitations on their ability to come and go during the time ballots are counted. However, in regards to early voting locations, the Election Code simply states: "A watcher serving at an early voting polling place may be present at the polling place at any time it is open and until completion of the securing of any voting equipment used at the polling place that is required to be secured on the close of voting each day." This provision clearly envisions that the poll watcher would watch the equipment be secured and polls suspended, but does not envision that a poll

AMERICAN OVERSIGHT

watcher would watch ballots being counted at an early voting location. [TEX. ELEC. CODE § 33.052; TEX. ELEC. CODE § 33.053; TEX. ELEC. CODE § 33.054; TEX. ELEC. CODE § 33.055.]
-The Election Code prohibits the reporting of early voting by personal appearance ballots by early voting location. Instead, it requires that early voting by personal appearance ballots be reported by precinct. This ensures secrecy of the ballot for voters that vote during the early voting by personal appearance period. [TEX. ELEC. CODE § 87.1231.]

-For all these reasons, our office has instructed early voting poll workers to *not* print results tapes on the last day of early voting. Our office does not want the early voting poll workers to be conducting unauthorized counts of early voting by personal appearance ballots in violation of the Election Code.

I hope that this helps. Please let me know if you have any questions.

Sincerely,

Ashley

Ashley Fischer
Legal Director – Elections Division
Office of the Texas Secretary of State
Telephone: 1.800.252.VOTE
www.sos.state.tx.us
Elections Related Questions: elections@sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Christopher Lynch [mailto:clynch@rockwallcountytexas.com]
Sent: Monday, October 03, 2016 10:59 AM
To: Ashley Fischer <AFischer@sos.texas.gov>
Subject: FW: Ensuring Election Integrity In Texas

Ashley,

There hasn't been any change from the State on NOT printing tapes after the polls close for early voting? I'm sure you've seen this email below?

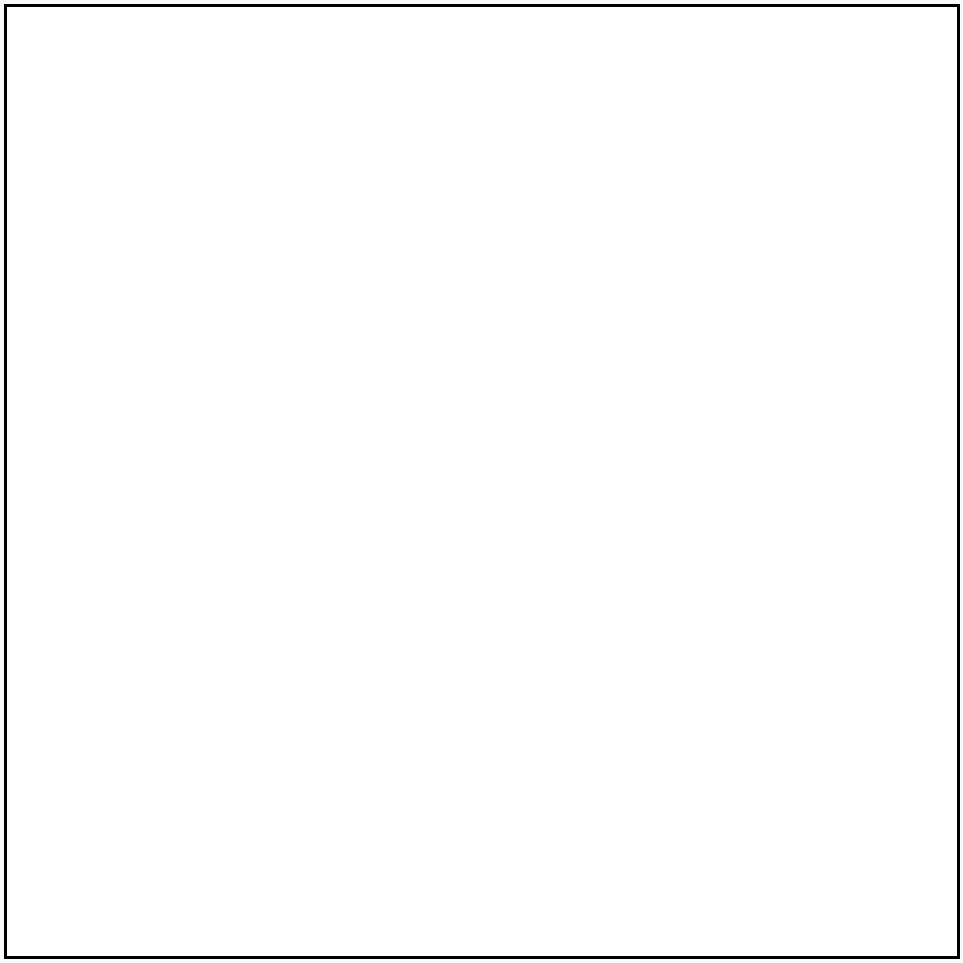
Thanks

Christopher J. Lynch
Rockwall County Elections Administrator
915 Whitmore Dr. Rockwall, TX
Office: 972.204.6200
Cell: 760.927.2925
www.rockwallvotes.com

AMERICAN OVERSIGHT

From: Laura Pressley [mailto[redacted] **On Behalf Of** Laura Pressley
Sent: Sunday, October 02, 2016 11:50 PM
To: Christopher Lynch
Subject: Ensuring Election Integrity In Texas

Ensuring Election Integrity In Texas View this email in your browser



Election Integrity Legal Case Pending in Texas Third Court of Appeals

Computerized voting machines have been operating for over a decade and Texans don't trust them--and now we know why. Dr. Laura Pressley's historic election contest has uncovered electronic voting machine corruption errors, security breaches, missing back up tapes and no ballot images exist for a legal recount in Texas.

Pressley's landmark election integrity legal case is currently pending in the Third Court of Appeals and a ruling could come ***any day***. Thank you to our supporters and contributors for investing their time and financial resources so that honest and fair elections that follow the letter of the law happen in Travis County.

AMERICAN OVERSIGHT

November 2016 Election Integrity in Texas

We have been working hard to ensure that Texas election results in November are honest, fair and accurately represent voters' intent.

We ARE keeping our paper backup records for the November Election--Latest Updates

- Texas Secretary of State's Election Division Director, Keith Ingram, proposed last minute electronic voting machine rule changes that would have eliminated three paper backup records for the November elections. Details are reported here by Family Security Matters.
- Senator Don Huffines issued a press release outlining his opposition to the proposed rule changes. See below.
- Hundreds of grass roots activists from all over Texas contacted Governor Abbott, Lt. Gov. Patrick, Speaker Straus, Representative Jodie Laubenberg (Chair of Election Committee), the Secretary of State's office, and others. Texans emailed and called and registered their strong opposition to the elimination of paper backup records and requested a public hearing.
- The calls were successful! The proposed rule changes to eliminate paper backup records for electronic voting in November were officially postponed and a public hearing is to be held in December. More to come on the exact date and location for the public hearing.
- To register your opposition to the proposed rule changes, contact the state officers noted at the end of this article.

What are the paper backup records for electronic voting inTexas?
Poll Watchers are entitled by Texas law to monitor the printing of these records

- Zero Tapes printed directly before the polls open to ensure no advanced votes are stored on equipment,
- Paper Results Tapes and Tally Lists printed when the polls close for Early Voting and Election Day before the electronic voting equipment leaves the polling location,
- Paper Audit Logs printed at the main tabulation computer at the county election office, and
- Printed Ballot Images for Recounts

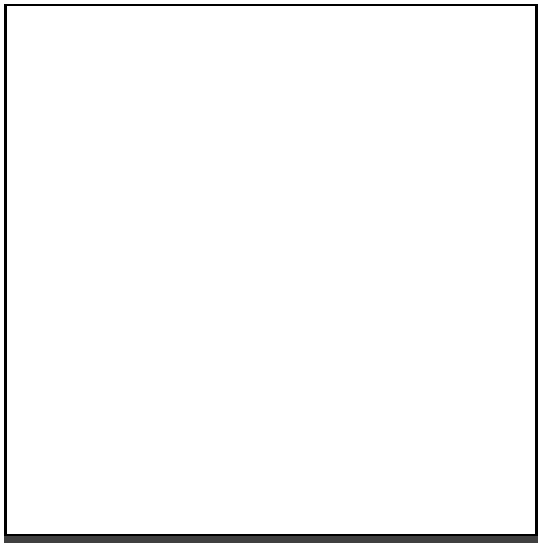
AMERICAN OVERSIGHT

State Senator Huffines Speaks Out

The Honorable State Senator Don Huffines issued a powerful press statement that highlights his strong support for paper backup records for electronic voting in Texas. He opposes any changes that would eliminate those crucial records:

"[The Texas Secretary of State's Election Division] Proposed updates, to the way elections are run in Texas, would wrongly reduce paper records and backups when we ought to be tightening security by making sure we keep proper records."

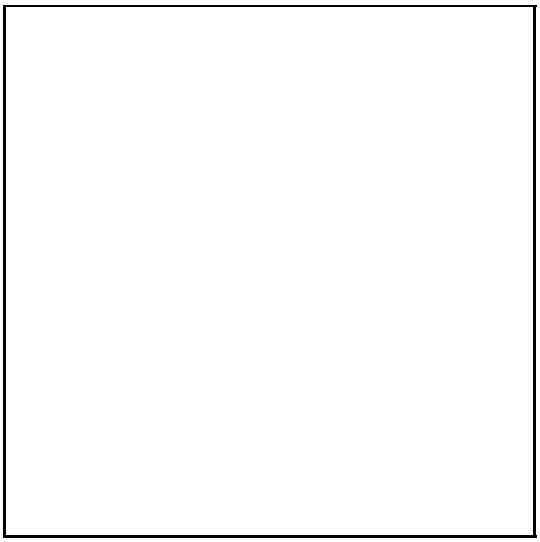
"The state's chief election officers must reconsider and redraft their proposed election rules to pursue more real-time paper records and backups, not fewer...The comfort & convenience of election administrators should not take priority over voters' confidence and election integrity."



State Senator Huffines responds to a last minute rule change that was proposed by the Texas Office of the Secretary of State's Election Division (SoS), the chief elections officer in Texas.

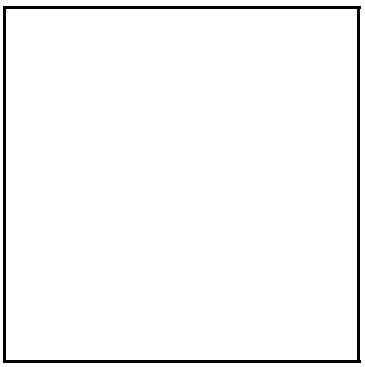
Senator Don Huffines has demanded that the SoS either significantly rewrite, or do away with the proposal to end the practice of printing real-time paper records for electronic voting.

We need "more real-time paper paper backup records, not fewer," he says.



New Electronic Voting Machines for Texas Are Being Evaluated Now

- Public hearings on new electronic voting machines from two vendors, Hart InterCivic and ES&S, were held in Austin on 8/31/16.
- Attendees included representatives from 13 Texas counties to discuss the certification for the new systems.
- Four hours of public testimony ensued. None of the speakers supported the certification of the new Hart InterCivic and ES&S systems.
- State Examiner reports can be found here for Hart InterCivic and ES&S.



We Need You!!!

Contribute *and demand* adherence to Texas election laws
to restore balance and truth in our elections.

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This campaign has not agreed to comply with the contribution and expenditure limits of the Austin Fair Campaign Chapter.

Contact at [redacted]

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Laura Pressley Lawsuit Fund · 10203 Woodglen Cove · Austin, TX 78753 · USA

AMERICAN OVERSIGHT

From: Adam Bitter
Sent: Thursday, November 3, 2022 2:56 PM
To: 'Kathi L Seay'
Subject: RE: Info on write in candidates
Attachments: Goloby Mand Resp_Final.pdf

Kathi,

It was nice talking with you. Sorry again for the lengthy game of phone tag.

As I mentioned, here is the brief that we filed yesterday with the Texas Supreme Court. I am happy to answer any other questions as needed on this issue (or any other SOS-related issue).

Best regards,

Adam

Adam Bitter
General Counsel
Office of the Texas Secretary of State
(512) 475-2813
abitter@sos.texas.gov

From: Kathi L Seay <Kathi.Seay@senate.texas.gov>
Sent: Tuesday, November 1, 2022 8:39 AM
To: Adam Bitter <ABitter@sos.texas.gov>
Subject: Info on write in candidates

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Adam - I just became aware of the Laura Pressley writ of mandamus on the write-in candidate issue I have been trying to get an answer on. I was not aware of the litigation or the source of the question. Sorry to have called and emailed so often. No need to answer, the court can sort it out.

Kathi

Kathi Seay
Policy Advisor

AMERICAN OVERSIGHT

Office of the Honorable Bob Hall
Texas Senate, District 2
Texas State Capitol, E1.610
P.O. Box 12068
Austin, Texas 78711
Tel: 512.463.0102
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AMERICAN OVERSIGHT

No. 22-0962

In the Supreme Court of Texas

IN RE MARK V. GOLOBY IN HIS CAPACITY AS CANDIDATE FOR TEXAS GOVERNOR AND LAURA PRESSLEY INDIVIDUALLY AS A VOTER,

Relators.

On Petition for Writ of Mandamus
to the Texas Secretary of State, the Director of the Elections Division,
and the Legal Director of the Elections Division
of the Office of the Texas Secretary of State

RESPONSE TO PETITION FOR WRIT OF MANDAMUS

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Statement of the Case

Nature of the Case: Now two days before the end of early voting and less than a week until election day, relators seek a writ of mandamus directing officials within the Office of the Texas Secretary of State to (1) draft and disseminate new "comprehensive detailed written directives to all Texas county election officials" reflecting relators' views about the proper procedures for sorting and counting write-in ballots, and (2) issue revised directives to county election officials saying that poll watchers must be allowed to audit early-voting results-tapes, notwithstanding this Court's rejection of a nearly identical request for mandamus relief two weeks ago, *see* Order, *In re True Tex. Elecs. PAC*, No. 22-0920 (Tex. Oct. 19, 2022).

Respondents: John B. Scott, Texas Secretary of State; Keith Ingram, Director, Elections Division, Office of the Texas Secretary of State; and Christina Adkins, Legal Director, Elections Division, Office of the Texas Secretary of State (collectively, the "Secretary").

Respondents' Challenged Action: Relators argue (at 17) that the Secretary has failed to issue "comprehensive detailed written directives to all Texas county officials" regarding the proper methods of sorting and counting write-in ballots. They also disagree with the Secretary's August 1 statewide guidance to local election officials concerning the scope of poll watchers' authority to observe the conduct of elections. Pet. 11-13.

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Issues Presented

1. Whether relators lack standing because they assert generalized and speculative grievances that are not traceable to (or redressable by) the Secretary.

2. Whether mandamus relief is unavailable because relators (a) request relief that this Court has already denied and (b) demand that relief in the middle of the election, just days before election day.

3. Whether relators have shown a "clear abuse of discretion" entitling them to mandamus relief.

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To the Honorable Supreme Court of Texas:

Fifty years ago, this Court held that the Secretary is not singularly responsible "for any breakdown in the election process." *Bullock v. Calvert*, 480 S.W.2d 367, 372 (Tex. 1972); *In re Hotze*, 627 S.W.3d 642, 649 (Tex. 2020) (Blacklock, J., concurring). Relators nonetheless come to the Court for the second time in three weeks asking the Court to jettison that principle. They insist that the Secretary should be compelled to draft and distribute new statewide advisories with just two days until the close of early voting and less than a week until election day because relators disagree with how local election officials are administering the write-in-ballot process.

Relators are not entitled to mandamus relief. Although respondents agree with the importance of preventing vote dilution and potential fraud, neither relators' vague assertions of such dilution and fraud nor their displeasure with certain county officials confer standing. Likewise, relators have failed to show how their purported injuries are attributable to the Secretary rather than the local election officials they contend are violating or may violate the Election Code.

Standing is not relators' only obstacle. "Court changes of election laws close in time to the election are strongly disfavored," *Hotze*, 627 S.W.3d at 645-46—let alone changes in the middle of an election. An order from this Court requiring the Secretary to hastily develop complex new guidance at this juncture will strain the Secretary's limited resources and burden local election officials during the most demanding time of the election-administration process. And relators' complaints about the Secretary's preexisting August 1 guidance regarding poll watchers were already the

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subject of a nearly identical mandamus petition that this Court rejected two weeks ago. Relators do not even try to explain why the Court should revisit that decision.

But even putting those issues to the side, relators have not shown a clear entitlement to mandamus relief. Assuming relators have even sought the correct writ, they have not identified a ministerial duty that can be compelled by mandamus. The Secretary has considerable discretion to exercise his role as the State's chief election officer: as relators note, he can "prepare detailed and comprehensive written directives and instructions" on a statewide basis, Tex. Elec. Code § 31.003, but he can also "advise all election authorities with regard to the application, operation, and interpretation" of the Code and "answer[] inquiries of election authorities relating to the administration of the election laws or the performance of their duties," *id.* § 31.004(a), (b). Deciding whether a formal statewide advisory or less formal question-and-answer guidance is most appropriate is a quintessential discretionary call that the Election Code reserves for the Secretary—not disgruntled voters or candidates. The novel mandamus relief that relators request against the Secretary while the election is ongoing is unwarranted and improper.

Relators' petition should be dismissed or denied.

Statement of Facts

I. Statutory Background

To ensure the accuracy of the election records reported from each polling place, "[i]mmediately before opening the polls for voting on the first day of early voting and on election day," the election judge at each location must "confirm that each

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voting machine has any public counter reset to zero" and "print the tape that shows the counter was set to zero for each candidate or measure on the ballot." Tex. Elec. Code § 61.002(a). These "zero tapes" are bookended by "results tapes" that are collected "after closing of the polls for voting on election day" and that "show the number of votes cast for each candidate or ballot measure for each voting machine." *Id.* § 61.002(c).

Following the close of polling,[1] the Code requires the use of "sealed ballot boxes . . . to deliver electronic system ballots from the polling place to the central counting station." *Id.* § 127.061. Most ballots are then prepared by the manager for "automatic counting" by a pre-approved "automatic tabulating" program overseen by a tabulation supervisor, which "separately tabulate[s] [ballots] according to election precinct." *Id.* §§ 127.121, 127.122, 127.125, 127.128. But some ballots may be counted manually. *See id.* § 127.130. Specifically, "the write-in votes not counted at the polling places shall be counted manually at the central counting station." *Id.* § 127.130(a). Moreover, the manager of the central counting station "may direct that the ballots be counted manually" if "automatic counting of electronic system ballots becomes impracticable for any reason." *Id.* § 127.130(b). To facilitate this manual counting, the presiding judge of the central counting station is required to "sort the damaged ballots, the ballots containing write-in votes, and any other ballots requiring

[1] Local election officials may opt for early processing of ballots, in which case sealed ballot boxes will be delivered from the polling places to the central counting station at multiple "intervals" throughout election day instead of all at once after the polls close. *See* Tex. Elec. Code § 127.124.

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special handing" upon receipt of the sealed ballot box and then "deliver them to the manager of the central counting station." *Id.* § 127.069.

II. Procedural History

Relators are Mark V. Goloby and Laura Pressley. Goloby is a declared write-in candidate for Texas Governor. Pet. 1. Pressley is a voter in Williamson County, *Id.* at 4, and a serial litigant in this Court, having filed three other mandamus petitions against the Secretary this year—all of which were denied. *See* Order, *In re Pressley*, No. 22-0136 (Tex. Feb. 25, 2022); Order, *In re Laura Pressley*, No. 22-0812 (Tex. Sept. 30, 2022); Order, *In re True Tex. Elecs. PAC*, No. 22-0920 (Tex. Oct. 19, 2022).

On August 26, Goloby e-mailed Keith Ingram, the Director of the Elections Division, to relay his concerns about "reports" that he had received from unnamed third parties regarding "election procedures around the [S]tate" that he believed "may not be in compliance with the rules and laws related to the sorting and counting of [his] votes." Pet. App. Tab 1b. Relevant here, he highlighted reports that: (1) his name will not be listed on the early-voting and election-day results tapes; and (2) that "the process for separating and sorting of ballots cast for write-in candidates will be done *electronically on a computer* at the central counting station as opposed to being *manually* separated." Pet. App. Tab 1b (emphasis original).

Similarly, on October 28, Pressley e-mailed Ingram and Christina Adkins, the Legal Director of the Elections Division, to relay three complaints that she had received from "[e]arly voting election watchers around the state." Pet. App. 1a. *First*, Pressley asserted that "official declared write-in candidate[] names are not separately listed on the Zero tapes and will not subsequently be listed [on the] Results

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Tapes." *Id. Second*, Pressley contended that, in Dallas and Williamson County, "the write-in candidate ballots will be electronically sorted and virtually counted on a computer *instead of* being manually separated, sorted, and counted." *Id. Third*, Pressley stated that poll watchers in Harris and Collin counties were being prevented from inspecting early-voting zero and results tapes that were created before the poll watchers' shifts started, *id.*—the same issue on which she unsuccessfully sought mandamus relief from this Court just two weeks ago, *cf.* Pet. For Writ of Mandamus at 7-10, *In re True Tex. Elecs. PAC*, No. 22-0920 (Tex. Oct. 13, 2022).

On October 31—only four days before the close of early voting—Goloby and Pressley filed an emergency mandamus petition. They argued (at 9-10) that local election officials in Dallas County intend to "electronically extract[]" and "virtually count[]" the votes cast for write-in candidates, which they allege violates of Texas Election Code sections 127.069 and 127.130. They also argued (at 11-12) that Goloby's appointed poll watcher will be "obstructed from inspect[ing] Harris County's early voting results tape" in an alleged violation of Texas Election Code section 33.056(c) because Harris County's central counting station "convene[s] and print[s] the early voting tapes *before* election day." *But see* Response to Pet. For Writ of Mandamus at 12-14, *In re True Tex. Elecs. PAC*, No. 22-0920 (Tex. Oct. 17, 2022). As a remedy, Goloby and Pressley demanded (at 17) that this Court order the Secretary to: (a) "provide detailed written comprehensive directive[s] to central counting station election officials that use electronic voting systems to manually sort and count ballots pursuant to Sections 127.069 and 127.130;" and (b) "provide detailed and written directives to county election officials to permit [poll] watchers ample access

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to inspect early voting results tapes at the central counting station after polls close on election day consistent with Section 33.56(c)."

Standard of Review

"Mandamus relief is appropriate when a petitioner demonstrates a clear abuse of discretion and has no adequate remedy by appeal." *In re Geomet Recycling LLC*, 578 S.W.3d 82, 91 (Tex. 2019) (orig. proceeding). Moreover, such a writ may "operate[] solely to nullify an act that has already been performed"—not to prevent an act yet to be performed. *Shelvin v. Lykos*, 741 S.W.2d 178, 182 (Tex. App.—Houston [1st Dist.] 1987) (orig. proceeding); *see also Faherty v. Knize*, 764 S.W.2d 922, 924 (Tex. App.—Waco 1989) (orig. proceeding) (citing *State ex rel. Wade v. Mays*, 689 S.W.2d 893, 897 (Tex. Crim. App. 1985)). This distinction is significant because the Court does not have original jurisdiction to grant writs of prohibition or injunction under the Election Code. Tex. Elec. Code § 273.061; *cf. LaRouche v. Hannah*, 822 S.W.2d 632, 634 (Tex. 1992) (orig. proceeding). Instead, this Court has jurisdiction to issue a writ of mandamus against an executive officer only "to order or compel the performance of a judicial, ministerial, or discretionary act or duty that, by state law, the officer or officers are authorized to perform." Tex. Gov't Code § 22.022(c); Tex. Elec. Code § 273.061.

"Although mandamus will not issue to control an officer's legitimate exercise of discretion, it may issue to enforce the performance of a nondiscretionary or ministerial act." *In re Smith*, 333 S.W.3d 582, 585 (Tex. 2011). Because "a public officer has no discretion or authority to misinterpret the law," the Court considers an issue of "statutory construction" "de novo." *Id.* However, the Court also gives "great

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weight" to "a reasonable construction of a statute by the administrative agency charged with its enforcement" or interpretation. *Osterberg v. Peca*, 12 S.W.3d 31, 51 (Tex. 2000).

ARGUMENT

I. Relators Lack Standing To Seek Mandamus Relief.

"Standing is implicit in the concept of subject matter jurisdiction," *Tex. Ass'n of Bus. v. Tex. Air Control Bd.*, 852 S.W.2d 440, 443 (Tex. 1993), and a constitutional prerequisite to suit, *Heckman v. Williamson County*, 369 S.W.3d 137, 150 (Tex. 2012). Texas's standing doctrine mirrors the federal test for Article III standing and serves to prevent "the rights of [potentially] million[s]" of Texans from "be[ing] adjudicated" by "plaintiffs who cannot show more than the merest possibility of injury to themselves." *DaimlerChrysler Corp. v. Inman*, 252 S.W.3d 299, 307 (Tex. 2008). Because of the similarities of the two tests, Texas courts "turn for guidance to precedent from the U.S. Supreme Court," which has elaborated three elements of standing: injury in fact, traceability and redressability. *Heckman*, 369 S.W.3d at 154-55. Relators' mandamus petition founders on all three elements.

A. To satisfy the first element of standing, "the plaintiff must have suffered an 'injury in fact'—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) 'actual or imminent, not 'conjectural' or 'hypothetical.'" *Heckman*, 369 S.W.3d at 154 (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992) (citations omitted)). That is, the plaintiff must allege—and ultimately prove—that he has been "*personally* injured" or face imminent personal injury. *Id.*

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at 155 (citing *S. Tex. Water Auth. v. Lomas*, 223 S.W.3d 304, 307 (Tex. 2007)); *Neeley v. W. Orange-Cove Consol. ISD*, 176 S.W.3d 746, 774 (Tex. 2005).

Neither relator can meet this requirement. Pressley seeks relief in her individual capacity as a voter. Pet. 4-5. But any injury stemming from that status is a generalized grievance shared by the entire voting population, which is insufficient to confer standing. *Brown v. Todd*, 53 S.W.3d 297, 302 (Tex. 2001). To avoid that hurdle, Pressley asserts (at 4) "a denial of equal protection of her vote because of vote counting disparities [that] will place her at risk for vote dilution." But "[w]hen standing is in doubt, the plaintiff must not just allege sufficient facts; instead, she must come forward with evidence demonstrating a 'particular personal interest which separates [her] from the general public.'" *Hotze*, 627 S.W.3d at 649 (Blacklock, J., concurring) (cleaned up). Pressley fails to explain how any alleged failure to record early-voting results for "each of the write-in candidates separately," Pet. App. Tab 1a, Att. C, will lead those officials to discard her vote. The bare "risk" of vote dilution, Pet. 4, devoid of any factual support, is not the sort of concrete, particularized injury that this Court has recognized can confer standing. *Heckman*, 369 S.W.3d at 154-55; *cf. Hotze*, 627 S.W.3d at 649 n.2 (Blacklock, J., concurring).

Goloby likewise has failed to point to any cognizable injury-in-fact. He asserts a denial of equal protection from "potentially fraudulent sorting, counting, and inspection by his watchers." Pet. 4. But the hypothetical—and unrealized—potential for fraud is not a concrete and particularized injury. Assuming a purely prospective

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injury is adequate to support standing to seek a writ of mandamus,[2] a plaintiff "cannot manufacture standing" through allegations that depend on a complex chain of contingencies without showing each contingency is more likely than not to occur. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 402 (2013).

B. Nor can relators show that their injuries are traceable to (or redressable by) the Secretary. As relators' own petition reflects (at 1-3), "the Secretary does not implement the laws in question and does not control whether local officials do so," so the Secretary is not responsible for the relators' purported injuries. *Hotze*, 627 S.W.3d at 647 (Blacklock, J., concurring). Indeed, the gravamen of the petition (at 9-10, 11-12) is that local officials at the Dallas County central counting station may violate the Election Code by engaging in "'electronic' and 'virtual' extraction and sorting of write-in ballots" and that officials at the Harris County central counting station may prevent Goloby's poll watcher from inspecting early-voting results tapes. If true, relators' petition should be directed against the local officials who they contend may, in the future, violate the Election Code during the administration of the general election—not the Secretary. *See* Tex. Elec. Code § 273.061(a).

* * *

Because relators do not have standing to sue the Secretary, their petition should be dismissed for lack of jurisdiction.

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[2] *But see supra* at 6 (explaining that mandamus relief is not prospective in nature).

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II. The Equities Disfavor the Issuance of Mandamus Relief.

Even if relators had standing to seek mandamus relief, the Court should deny the writ which while "not an equitable remedy" is nonetheless "largely controlled by equitable principles." *Rivercenter Assocs. v. Rivera*, 858 S.W.2d 366, 367 (Tex. 1993) (orig. proceeding). In the context of elections, one such equitable principle is that courts should typically "decline[] to implement even 'seemingly innocuous' alterations to election laws on the eve of an election, let alone after one has begun." *In re Khanoyan*, 637 S.W.3d 762, 765 (Tex. 2022) (orig. proceeding) (citing examples); *see also Purcell v. Gonzalez*, 549 U.S. 1, 4-6 (2006) (per curiam); *Tex. All. for Retired Ams. v. Hughs*, 976 F.3d 564, 567 (5th Cir. 2020). With early voting almost complete, and election day less than a week away, the 2022 general election is well and truly underway.

Relators insist (at 17) that the Secretary must nonetheless issue new statewide guidance regarding the counting of write-in ballots and the duties of poll watchers. But in the middle of an ongoing election, any such guidance surely creates a strong chance of "electoral confusion" and disruption. *Khanoyan*, 637 S.W.3d at 765. Relators have a "duty . . . to explain with precision how any relief will affect th[e] election and the larger structure of our state's election machinery." *Id.* at 764. They have not done so. Instead, they have cursorily asserted (at 16) that the "Secretary can correct" the errors relators perceive "before election judges and watchers report for service at the central counting station on November 8, 2022." That myopic view ignores that the election is already underway, imposing numerous duties on local

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election officials as well as the Secretary and his office. *See* Secretary of State, Election Advisory No. 2022-25 (June 20, 2022), https://tinyurl.com/ybu6yr7r (explaining the timeline for such requirements). Retraining election officials on the process of counting ballots and requiring officials to retrain poll workers will inevitably hinder election administration across the State.

Principles of equity also counsel against issuing mandamus relief based upon the theory that the Secretary has "[m]isinterpret[ed]" section 33.056(c) of the Election Code. Pressley unsuccessfully sought mandamus relief based upon this exact legal theory just over two weeks ago. *See* Pet. For Writ of Mandamus at 7-10, *In re True Tex. Elecs. PAC*, No. 22-0920 (Tex. Oct. 13, 2022). Assuming her claim on that legal theory is not barred by principles of collateral estoppel, it is no more compelling today than it was then. *See infra* Part III.B.

III. Relators Are Not Entitled to Mandamus Relief.

Finally, this Court should deny the petition because relators have failed to show "a clear abuse of discretion" justifying such extraordinary relief. *Geomet Recycling LLC*, 578 S.W.3d at 91. *First*, although relators disagree with how the Secretary has exercised his discretion in performing his statutory duties, they have not identified any ministerial function that the Secretary has failed to undertake. *Second*, the Secretary's guidance on section 33.056 is consistent with the Election Code. *Third*, relators have not identified any violation of the Election Code by local officials.

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A. Providing guidance regarding the meaning of sections 61.002(c), 127.069 and 127.130 is not a ministerial task.

Relators have failed to identify a ministerial act that could be compelled by a writ of mandamus because they have not identified any "law [that] clearly spells out the duty to be performed by the official with sufficient certainty that nothing is left to the exercise of discretion." *In re Brown*, 614 S.W.3d 712, 721 (Tex. 2020) (orig. proceeding) (citation omitted). Section 31.003 of the Election Code, relators' principal authority, does not spell out the Secretary's duties in such granular detail. Instead, it provides that the Secretary "shall obtain and maintain uniformity in the application, operation, and interpretation" of the Election Code, including by "prepar[ing] detailed and comprehensive written directives and instructions" and distributing those materials to appropriate officials. Tex. Elec. Code § 31.003. The Secretary has broad latitude to determine the subject matter, content, timing and recipients of any such directives. *See id.*

Relevant here, if the Secretary becomes aware of an issue of particular concern to one or two of Texas's 254 counties, the Secretary may decide that a statewide directive is unnecessary to "maintain uniformity" of the Code. But he may also opt to provide advice and assistance directly to those affected local officials on a more informal basis, *id.* § 31.004(a), to avoid burdening election officials across the State with information they do not need. Relators' authority (at 14-15) is not to the contrary because each of those cases involved the enforcement of a clearly established duty. Indeed, relators concede that the Secretary "may have discretion as it relates to the development of procedures that ensure uniform compliance with the Election

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Code," but claim that the Secretary does not have discretion to provide direction that *violates* the Code. Pet. 14. The problem is that relators do not identify *any* guidance *from the Secretary* that conflicts with the Election Code—only their desire the Secretary draft *new* directives to address perceived deficiencies in how two county officials (who are not named) have interpreted and are applying sections 61.002(c), 127.069 and 127.130. *E.g.*, Pet. 17. Deciding what type of guidance to provide to local election officials is a textbook judgment call that the Legislature reserved for the Secretary. *See* Tex. Elec. Code §§ 31.003, .004. It is not a task subject to a writ of mandamus.

B. The Secretary's interpretation of section 33.056 is fully consonant with the statutory text.

Unlike with sections 61.002(c), 127.069 and 127.130, relators do at least identify a problem with the Secretary's conclusion that Texas Election Code § 33.056(c) does not permit watchers to demand records prepared at previous meetings of the central counting station by allowing them to "inspect" records "prepared by the election officers at the location at which the watcher is serving." Pet. App. Tab 1 at 22; Pet. 11-13. But Pressley sought mandamus relief on this exact basis two weeks ago, Pet. for Writ of Mandamus at 7-10, *In re True Tex. Elecs. PAC*, No. 22-0920 (Tex. Oct. 13, 2022), and this Court denied that request, Order, *In re True Tex. Elecs., PAC*, No. 22-0920 (Tex. Oct. 19, 2022).

For good reason. As the Secretary already explained in detail, section 33.056's text empowers poll watchers to inspect ongoing proceedings at a particular location—not revisit what happened on different dates. Response to Pet. For Writ of

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Mandamus, *In re True Tex. Elecs. PAC*, No. 22-0920 (Tex. Oct. 17, 2022). To summarize, "use of a verb tense is significant," and "'[u]se of the present tense strongly suggests [the object of reference] lies in the present or the future, not in the past.'" *In re Millwork*, 631 S.W.3d 706, 712 (Tex. 2021) (citations omitted) (alterations original). The "object of reference," *id.*, in subsection (c) is "the returns and other records," Tex. Elec. Code § 33.056(c). And the statute uses the present tense to describe this object, noting that the "returns and other records" being discussed are the ones "prepared . . . at the location at which the watcher *is serving*." Section 33.056(c) thereby limits a watcher's inspection duties to records created "in the present or the future," while serving on-site, "not in the past." *Millwork*, 631 S.W.3d at 712.

"[T]he context of the statue's surrounding provisions," *In re Office of the Att'y Gen. of Tex.*, 456 S.W.3d 153, 155 (Tex. 2015), confirms this understanding. Section 33.056 sets forth several rules for watchers when "[o]bserving [a]ctivity [g]enerally," each of which also speaks in the present tense. Tex. Elec. Code § 33.056. For example, subsection (a) provides that "a watcher is entitled to observe any activity conducted at the location at which the watcher *is serving*." *Id.* § 33.056(a) (emphasis added). Likewise, subsection (b) provides that "[a] watcher is entitled to sit or stand near enough to the member of a counting team who *is announcing* the votes." *Id.* § 33.056(b) (emphasis added). Subsection (d) states that "[a] watcher may not *be prohibited* from making notes *while on duty*." *Id.* § 33.056(d) (emphasis added). And subsection (e) states that "a watcher may not be denied free movement where election activity *is occurring*." *Id.* § 33.056(e) (emphasis added). Because each of these

AMERICAN OVERSIGHT

provisions defines the watcher's role in the present tense, the statutory context supports the Secretary's conclusion that subsection (c) does not permit watchers to reach back in time.[3]

Relators do not engage with the text of section 33.056(c),[4] but instead advance (at 11-13) policy arguments against the Secretary's interpretation of that statute. These arguments are not grounds for mandamus relief any more than their request that the Secretary provide guidance regarding sections 127.069 and 127.130 in the first instance. They also confuse the role of poll watchers with early-voting clerks, who can "conduct a daily audit of the direct recording electronic voting machines," *id.* §129.002 (b); and state inspectors, who can "take reasonable steps to obtain evidence of the manner in which a function or activity is being performed," *id.* § 34.002 (a). And to the extent that Relators suggest (at 12) that poll watchers will be unable to perform their role of observing at the central counting station, that is simply wrong. *See id.* § 33.055.

C. Relators have not identified any impending violation of the Election Code by local officials.

Relators make (at 5-10) two additional arguments that local election officials will soon violate the Election Code in connection with the counting of write-in ballots and with the production of results tapes. Again, such a purely prospective injury is

[3] Watchers may obtain such records through a request under the Public Information Act to the same extent as other members of the public.

[4] Relator Pressley also does not explain how she may bring this claim under well-established rules of estoppel.

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not properly within the mandamus jurisdiction of this Court. *Supra* at 6. And it is certainly not a basis for issuing mandamus relief *against the Secretary*. *Supra* at 9. The argument also lacks merit.

First, relators argue (at 9-10) that local officials in Dallas County will soon violate Texas Election Code section 127.130 by "electronically extract[ing]" and "virtually counting" the "electronic ballot images of the write-in ballots" instead of manually counting them. Not so. Assuming that relators' second-hand description about Dallas County's process is correct, Pet. 9, Dallas County's process *is* "manual" because a person reviews an image of each ballot to determine voter intent for any particular ballot. *See* Pet. App. Tabs 1a & 1b. To be sure, relators describe the involvement of some technology in Dallas County's process to create the image of the ballot that is tabulated. But that technology is facilitating a manual process by humans, which sharply contrasts with the "automatic" process outlined by the Code, which entails use of a computer program to electronically tabulate the ballots. *See* Tex. Elec. Code §§ 127.121, 127.122, 127.123, 127.125. To the extent that relators are requesting that local officials hand-tally ballots without the assistance of any computer, relators point to nothing in the Election Code that requires such a procedure in sufficient detail to be enforceable through a writ of mandamus.

Second, relators argue (at 5-6) that local officials at unspecified locations will violate the Election Code by failing to include Goloby's name on results tapes in violation of Texas Election Code § 61.002(c). But, by definition, even declared write-in candidate names are not listed on the ballot to begin with. Instead, they appear on a list of certified candidates that is posted at each polling place and provided to mail-

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000923

ballot voters in their balloting materials. *See* Tex. Elec. Code §§ 146.031 (in-person voting), 86.002(f) (voting by mail). Voters then type the candidate name into an electronic voting system or write in the name for hand-marked ballots. Specific write-in candidate names cannot be identified on a results tape precisely because write-in votes must be manually counted at the central counting station. *E.g.*, Tex. Elec. Code §§ 65.009, 127.130, 127.157. Thus, identifying the number of votes for each specific write-in candidate on a results tape—as relators seem to demand—would require pre-programming of voting systems in a manner that is not permitted by the Election Code; indeed, that would constitute the very type of "electronic" count that the relators repeatedly decry (at 9-10) as a violation of the Election Code.

Prayer

The Court should dismiss or deny the petition.

Respectfully submitted.

Ken Paxton
Attorney General of Texas

Brent Webster
First Assistant Attorney General

Judd E. Stone II
Solicitor General

/s/ Lanora C. Pettit
Lanora C. Pettit
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Counsel for Respondents

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TX-SOS-24-0322-C-000924

Certificate of Service

On November 2, 2022, this document was served on Frank G. Dobrovolny, lead counsel for Relators, via dobrovolnylawfirm@gmail.com.

/s/ Lanora C. Pettit
Lanora C. Pettit

Certificate of Compliance

Microsoft Word reports that this document contains 4,482 words, excluding exempted text.

/s/ Lanora C. Pettit
Lanora C. Pettit

AMERICAN OVERSIGHT

TX-SOS-24-0322-C-000925

From: Christina Adkins
Sent: Thursday, October 10, 2019 10:52 AM
To: [redacted]
Subject: RE: Questions about November Elections - Numbering and Tapes
Attachments: MASS EMAIL- (CC/EA -647) - Procedures for Ballot Marking Devices/Ballot on Demand Systems

Laura,

Thanks for the questions. We are in the process of updating our Electronic Voting Systems Procedures Advisory where we will be addressing the ballot numbering issue. We are taking the information provided in the attached email and expanding upon that a bit to provide more details. I was hoping to send you the advisory, but we still trying to finalize a few details. When that advisory is issued, I will forward you a copy of it.

With respect to your questions about results tapes, I would like to provide some clarification. First, under Texas law, results tapes must not be printed at the end of early voting. There is nothing in Texas law requiring such printing. In fact, printing tally tapes at the end of early voting could be a criminal act under Section 61.007 as it would be "revealing the number of votes that have been received for or against a candidate or measure before the polls close." As you know, the polls close at 7 pm on election day. Additionally, early voting ballots are never counted by the election workers working the polling places during early voting.

OAG opinion KP - 0118 addresses this very question. It states in part:

> Because section 87.062 authorizes only the early voting ballot board to open the early voting ballot boxes, it is inconsistent with the election-day procedure in section 65.001, requiring the ballots to be counted at each individual polling place. Section 65.001 is therefore not applicable to early voting, and the early voting ballot board, rather than the election judge at each polling location, counts the ballots and prepares the returns. *Id.* § 81.002 (providing that provisions of other titles do not apply to title 7 if they are inconsistent with title 7).

With respect to election day procedures, the provisions you cited are referencing precinct returns. A results tape is not a precinct return. The results tape (also known as a tally tape) is the equivalent of a tally sheet in an election with hand counted ballots. In a hand count situation, the tally sheet is used to prepare a precinct return. As you know, the precinct return is signed by the presiding judge (65.014) and serves as the unofficial returns for that precinct. In an election using an electronic voting system (DRE or precinct scanner) that has NOT established a central counting station, the results tape (tally tape) would be printed at the polling location. This would then be used to create a **separate** precinct return by the presiding judge. If there is a central counting station, the results tape (tally tape) would still be printed at the polling place, and the tape—along with the electronic media and ballots, if applicable—would be delivered to the central counting station, where the presiding judge of the central counting station would prepare the precinct returns (127.131).

I think you meant to cite 66.022(2), 66.023(2), 66.025(3), all of which reference "tally list" since that's the equivalent of a results tape. Results tapes must be printed and distributed in accordance with these provisions. Section 6 of Advisory 2018-34 – Electronic Voting Systems Procedures Advisory also describes these statutory requirements.

Please let me know if you have any additional questions or concerns.

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State

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The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Laura Pressley [redacted]
Sent: Tuesday, August 20, 2019 2:00 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Questions about November Elections - Numbering and Tapes

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Dear Christina,

Hope you are doing well. I know we've had some of these discussions before, but can you please provide the *most up to date* details of how your office is advising elections officials (that use Hart and ES&S paper systems) regarding adhering to the Texas statutes that deal with numbering of paper ballots for the 2019 November Constitutional Amendment elections?

Specifically, how are the counties being advised with regard to complying with Texas Election Code 52.062? Along the lines of ballot numbering, how are counties being advised with regard to procedures to adhere to Texas Election Code Sections 51.006 and 51.008(b)?

Also, with regard to printing of complete results tapes also known as precinct returns when the polls close for Election Day and Early Voting, how will we adhere to Texas Elections Code Sections 66.022(1), 66.023(1) and 66.024(1)?

Thanks,
Laura Pressley

AMERICAN OVERSIGHT

From: Elections Internet
Sent: Friday, April 12, 2019 5:12 PM
To: Elections Internet
Subject: MASS EMAIL- (CC/EA -647) - Procedures for Ballot Marking Devices/Ballot on Demand Systems

Sensitivity: Personal

Dear County Election Officials:

The purpose of this email is to provide guidance to our counties that are using a ballot marking device ("BMD") or ballot on demand ("BOD") system in conjunction with either a precinct scanner or a central scanner. Counties that are using this equipment are doing so either as traditional ballot marking devices for accessibility purposes, as a standalone ballot marking device that all voters may use to vote, or as a Texas-specific definition of a DRE as defined by Advisory 2017-21.

We have received a number of questions related to how this type of equipment meets certain requirements of the Texas Election Code. As these ballot marking devices and ballot on demand systems are part of an electronic voting system, most of the relevant provisions are located in Title 8 of the Texas Election Code. However, under Section 121.001 of the Texas Election Code, the other titles of the code apply to all voting systems except to the extent that a provision is "inconsistent with this title or cannot feasibly be applied" in an election using a voting system. Under Section 122.001(c) of the Texas Election Code, the Secretary of State has the authority to prescribe procedures related to voting systems. This email will serve as guidance to our counties on how to use this equipment in a way that is consistent with state law. Please note that we are not issuing a formal election law advisory at this time. We have another system from Hart, Intercivic similar in configuration to ES&S's ExpressVote that is awaiting Texas certification. After that system has completed the certification process, we will be issuing a formal advisory on proper use of these paper based systems. Additionally, we hope to obtain feedback from you all with respect to these procedures and any other issues you would like us to provide guidance on prior to issuing the formal advisory.

Guidelines for Compliance with Texas Law for Ballot Marking Devices/Ballot on Demand Systems.

1. **Ballot Numbering**: Section 52.062 of the Texas Election Code provides that ballots prepared by each authority responsible for having the official ballot prepared shall be numbered consecutively beginning with the number "1". The purpose of this requirement is to track and account for the total number of ballots used in an election, how they were used, in what locations, and to account for the ballot stock that was unused. There are two ways that counties can meet this requirement.
    a. **Pre-printed numbers on blank ballot stock**: The simplest and easiest way to meet this requirement is to order your blank ballot stock with pre-printed numbers. The ballots shall be tracked, distributed, and retained just as you would with a traditional pre-printed full ballot in accordance with Sections 51.006, 51.007, 51.008. The remaining ballot stock cannot be used in a subsequent elections and must be retained with your precinct election records for the duration of the preservation period. With this system, you will continue to have your presiding judges fill out the Ballot Register and the original and duplicate forms will be returned in the applicable envelopes. We have approved modifications to the Ballot Register form upon request. If you would like to modify our standard form, please send the form to elections@sos.texas.gov for review.
    b. **ES&S ExpressVote BMD -- Tracking ballot numbers through the ExpressVote Activation Card Printer/Expresslink Software**: As the intention of 52.062 is to track and monitor ballot use and distribution, we have approved an alternate way to do so with the ExpressVote. Each ExpressVote Activation card printer that is assigned to a specific polling place will be given a two to three digit alpha

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code. This code will be printed on each Ballot Card as it is generated for the voter. In addition to the alpha code, each polling place will print a randomly generated serial number between 1 to 99,999 on the card along with the identifying information related to the election. For tracking purposes, you will continue to have the presiding judge fill out the Ballot Register, and the original and duplicate forms will be returned in the applicable envelopes. The ballots shall be tracked, distributed, and retained just as you would with a traditional pre-printed full ballot in accordance with Sections 51.006, 51.007, 51.008 with the exception of notating the serial number of the ballot ranges. In the alternative, you will document how much blank ballot stock is sent to each location and how much blank ballot stock has been returned to you with your remaining election supplies. As this blank ballot stock does not have pre-printed ballot numbers on them, this blank ballot stock can be reused in subsequent elections.

i. **Additional documentation procedure:** At the conclusion of the election, the general custodian of election records should print or generate a full listing of all serial numbers issued at each corresponding polling place. This document shall be retained with the election records for the duration of the preservation period.

c. **Hart Verity TouchWriter BMD and Print BOD system--** Each ballot that is printed via Verity TouchWriter or Verity Print has a unique identifier. This prevents the ballots from being read multiple times by a specific scanner. Each device lists the number of ballots printed for each election and for the lifetime of the device on the screen of the device itself. Polling place workers should record these numbers and compare them to the check-in roster at the end of the day to complete the Ballot Register. With this system, you will continue to have your presiding judges fill out the Ballot Register and the original and duplicate forms will be returned in the applicable envelopes. The ballots shall be tracked, distributed, and retained just as you would with a traditional pre-printed full ballot in accordance with Sections 51.006, 51.007, 51.008 with the exception of notating the serial number of the ballot ranges. In the alternative, you will document how much blank ballot stock is sent to each location and how much blank ballot stock has been returned to you with your remaining election supplies. As this blank ballot stock does not have pre-printed ballot numbers on them, this blank ballot stock can be reused in subsequent elections.

i. **Additional Documentation Procedures:** At the conclusion of the day, the presiding judge should generate a "Ballot Count Report" (Print) or "Suspend Report" and "Close Report" (TouchWriter) that will list the total number ballots printed and provide a breakdown of ballot styles by precinct. These documents shall be retained with the election records for the duration of the preservation period.

2. **Post-Election Audits**: Section 127.201(g) of the Texas Election Code provides the requirements for our current post-election audit, the Partial Manual Count. As this is a paper based system, counties using this equipment are **required** to complete the partial manual count unless it has been waived by the Secretary of State pursuant to Section 127.201(f) of the Texas Election Code. The partial manual count will not be waived for the May 4, 2019 election. For details on how to conduct the partial manual count, please see Advisory 2018-30.

3. **Recounts**: Section 214.042 of the Texas Election Code provides that a recount must be conducted electronically or manually. For both types of recounts, the paper component that contains the voter's selections (full ballot or cast vote record) is the ballot of record for the purposes of a recount. If an electronic recount is requested, the paper ballot or cast vote record **must** be rescanned. An electronic recount cannot simply consist of rereading the electronic media containing device totals. If a manual recount is requested, the paper ballot or cast vote record will be hand tallied.

4. **Preservation of Voted Ballots**: The paper ballots or cast vote records are required to be preserved for a period of at least 60 days after the date of the election in a locked ballot box in accordance with Section 66.058(b) of the Texas Election Code. On the 61st day, the general custodian of election records may transfer them to another secure container for the remainder of the preservation period in accordance with Section 66.058(b) of the Texas Election Code. Additionally, the electronic media that contains the vote totals must also be preserved for the duration of the 22 month preservation period.

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These are the procedures that will be in place for the May 4, 2019 uniform election and any ensuing runoffs. If you have any questions or concerns please let us know. Additionally, we welcome your feedback on these procedures before they are formally prescribed in an election law advisory.

Thank you for all that you do for Texas elections!

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State
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elections@sos.texas.gov | www.sos.texas.gov
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AMERICAN OVERSIGHT

From: Laura Pressley [redacted]
Sent: Thursday, October 10, 2019 12:11 PM
To: Christina Adkins
Subject: RE: Questions about November Elections - Numbering and Tapes

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Thank you, Christina,
While we may have to agree to disagree on the interpretation of some of the sections of the Texas Election Code, I sincerely appreciate your diligence in walking through your thought process. Looking forward to receiving the advisory you note below.
All my best,
Laura

Laura Pressley, Ph.D.
512-762-3825
"Strange is our situation here upon earth.
Each of us comes for a short visit, not knowing why, yet sometimes seeming to divine a purpose.
From the standpoint of daily life, however, there is one thing we do know that man is here for the sake of other men." -Albert Einstein
Official Video - Alabama's Angels Among Us

On Thursday, October 10, 2019 at 10:51 AM, Christina Adkins <CAdkins@sos.texas.gov> wrote:

> Laura,
>
> Thanks for the questions. We are in the process of updating our Electronic Voting Systems Procedures Advisory where we will be addressing the ballot numbering issue. We are taking the information provided in the attached email and expanding upon that a bit to provide more details. I was hoping to send you the advisory, but we still trying to finalize a few details. When that advisory is issued, I will forward you a copy of it.
>
> With respect to your questions about results tapes, I would like to provide some clarification. First, under Texas law, results tapes must not be printed at the end of early voting. There is nothing in Texas law requiring such printing. In fact, printing tally tapes at the end of early voting could be a criminal act under Section 61.007 as it would be "revealing the number of votes that have been received for or against a candidate or measure before the polls close." As you know, the polls close at 7 pm on election day. Additionally, early voting ballots are never counted by the election workers working the polling places during early voting.
>
> OAG opinion KP - 0118 addresses this very question. It states in part:

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> Because section 87.062 authorizes only the early voting ballot board to open the early voting ballot boxes, it is inconsistent with the election-day procedure in section 65.001, requiring the ballots to be counted at each individual polling place. Section 65.001 is therefore not applicable to early voting, and the early voting ballot board, rather than the election judge at each polling location, counts the ballots and prepares the returns. *Id.* § 81.002 (providing that provisions of other titles do not apply to title 7 if they are inconsistent with title 7).

With respect to election day procedures, the provisions you cited are referencing precinct returns. A results tape is not a precinct return. The results tape (also known as a tally tape) is the equivalent of a tally sheet in an election with hand counted ballots. In a hand count situation, the tally sheet is used to prepare a precinct return. As you know, the precinct return is signed by the presiding judge (65.014) and serves as the unofficial returns for that precinct. In an election using an electronic voting system (DRE or precinct scanner) that has NOT established a central counting station, the results tape (tally tape) would be printed at the polling location. This would then be used to create a **separate** precinct return by the presiding judge. If there is a central counting station, the results tape (tally tape) would still be printed at the polling place, and the tape—along with the electronic media and ballots, if applicable—would be delivered to the central counting station, where the presiding judge of the central counting station would prepare the precinct returns (127.131).

I think you meant to cite 66.022(2), 66.023(2), 66.025(3), all of which reference "tally list" since that's the equivalent of a results tape. Results tapes must be printed and distributed in accordance with these provisions. Section 6 of Advisory 2018-34 – Electronic Voting Systems Procedures Advisory also describes these statutory requirements.

Please let me know if you have any additional questions or concerns.

Christina Worrell Adkins

Legal Director – Elections Division

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[Description: Description: Description: cid:image003.png@01CD0CC3.8B5434C0]

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The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Laura Pressley [redacted]
Sent: Tuesday, August 20, 2019 2:00 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Questions about November Elections - Numbering and Tapes

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Dear Christina,

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Specifically, how are the counties being advised with regard to complying with Texas Election Code 52.062? Along the lines of ballot numbering, how are counties being advised with regard to procedures to adhere to Texas Election Code Sections 51.006 and 51.008(b)?

Also, with regard to printing of complete results tapes also known as precinct returns when the polls close for Election Day and Early Voting, how will we adhere to Texas Elections Code Sections 66.022(1), 66.023(1) and 66.024(1)?

Thanks,
Laura Pressley

AMERICAN OVERSIGHT

From: Keith Ingram
Sent: Monday, June 7, 2021 6:27 PM
To: Christina Adkins; Kathy Haigler
Subject: Re: results tape for vote centers

Countywide counties generally print a summary tape. The Hart exception was for the legacy estates that were hard coded to run the complete tape. Only three counties have this exception. Ector, McLennan and Jefferson.

Smaller counties can still physically run the full tape. It would be up to the local election official whether to run a summary or the full tape.

From: Kathy Haigler [redacted]
Sent: Monday, June 7, 2021 5:47 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Keith Ingram <KIngram@sos.texas.gov>
Subject: results tape for vote centers

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I am preparing to speak to Commissioners Court tomorrow morning about having vote centers in Caldwell County. When I mentioned to our new E.A., Kimber Daniel, that the zero & results tapes will take longer to print out because it's every race for every precinct, she told me that it would be a summary of all the precincts by race.

I am confused, because I thought that a results tape would have the whole ballot for every precinct.

I saw that Election Advisory 2019-23 has an exception for Hart e-slates in vote centers, but we use the ES&S Express Vote.

Please advise: For Caldwell County, using ES&S Express vote, if we had vote centers on Election Day, would our zero tapes in the morning and/or our results tapes in the evening be a summary of votes for all the precincts (only showing 1 ballot), or would the tapes show the results of individual precincts by race (showing 31 ballots)?

Thank you!

Blessings!
Kathy Haigler
<°)))><
Home # (512) 243-9899

AMERICAN OVERSIGHT

From: Kathy Haigler <[redacted]
Sent: Monday, June 7, 2021 5:47 PM
To: Christina Adkins; Keith Ingram
Subject: results tape for vote centers

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I am preparing to speak to Commissioners Court tomorrow morning about having vote centers in Caldwell County. When I mentioned to our new E.A., Kimber Daniel, that the zero & results tapes will take longer to print out because it's every race for every precinct, she told me that it would be a summary of all the precincts by race.

I am confused, because I thought that a results tape would have the whole ballot for every precinct.

I saw that Election Advisory 2019-23 has an exception for Hart e-slates in vote centers, but we use the ES&S Express Vote.

Please advise: For Caldwell County, using ES&S Express vote, if we had vote centers on Election Day, would our zero tapes in the morning and/or our results tapes in the evening be a summary of votes for all the precincts (only showing 1 ballot), or would the tapes show the results of individual precincts by race (showing 31 ballots)?

Thank you!

Blessings!
Kathy Haigler
<°)))><
Home # (512) 243-9899

AMERICAN OVERSIGHT

From: True Texas Elections SPAC <tte-spac@use.startmail.com>
Sent: Monday, August 29, 2022 3:32 PM
To: Keith Ingram; Christina Adkins
Cc: Secretary; Joe Esparza; Kim Bergmann; GeneralCounsel; Adam Bitter; Lesley.French@oag.texas.gov; Brent.Webster@oag.texas.gov; bob.hall@senate.texas.gov; Bryan.Hughes@senate.texas.gov; donna.campbell@senate.texas.gov; brian.birdwell@senate.texas.gov; Judith.Zaffirini@Senate.Texas.gov; Paul.Bettencourt@Senate.Texas.Gov; Lois.Kolkhorst@Senate.Texas.Gov; Eddie.Lucio@Senate.Texas.gov; Charles.Schwertner@Senate.Texas.gov; Drew.Tedford@Senate.Texas.Gov; cac@oag.state.tx.us
Subject: Time Sensitive - Correct Interpretation of Specific Election Laws Intended to Detect Fraud
Attachments: Nov 2022 Issues to Tex. Sec. of State_2_with Attachment A.pdf

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Dear Mr. Ingram and Mrs. Adkins,

Please see the attached letter related to requests by True Texas Elections SPAC for the Texas Secretary of State Election Division's to correctly interpret and communicate specific election standards, practices, and procedures mandated by law to detect election fraud.

Transparency of our elections is paramount. It is our expectation, and no doubt the expectation of Texas voters and candidates, that all election laws and election advisories are interpreted correctly and communicated uniformly to election officials, consistent with the laws of Texas.

Thank you for your attention to these issues. We are requesting a written response within five business days.

Regards,
Laura Pressley, Ph.D.

True Texas Elections SPAC
Laura Pressley, Ph.D., Treasurer

AMERICAN OVERSIGHT

August 29, 2022

Dr. Laura Pressley, Ph.D.
Treasurer, True Texas Elections Specific-Purpose Political Action Committee
101 Oak Street, #248
Copperas Cove, TX 76522

Texas Secretary of State Elections Legal Division
Mr. Keith Ingram, Director of Elections
Mrs. Christina Adkins, Legal Director
1019 Brazos St.
Austin, TX

Regarding: Maintaining uniformity in application and interpretation of Texas Election Code

Dear Mr. Ingram and Mrs. Adkins,

For the upcoming November 2022 elections, as the appointing authority for True Texas Elections PAC, I am requesting that specific election standards, practices, and procedures mandated by law or rule to detect fraud be uniformly interpreted by your office. In addition, I am requesting clarifications on conflicting directives relating to and based on the Texas Election Code and laws outside the Code related to watchers' rights and duties for the November 2022 election.

Please consider this a formal request pursuant to Tex. Elec. Code 31.004 for your office to provide accurate advice and clear directives on specific election code sections for the November 2022 elections that will subsequently impact True Texas Elections' appointed watchers and their rights and duties at the locations they will be serving around the state.

1. Ballot Numbering

Currently because of Texas Secretary of State Election Advisory 2019-23 Section 13, election officials are operating under your interpretation that hybrid and ballot on demand voting systems from ES&S and Hart InterCivic that use paper ballots at the polls have the *option* to have consecutively numbered ballots. That is an incorrect interpretation of the Texas Election Code (TEC) and needs to be corrected. No *option* for consecutive numbering of ballots is provided under the Election Code – consecutive numbering of ballots is *mandatory*.

We request that you ensure election authorities have accurate interpretations of the following provisions related to mandatory consecutive ballot numbering requirements:

- Texas Constitution Article 6 Section 4 – Legislature shall provided for numbering of ballots.
- TEC § 52.062 – Ballots shall be numbered *consecutively* starting at "1."
- TEC §§ 51.006, 51.007, 51.008 – Election officials must distribute and deliver election supplies that document the *range of ballot serial numbers* distributed to election judges at polls.
- TEC §§ 62.007, 62.009 – Election officials at the polls must examine for properly numbered ballots and disarrange ballots for voters' selection.

Your office's accurate interpretation of the laws above related to consecutive ballot numbering will ensure our election watchers will not be obstructed from inspecting pre-numbered ballots

AMERICAN OVERSIGHT

TX-SOS-24-0322-C-000937

with consecutive numbering and other records at the polls related to these documents and official election records.

2. Printing Early Voting Results Tapes at Central Counting Station

Because of the Texas Secretary of Election Advisory 2019-23 Section 6(5)b lacks detailed directives for securely printing early voting results tapes at the central counting station, election authorities are inconsistently tabulating/printing and in some cases refusing to tabulate/print unofficial results for early voting.

We request that the Texas Secretary of State's Election Division provide election authorities with comprehensive written details and directives for tabulation of unofficial early voting results, the early voting results tapes:

- TEC § 68.011 – Secretary of State shall prescribe procedures for the implementation of tabulation of unofficial results (such as early voting results tapes).
- Texas Election Advisory 2019-23 Section 6(5)b lacks comprehensive written directives for the secure tabulation and printing of unofficial results for early voting at the central counting station, the early voting results tapes.

There are no uniform and comprehensive directives for when and how early voting results tapes shall be printed securely at the central counting station. By providing written instructions to county officials, your office will ensure these early voting results tapes records are printed securely and uniformly around the state so that our election watchers will not be obstructed from inspecting these records at the central counting station.

3. Watchers Rights to Inspect Records and Take Notes

Recent election training by the Texas Secretary of State on August 1, 2022[1], instructed county officials to significantly limit watchers' access to documents, limit the time they would have inspecting those documents, and limit their ability to take written notes while on duty at central counting station and other locations the watchers are serving.

We request that you ensure the Texas Secretary of State's Election Division provides accurate interpretation of these Election Code Sections:

- TEC §33.056(c) – Watchers are entitled to inspect returns and records "prepared" by election officers at the location they are serving. This statute does not specify *time limits* for watchers to view records at the location they are serving. The Sec. of State has incorrectly advised counties on two issues related to this statute.
    - At the August 1, training, the Secretary incorrectly advised officials that the watcher must be present when the record is generated by the official at the location or they cannot inspect it (see page 22 of Attachment A). This is a change from decades of practice for which watchers at early voting locations and central counting stations have been permitted to view zero tapes, ballot registers, seal number documents, signature combination forms, results tapes, etc. even if those records were prepared at the locations prior to the watchers' arrival. This is very important because early voting polls and the central counting station operate over days and prior to election day.
    - The Secretary of State incorrectly advises that watchers are to submit open records requests for records that were prepared prior to the watcher beginning their service at a location (see page 22 of Attachment A)Again, this goes against years of precedence and is not consistent with the Election Code.

[1] Attachment A, Texas Secretary of State Poll Watcher Training provided on August 1, 2022 to county officials, pp. 1,19, 22 and 33 related to limiting watchers abilities to review documents and take notes.

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000938

- TEC §33.056(d) – Election officers may not prohibit watchers from taking written notes while on duty. This statute provides no constraints on *how* watchers take written notes or how long they can inspect the records while they are serving.
    - On August 1, the Sec. of State incorrectly advised election officials that watchers may not be permitted to input their notes onto written pre-prepared spreadsheets (see page 33 of Attachment A).
    - Also, on August 1, the Sec. of State erroneously advised election officials that watchers are only entitled to a "facial review" of documents prepared at the location they are serving (see page 33 of Attachment A). There is no statute limiting the time watchers are entitled to inspect records while they are serving at a location, nor is "facial review" a defined or established term, either in the Election Code, the Administrative Code, or in any Secretary of State advisories.

Because of the confusion the Secretary's August training caused officials and appointing authorities and watchers, we need specific directives from your office to county officials that watchers are entitled to a) have ample time to inspect records at the location they are serving, b) take written notes (utilizing any reasonable method preferred by the watcher) related to zero and results tapes printed at the location they are serving, and c) inspect prior records prepared by election officials at the location they are serving. Written comprehensive directives on these specific subjects will ensure transparency and protect election officials and ensure watchers will not be obstructed from inspecting records and taking notes.

In conclusion, transparency and integrity of our elections in Texas is paramount. It is our expectation, and no doubt the expectation of Texas voters and candidates, that all election laws and election advisories are interpreted and communicated uniformly to election officials, consistent with the laws of Texas.

Thank you for your attention to these issues. We are requesting a written response within five business days.

Regards,

Dr. Laura Pressley, Ph.D.
Treasurer and Appointing Authority for Watchers, True Texas Elections SPAC

Cc:
Texas Secretary of State, John B. Scott
Texas Deputy Secretary of State, Jose A. Esparza
Texas Secretary of State, General Counsel, Adam Bitter
Texas Attorney General Ken Paxton
Texas Attorney General Chief of Staff, Leslie French
Texas Attorney General, First Assistant, Brent Webster
Texas State Senators Bryan Hughes
Texas State Senator Bob Hall
Texas State Senator Donna Campbell
Texas State Senator Brian Birdwell
Texas State Senator Judith Zaffirini
Texas State Senator Paul Bettencourt
Texas State Senator Lois Kolkhorst
Texas State Senator Eddie Lucio
Texas State Senator Charles Schwertner

AMERICAN OVERSIGHT



Poll Watchers

Texas Secretary of State – Elections Division

AMERICAN OVERSIGHT

RECOMMENDATIONS

AMERICAN OVERSIGHT

TX-SOS-24-0322-C-00094

Public Information

- Most election records are public information.
  - Exception: The Roster of Voters with Defective Carrier Envelopes is not eligible for public inspection **until after** the voter has returned the corrected carrier envelope, canceled their mail ballot, or appeared in person to correct any necessary defects.
- Make sure you print time-stamped reports from your tabulation devices on election night.
- Be proactive in sharing documents!
  - Watchers are allowed to inspect the returns and other records prepared by election officials at the time central count is convened.
    - If a record has been generated during a previous meeting of the CCS, the watcher does not have the authority to stop the current CCS and ask for older records.
    - If a watcher wants to inspect older records, they are permitted to do so under the Public Information Act.
      - The watcher should present the information request in writing.

AMERICAN OVERSIGHT

TX-SOS-24-0322-C-000942-PS

Inspecting vs. Auditing

- While poll watchers have the authority to inspect certain documents, there are differences between inspecting and auditing.
- Inspecting: Observing the election and writing reports. Giving documents a "facial review."
- Auditing: Taking a deeper dive of documents, comparing to code and/or creating spreadsheets **onsite**. May require a public information request.

AMERICAN OVERSIGHT

TX-SOS-24-0322-C-000945

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Monday, March 7, 2022 9:49 AM
To: Deborah Abrego; Elizabeth Hawkins; Tessa Rowland; Erik Buntin; Andre Montgomery; Charles Pinney; Lena Proft; Heidi Martinez; Alexa Buxkemper; Melanie Best; Tamara Schoonmaker; Keith Ingram; David Velez-Perez

Poll watchers are showing up across the state to various CCSs and demanding to inspect early voting results tapes.

AMERICAN OVERSIGHT

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Monday, March 7, 2022 9:47 AM
To: Deborah Abrego; Elizabeth Hawkins; Tessa Rowland; Erik Buntin; Andre Montgomery; Charles Pinney; Lena Proft; Heidi Martinez; Alexa Buxkemper; Melanie Best; Tamara Schoonmaker; Keith Ingram; David Velez-Perez

The question of the day that I keep getting is poll watcher access to early voting results tapes.

AMERICAN OVERSIGHT

From: Sheila Carmon [redacted] >
Sent: Tuesday, September 27, 2022 1:42 PM
To: [redacted]
Cc: [redacted]; Christina Adkins

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Hello Jacque,

First of all, I'd like to thank you for allowing us to tour each of the departments at the elections office. The staff was very accommodating and answered a lot of questions for us.

In preparation for the upcoming election, I would like to clarify the process for printing of EV results tapes.

Can you please let me know
a) when (day and time) will you print the early voting results tapes at the central counting station according to Secretary of State Election Advisory 2019-23 Section 6(5)b? In the past, I've only been provided an in house report from the central count printers, not the actual early voting results tapes from the DS200 as noted in the advisory.

According to the advisory, EV results tapes are not to be run at the voting centers, but are to be run later at Central Count. Here's the excerpt from the above advisory.

Section 6, Item #5:
Closing the Polls on the Last Day of Early Voting:
Verify and document that the numbers on the public counter match the number of voters documented on the early voting by personal appearance roster at the close of polls on the previous day and be sure to:

a. Look for evidence of tampering and document the time this was done
b. **DO NOT PRINT THE RESULTS TAPE** (tape will be printed later at the central counting station); and
c. Lock and secure the voting equipment and other election material from any physical access to prepare for transport.

b) I've been made aware that in several other counties, early voting machines are returned to Election HQ intact so the results tapes can be run on premises

AMERICAN OVERSIGHT

(instead of the USB's being pulled and sent in, with the results tapes not being printed).

I would like to know what procedure will be in place to accommodate the Early Voting results tapes being printed at Central count since they have not been printed in the past .

Thank you for your assistance with this matter,

Sheila Carmon ph 210.884.6379
Republican Party of Bexar County Central Counting Station Alternate Judge

AMERICAN OVERSIGHT

From: [redacted]
Sent: Monday, March 7, 2022 5:57 PM
To: josh.Reno@oag.texas.gov; Lesley.French@oag.texas.gov; Brent.Webster@oag.texas.gov
Cc: Adam Bitter; Christina Adkins; Bryan.Hughes@senate.texas.gov; Donna Campbell; Courtney.Holt@senate.texas.gov; bob.hall@senate.texas.gov; Jane.Nelson@Senate.Texas.gov; Dave Nelson; Paul.Bettencourt@Senate.Texas.Gov; Mike.Schofield@house.texas.gov; Valoree Swanson; Jacey Jetton; [redacted]; Drew Tedford
Subject: Urgent - Class A Misdemeanors - Obstruction of Election Watchers - Denton, Jefferson, Tarrant, Galveston, Guadalupe, Hays

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Dear Mr. Reno, Mr. Webster, and Ms. French,

Please see below for issues related to inconsistent interpretations of Tex. Elec. Advisory 2019-23 Section 6(5)b, the printing of early voting results tapes at the central counting station. Election watchers from Denton, Jefferson, Tarrant, Galveston, Guadalupe, and Hays counties report officials are refusing to print the tapes at the central counting station, which in effect prevents watchers from being able to inspect the printed tapes (TEC 33.056(c) and (d)).

Some county officials are refusing to print the early voting results tapes because the Sec. of State is interpreting Tex. Elec. Advisory 2019-23 Section 6(5)b as a "*best practice recommendation*." Nothing in the advisory states it is a "*best practice*." See TEC 68.011 and 122.001(c) which prescribes the Secretary promulgate procedures pursuant to the election code.

We believe this "*best practice*" misinformation from the Secretary, in effect, gives the counties an excuse to not print the tapes, which prevents the watchers from inspecting the tapes at the central counting station (TEC 33.056(c) and (d)). God bless Harris, Travis, Williamson and other counties that have printed the tapes.

Please note, central counting stations will complete their duties before the canvass on Thursday. They are down to the last few days. **We'd like you to look into this before a multitude of Class A misdemeanor watcher obstruction complaints (TEC 33.061) may be filed against county election officials and the Sec. of State.** Thank you.

Regards,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
512-762-3825

AMERICAN OVERSIGHT

"Give diligence to make your calling and election sure: for if ye do these things, ye shall never fall"
- 2Peter 1:10

--- Original message ---
Subject: Inconsistent Interpretation of Election Advisory 2019-23 - Early Voting Results Tapes Printing
From: [redacted]
Date: Monday, March 7, 2022 4:07 PM
To: Christina Adkins <CAdkins@sos.texas.gov>, ABitter@Sos.Texas.Gov, generalcounsel@sos.texas.gov
Cc: Bryan.Hughes@senate.texas.gov, bob.hall@senate.Texas.gov, "Sen. Jane Nelson" <jane.nelson@senate.texas.gov>, Dave Nelson <Dave.Nelson@senate.texas.gov>, Drew.Tedford@Senate.Texas.Gov, Andrew.Murr@House.Texas.Gov, Valoree Swanson <Valoree.Swanson@house.texas.gov>, Jacey Jetton <Jacey.Jetton@house.texas.gov>, Donna Campbell <donna.campbell@senate.texas.gov>, TexasSD11@gmail.com

Dear Christina and Adam,

We have received additional reports that Texas Secretary of State's office is providing inconsistent legal advice to counties that Tex. Elec. Advisory 2019-23 Section 6(5)b, related to printing of early voting results tapes at the central counting station, ***"is only a best practice suggestion."***

Advisory 2019-23 actually states its purpose: "The purpose of this advisory is to provide an explanation of various voting systems provisions in the Texas Election Code and Texas Administrative Code and ***to prescribe additional procedures*** for voting systems in accordance with Section 122.001(c) of the Texas Election Code."

Please help our counties by ensuring consistent interpretations that the advisory's purpose is ***to prescribe additional procedures***. It says nothing about best practices.

We need your office to not suspend, waive or change the procedures you have prescribed in Advisory 2019-23.
Adding Senator Campbell.

Regards,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
512-762-3825
"Give diligence to make your calling and election sure: for if ye do these things, ye shall never fall"
- 2Peter 1:10

AMERICAN OVERSIGHT

Subject: Inconsistent Interpretation of Early Voting Results Tapes Printing at Central Counting Stations in Texas
From: [redacted]
Date: Monday, March 7, 2022 2:46 PM
To: Christina Adkins <CAdkins@sos.texas.gov>, ABitter@Sos.Texas.Gov, generalcounsel@sos.texas.gov
Cc: Bryan.Hughes@senate.texas.gov, bob.hall@senate.Texas.gov, "Sen. Jane Nelson" <jane.nelson@senate.texas.gov>, Dave Nelson <Dave.Nelson@senate.texas.gov>, Drew.Tedford@Senate.Texas.Gov, Andrew.Murr@House.Texas.Gov, <Valoree.Swanson@house.texas.gov>, <Jacey.Jetton@house.texas.gov>

Dear Christina and Adam,

Hope you are both doing well. We have received reports from election watchers that Election Advisory 2019-23 is not being interpreted consistently by your office, county to county.

It appears that Tex. Elec. Code 68.011 mandates that the Texas Sec. of State shall prescribe procedures for the tabulation of unofficial election results, for which early voting results tapes are one example of unofficial results. Therefore, it also appears that Elec. Advisory 2019-23 Section 6(5)b related to printing of early voting results tapes is mandatory pursuant to the Section 68.011 and seems to be required to be completed at the central counting station. Tex. Elec. Code 276.019 states no election official can waive mandatory provisions.

Watchers in Dallas, Denton, Jefferson County, Tarrant, Galveston, and Hays counties need help in this regard. The election officials in those counties have refused to print the early voting results tapes at the central counting station.

Can you please contact the presiding judges and election administrators in those counties, in writing, and inform them to consistently comply with 2019-23 Section 6(5)b at central count?

Regards,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
512-762-3825
"Give diligence to make your calling and election sure: for if ye do these things, ye shall never fall"
- 2Peter 1:10

AMERICAN OVERSIGHT

From: GeneralCounsel
Sent: Monday, December 4, 2023 10:43 AM
To: 'Debbie Lindstrom'
Cc: GeneralCounsel
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708
Attachments: OR2023-40492 - courtesy copy.pdf

Good morning,

Please find attached a courtesy copy of OR2023-40492 regarding this request for information under Chapter 552 of the Texas Government Code. The Office of the Attorney General has determined that we may, or must, withhold certain information responsive to this request pursuant to the Public Information Act.

As stated below, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on December 11, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, November 20, 2023 12:00 PM
To: 'Debbie Lindstrom' <[redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

As a follow up to our October 23rd email, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on December 11, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, October 23, 2023 8:47 AM
To: 'Debbie Lindstrom' <[redacted]>

AMERICAN OVERSIGHT

Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

As a follow up to our September 25 email, please see the attached zipped folder containing documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal and non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on November 20, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, September 25, 2023 3:37 PM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

Please see the attached letters, and zipped folder containing documents, in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal and non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

As stated in the attached letter, we require more time to continue reviewing our records and produce additional responsive information. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on October 23, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: GeneralCounsel <Generalcounsel@sos.texas.gov>
Sent: Monday, September 18, 2023 10:16 AM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Thursday, September 14, 2023 3:51 PM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

Please find the "Packing Slip" receipt attached for your payment. We are continuing to process your request in accordance with Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, September 1, 2023 1:22 PM
To: 'Debbie Lindstrom' <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Ms. Lindstrom,

Thank you for speaking with me today. This email acknowledges that I received your payment information today via phone and we will continue processing your request in accordance with Chapter 552 of the Texas Government Code.

As I mentioned, I will email you a copy of the payment receipt within the next few business days.

AMERICAN OVERSIGHT

Sincerely,

Adam Bitter

Adam Bitter
General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom <[redacted]
Sent: Thursday, August 31, 2023 9:03 AM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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I am available today until 3 PM for payment information on this Public Information request.

My number is 469-387-5560

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

AMERICAN OVERSIGHT

From: Debbie Lindstrom [redacted]>
Sent: 29 August 2023 05:23
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

I am open all day today. Please call at your convenience.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 25 August 2023 16:32
To: Debbie Lindstrom [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Ms. Lindstrom,

This email acknowledges receipt of your acceptance of the estimated costs for your request under the Public Information Act. Someone from our Office will call you early next week for payment information. If you have a preference for the time of the call, please let us know.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: GeneralCounsel <Generalcounsel@sos.texas.gov>
Sent: Friday, August 25, 2023 8:56 AM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning, Ms. Lindstrom,

I can call at whatever time is convenient for you today until 4:30 p.m.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom <[redacted]>
Sent: Thursday, August 24, 2023 2:51 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Good afternoon,

Thank you for your response. I accept the charge of $322.20 and prefer to pay by card over the phone.

1. I prefer email for correspondence and for the itemized statement. My email is [redacted]
2. I will accept the estimated charges of $322.20
3. Here is my phone number for someone from your office to get credit card information: 469-387-5560. I am requesting an electronic invoice for the charges.

Please let me know what time you will be calling so that I can be available to give you the credit card information or if you need anything further from me on this request.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

AMERICAN OVERSIGHT

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 14 August 2023 11:28
To: Debbie Lindstrom [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom [redacted]>
Sent: Friday, July 28, 2023 7:35 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Cc: Elections Internet <Elections@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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Mr. Bitter and Ms. Williams,

Here is my response for clarification for PIR 23-0708 (attached).

AMERICAN OVERSIGHT

1. With respect to Item 1, the specific date range is 2016-current.
2. I am seeking both categories of information.
3. I am seeking both final versions and draft versions.
4. I am seeking both.
5. I am seeking both categories of communications.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 24 July 2023 09:59
To: Debbie Lindstrom <[redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

You don't often get email from generalcounsel@sos.texas.gov. Learn why this is important

Good morning,

Please see the attached letter in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: Debbie Lindstrom [redacted]
Sent: Monday, July 10, 2023 10:55 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Public Information Request: Early Voting Results

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

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Please consider this email an open records request pursuant to Chapter 552 of the Texas Government Code.

1. I am requesting all documents related to the secretary preparing detailed and comprehensive written directives and instructions related to and based on Texas Election Code 31.003 and the Election Laws outside the code for printing of Early Voting Results Tapes
2. I am requesting all documents related to the secretary's procedures necessary to implement the tabulation of unofficial results such as early voting results tapes.

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

External Message - Please be cautious when opening links or attachments in this email

External Message - Please be cautious when opening links or attachments in this email

External Message - Please be cautious when opening links or attachments in this email

AMERICAN OVERSIGHT

KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 29, 2023

Mr. Adam Bitter
General Counsel
Office of the Secretary of State
P.O. Box 12887
Austin, Texas 78711-2887

OR2023-040492

Dear Mr. Bitter:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 23-094329 (SOS PIR# 23-0708).

The Office of the Texas Secretary of State (the "secretary's office") received a request for certain information pertaining to early voting result tapes during a defined time period.[1] You state the secretary's office will release some information. You state you will redact e-mail addresses of members of the public under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009). You claim some of the submitted information is excepted from disclosure under sections 552.107, 552.111, and 552.139 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.[2]

---

[1] The secretary's office provides documentation showing it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). Additionally, you state the secretary's office sent the requestor a cost estimate of charges pursuant to section 552.2615 of the Government Code, and the requestor accepted the cost estimate. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You also inform us the secretary's office received the required payment on September 18, 2023. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date governmental body receives bond or deposit).

[2] We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

AMERICAN OVERSIGHT
TX-SOS-24-0322-C-000960

You state some of the responsive information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2023-039551 (2023). In that ruling, we determined that the secretary's office may withhold certain information under section 552.107 of the Government Code and must release the remaining information. We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, the secretary's office may continue to rely on Open Records Letter No. 2023-039551 as a previous determination and withhold or release the identical responsive information in accordance with that ruling.[3] *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. *See* Gov't Code § 552.107(1). When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. Open Records Decision No. 676 at 6-7 (2002). First, a governmental body must demonstrate that the information constitutes or documents a communication. *Id.* at 7. Second, the communication must have been made "to facilitate the rendition of professional legal services" to the client governmental body. TEX. R. EVID. 503(b)(1). The privilege does not apply when an attorney or representative is involved in some capacity other than that of providing or facilitating professional legal services to the client governmental body. *In re Tex. Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.—Texarkana 1999, orig. proceeding) (attorney-client privilege does not apply if attorney acting in a capacity other than that of attorney). Governmental attorneys often act in capacities other than that of professional legal counsel, such as administrators, investigators, or managers. Thus, the mere fact that a communication involves an attorney for the government does not demonstrate this element. Third, the privilege applies only to communications between or among clients, client representatives, lawyers, and lawyer representatives. TEX. R. EVID. 503(b)(1). Thus, a governmental body must inform this office of the identities and capacities of the individuals to whom each communication at issue has been made. Lastly, the attorney-client privilege applies only to a *confidential* communication, *id.*, meaning it was "not intended to be disclosed to third persons other than those: (A) to whom disclosure is made to further the rendition of professional legal services to the client; or (B) reasonably necessary to transmit the communication." *Id.* 503(a)(5). Whether a communication meets this definition depends on the *intent* of the parties involved at the time the information was communicated. *Osborne v. Johnson*, 954 S.W.2d 180, 184 (Tex. App.—Waco 1997, orig. proceeding). Moreover, because the client may elect to waive the privilege at any time, a governmental body must explain that the confidentiality of a communication has been maintained. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege unless otherwise waived by the governmental body. *See Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (privilege extends to entire communication, including facts contained therein).

[3] As we are able to make this determination, we need not address your arguments against disclosure of this information.

AMERICAN OVERSIGHT

You assert portions of the submitted information consist of communications between attorneys for the secretary's office and secretary's office employees and officials that were made for the purpose of providing legal services to the secretary's office. You state the communications were intended to be, and have remained, confidential. Based on your representations and our review, we find you have demonstrated the applicability of the attorney-client privilege to the information at issue. Accordingly, the secretary's office may withhold the information you marked under section 552.107(1) of the Government Code.[4]

Section 552.111 of the Government Code excepts from disclosure "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency[.]" Gov't Code § 552.111. This exception encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, writ ref'd n.r.e.); Open Records Decision No. 538 at 1-2 (1990).

In Open Records Decision No. 615, this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. *See* ORD 615 at 5. A governmental body's policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; *see also City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body's policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body's policy mission. *See* Open Records Decision No. 631 at 3 (1995). Further, section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152 (Tex. App.—Austin 2001, no pet.); *see* ORD 615 at 5. But if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information also may be withheld under section 552.111. *See* Open Records Decision No. 313 at 3 (1982).

You seek to withhold some of the remaining information under section 552.111 of the Government Code. You state the information you marked consists of advice, opinions, and recommendations of secretary's office employees and officials regarding policymaking matters. Based on your representations and our review of the information at issue, we find the secretary's office has demonstrated the information at issue consists of advice, opinions, or recommendations on the policymaking matters of the secretary's office. Thus, the

[4] As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

AMERICAN OVERSIGHT

secretary's office may withhold the information you marked under section 552.111 of the Government Code.

Section 552.139 of the Government Code provides, in relevant part:

> (a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.
>
> (b) The following information is confidential:
>
> > (1) a computer network vulnerability report;
> >
> > (2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use; [and]
> >
> > . . .
> >
> > (4) information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log.

Gov't Code § 552.139(a), (b)(1)-(2), (4). Section 2059.055 of the Government Code provides, in pertinent part:

> (b) Network security information is confidential under this section if the information is:
>
> > (1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a governmental entity;
> >
> > (2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or
> >
> > (3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

AMERICAN OVERSIGHT

Id. § 2059.055(b). You state the information at issue consists of training materials provided to county election officials to access and input data into a statewide voter registration system. You further state the information at issue contains screenshots, navigational links, codes, layout files, and other sensitive details related to the operation of the system at issue. You also state the system at issue contains sensitive personal information of registered voters. Upon review, we find the information at issue relates to computer network security or the design, operation, or defense of a computer network. Accordingly, the secretary's office must withhold the information you marked under section 552.139 of the Government Code.

In summary, the secretary's office may continue to rely on Open Records Letter No. 2023-039551 as a previous determination and withhold or release the identical responsive information in accordance with that ruling. The secretary's office may withhold the information you marked under section 552.107(1) of the Government Code. The secretary's office may withhold the information you marked under section 552.111 of the Government Code. The secretary's office must withhold the information you marked under section 552.139 of the Government Code. The secretary's office must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Pearlie Gault
Assistant Attorney General
Open Records Division

PG/mo

Ref: ID# 23-094329

Enc. Submitted documents

c: Requestor
(w/o enclosures)

AMERICAN OVERSIGHT

From: GeneralCounsel
Sent: Monday, November 20, 2023 12:00 PM
To: 'Debbie Lindstrom'
Cc: GeneralCounsel
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

As a follow up to our October 23rd email, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on December 11, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, October 23, 2023 8:47 AM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

As a follow up to our September 25 email, please see the attached zipped folder containing documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal and non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on November 20, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, September 25, 2023 3:37 PM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

Please see the attached letters, and zipped folder containing documents, in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal and non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

As stated in the attached letter, we require more time to continue reviewing our records and produce additional responsive information. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on October 23, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, September 18, 2023 10:16 AM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Thursday, September 14, 2023 3:51 PM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

AMERICAN OVERSIGHT

Good afternoon,

Please find the "Packing Slip" receipt attached for your payment. We are continuing to process your request in accordance with Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, September 1, 2023 1:22 PM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Ms. Lindstrom,

Thank you for speaking with me today. This email acknowledges that I received your payment information today via phone and we will continue processing your request in accordance with Chapter 552 of the Texas Government Code.

As I mentioned, I will email you a copy of the payment receipt within the next few business days.

Sincerely,

Adam Bitter

Adam Bitter
General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom [redacted]
Sent: Thursday, August 31, 2023 9:03 AM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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I am available today until 3 PM for payment information on this Public Information request.

AMERICAN OVERSIGHT

My number is 469-387-5560

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]



From: Debbie Lindstrom [redacted]>
Sent: 29 August 2023 05:23
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

I am open all day today. Please call at your convenience.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]



AMERICAN OVERSIGHT

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 25 August 2023 16:32
To: Debbie Lindstrom [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Ms. Lindstrom,

This email acknowledges receipt of your acceptance of the estimated costs for your request under the Public Information Act. Someone from our Office will call you early next week for payment information. If you have a preference for the time of the call, please let us know.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, August 25, 2023 8:56 AM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning, Ms. Lindstrom,

I can call at whatever time is convenient for you today until 4:30 p.m.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom [redacted]>
Sent: Thursday, August 24, 2023 2:51 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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AMERICAN OVERSIGHT

Good afternoon,

Thank you for your response. I accept the charge of $322.20 and prefer to pay by card over the phone.

1. I prefer email for correspondence and for the itemized statement. My email is [redacted]
2. I will accept the estimated charges of $322.20
3. Here is my phone number for someone from your office to get credit card information: 469-387-5560. I am requesting an electronic invoice for the charges.

Please let me know what time you will be calling so that I can be available to give you the credit card information or if you need anything further from me on this request.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 14 August 2023 11:28
To: Debbie Lindstrom <[redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

AMERICAN OVERSIGHT

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom [redacted]
Sent: Friday, July 28, 2023 7:35 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Cc: Elections Internet <Elections@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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Mr. Bitter and Ms. Williams,

Here is my response for clarification for PIR 23-0708 (attached).

1. With respect to Item 1, the specific date range is 2016-current.
2. I am seeking both categories of information.
3. I am seeking both final versions and draft versions.
4. I am seeking both.
5. I am seeking both categories of communications.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

AMERICAN OVERSIGHT

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 24 July 2023 09:59
To: Debbie Lindstrom <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

You don't often get email from generalcounsel@sos.texas.gov. Learn why this is important

Good morning,

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Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom <[redacted]>
Sent: Monday, July 10, 2023 10:55 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Public Information Request: Early Voting Results

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Please consider this email an open records request pursuant to Chapter 552 of the Texas Government Code.

1. I am requesting all documents related to the secretary preparing detailed and comprehensive written directives and instructions related to and based on Texas Election Code 31.003 and the Election Laws outside the code for printing of Early Voting Results Tapes
2. I am requesting all documents related to the secretary's procedures necessary to implement the tabulation of unofficial results such as early voting results tapes.

DEBBIE LINDSTROM

Election Division Lead

AMERICAN OVERSIGHT

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

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AMERICAN OVERSIGHT

From: GeneralCounsel
Sent: Tuesday, March 26, 2024 9:38 AM
To: 'Debbie Lindstrom'
Cc: GeneralCounsel
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708
Attachments: 3.26.24 Documents.zip

Good morning,

As a follow up to our March 5 email, please see the attached zipped folder containing additional documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal or non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on April 23, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Tuesday, March 5, 2024 2:53 PM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

As a follow up to our February 6 email, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on March 26, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Tuesday, February 6, 2024 2:22 PM
To: 'Debbie Lindstrom' <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

As a follow up to our January 9 email, please see the attached zipped folder containing additional documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal or non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

The responsive information also includes certain computer information, such as file names, network file locations and addresses, usernames, passwords, and other computer programming information, that is not subject to the Public Information Act because it "has no other significance than its use as a tool for the maintenance, manipulation, or protection of public property." Open Records Decision No. 581 at 7 (1990); *accord* OR2023-07522 at 2-3 (file names, links, usernames, web addresses, and passwords); OR2022-35050 at 2 (network file locations); OR2022-32589 at 2 (usernames, passwords, and other programming information). Accordingly, this information has been redacted from the attached production.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on March 5, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Tuesday, January 9, 2024 9:13 AM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

As a follow up to our December 11 email, please see the attached zipped folder containing additional documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal or non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

AMERICAN OVERSIGHT

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on February 6, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, December 11, 2023 11:56 AM
To: 'Debbie Lindstrom' <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

As a follow up to our December 4 email, please see the attached zipped folder containing additional documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain email addresses of the general public. An email address of a member of the public is confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold an email address of a member of the public without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

The responsive information also includes certain computer information, such as file names, network file locations and addresses, usernames, passwords, and other computer programming information, that is not subject to the Public Information Act because it "has no other significance than its use as a tool for the maintenance, manipulation, or protection of public property." Open Records Decision No. 581 at 7 (1990); *accord* OR2023-07522 at 2-3 (file names, links, usernames, web addresses, and passwords); OR2022-35050 at 2 (network file locations); OR2022-32589 at 2 (usernames, passwords, and other programming information). Accordingly, this information has been redacted from the attached production.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on January 9, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, December 4, 2023 10:43 AM
To: 'Debbie Lindstrom' [redacted]>

AMERICAN OVERSIGHT

Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please find attached a courtesy copy of OR2023-40492 regarding this request for information under Chapter 552 of the Texas Government Code. The Office of the Attorney General has determined that we may, or must, withhold certain information responsive to this request pursuant to the Public Information Act.

As stated below, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on December 11, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, November 20, 2023 12:00 PM
To: 'Debbie Lindstrom' <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

As a follow up to our October 23rd email, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on December 11, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, October 23, 2023 8:47 AM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

As a follow up to our September 25 email, please see the attached zipped folder containing documents in response to your request for information under Chapter 552 of the Texas Government Code.

AMERICAN OVERSIGHT

The responsive documents contain personal and non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on November 20, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, September 25, 2023 3:37 PM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

Please see the attached letters, and zipped folder containing documents, in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal and non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

As stated in the attached letter, we require more time to continue reviewing our records and produce additional responsive information. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on October 23, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, September 18, 2023 10:16 AM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

AMERICAN OVERSIGHT

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Thursday, September 14, 2023 3:51 PM
To: 'Debbie Lindstrom' <[redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

Please find the "Packing Slip" receipt attached for your payment. We are continuing to process your request in accordance with Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, September 1, 2023 1:22 PM
To: 'Debbie Lindstrom' <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Ms. Lindstrom,

Thank you for speaking with me today. This email acknowledges that I received your payment information today via phone and we will continue processing your request in accordance with Chapter 552 of the Texas Government Code.

As I mentioned, I will email you a copy of the payment receipt within the next few business days.

Sincerely,

Adam Bitter

Adam Bitter
General Counsel
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: Debbie Lindstrom <[redacted]>
Sent: Thursday, August 31, 2023 9:03 AM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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I am available today until 3 PM for payment information on this Public Information request.

My number is 469-387-5560

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

From: Debbie Lindstrom [redacted]>
Sent: 29 August 2023 05:23
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

I am open all day today. Please call at your convenience.

Thank you,

AMERICAN OVERSIGHT

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 25 August 2023 16:32
To: Debbie Lindstrom <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Ms. Lindstrom,

This email acknowledges receipt of your acceptance of the estimated costs for your request under the Public Information Act. Someone from our Office will call you early next week for payment information. If you have a preference for the time of the call, please let us know.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, August 25, 2023 8:56 AM
To: 'Debbie Lindstrom' <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning, Ms. Lindstrom,

I can call at whatever time is convenient for you today until 4:30 p.m.

AMERICAN OVERSIGHT

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom <[redacted]
Sent: Thursday, August 24, 2023 2:51 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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Good afternoon,

Thank you for your response. I accept the charge of $322.20 and prefer to pay by card over the phone.

1. I prefer email for correspondence and for the itemized statement. My email is [redacted]
2. I will accept the estimated charges of $322.20
3. Here is my phone number for someone from your office to get credit card information: 469-387-5560. I am requesting an electronic invoice for the charges.

Please let me know what time you will be calling so that I can be available to give you the credit card information or if you need anything further from me on this request.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

AMERICAN OVERSIGHT

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 14 August 2023 11:28
To: Debbie Lindstrom <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom <[redacted]>
Sent: Friday, July 28, 2023 7:35 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Cc: Elections Internet <Elections@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Mr. Bitter and Ms. Williams,

Here is my response for clarification for PIR 23-0708 (attached).

1. With respect to Item 1, the specific date range is 2016-current.
2. I am seeking both categories of information.
3. I am seeking both final versions and draft versions.
4. I am seeking both.
5. I am seeking both categories of communications.

Thank you,

DEBBIE LINDSTROM

AMERICAN OVERSIGHT

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 24 July 2023 09:59
To: Debbie Lindstrom <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

You don't often get email from generalcounsel@sos.texas.gov. Learn why this is important

Good morning,

Please see the attached letter in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom <[redacted]>
Sent: Monday, July 10, 2023 10:55 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Public Information Request: Early Voting Results

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

AMERICAN OVERSIGHT

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Please consider this email an open records request pursuant to Chapter 552 of the Texas Government Code.

1. I am requesting all documents related to the secretary preparing detailed and comprehensive written directives and instructions related to and based on Texas Election Code 31.003 and the Election Laws outside the code for printing of Early Voting Results Tapes
2. I am requesting all documents related to the secretary's procedures necessary to implement the tabulation of unofficial results such as early voting results tapes.

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

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AMERICAN OVERSIGHT

From: Christina Adkins
Sent: Tuesday, February 22, 2022 3:32 PM
To: Bastrop - Kristin Miles; Cameron - Remi Garza; Bexar - Jacque Callanen; Brazos - Trudy Hancock; Brazoria - Joyce Hudman; Brazoria - Lisa Mujica; Collin - Bruce Sherbet; Denton - Frank Phillips; 'Hays - Jennifer Anderson (elections@co.hays.tx.us)'; Hidalgo - Yvonne Ramon; Houston - Cynthia Lum; Lubbock - Roxzine Stinson; Tarrant - Heider Garcia; Travis - Bridgette Escobedo; Williamson - Christopher Davis; Potter - Melynn Huntley; Midland - Carolyn Graves; Chambers - Heather Hawthorne; 'Harris - Neeharika Tumati (neeharika.tumati@cao.hctx.net)'; Harris - Beth Stevens; Harris - Isabel Longoria; Dallas - Michael J. Scarpello
Cc: [redacted]'; [redacted]'; Keith Ingram; Adam Bitter; Kristi Hart
Subject: CEO Advisory Group - Updated Reconciliation Form
Attachments: 0222 Draft Eday reconciliation.pdf; Canvass Reconciliation.docx; Election Day Reconciliation.docx

Dear Advisory Group members,

Thanks for everyone's feedback during our last meeting --- and during the many calls I've had with some of you after the meeting! I've attached the new revised draft reconciliation form. It was very difficult to incorporate all the edits as some of you were asking about making changes that were the complete opposite of what others asked for. We did the best we could to incorporate as much as possible.

If you have time tomorrow to talk, I'm setting up a call for tomorrow morning. I know you are all very busy, but if you have time to discuss the form, I would love to go over it with you all one more time. If you aren't able to join the call and wouldn't mind sending me your comments via email, we'd appreciate the feedback! These are my outstanding questions for you that I would like to discuss before we finalize.

1. **Total Number of In-Person Votes**: Rather than breaking this category down by early voting/election day, we combined the category based on suggestions to simplify the form. What are the consequences/advantages to keeping as a single category or breaking down into more categories?

2. **Box 4 (Comparison of Voters and Counted ballots):** Some of you very much liked this box because it would show the percentage which is going to be very, very low. Others did not like this box as they thought it would emphasize the difference more so than just the raw numbers in the columns above. What are the consequences/advantages to keeping this box on the election day form?

CEO Advisory Group	Wednesday, February 23, 2022	9:00 AM	https://texassos.webex.com/texassos/onstage[redacted]	[redacted]	408-418-9388	[redacted]

Additionally, I've attached some additional forms that Chambers county created. They did a great job with these forms! They break things down into more categories and the group sentiment was a bit mixed on this issue. I did want to provide them to you to take a look at in case this is more the direction in which you think we need to be moving.

I look forward to your comments/suggestions! Thanks for all your help with this. I know you all are very busy and we very much appreciate you all taking the time to look over these forms for us.

Thank you,

AMERICAN OVERSIGHT

Christina

From: Christina Adkins
Sent: Friday, February 11, 2022 8:14 PM
Subject: CEO Advisory Group - Reconciliation Form

Dear Advisory Group Members,

As a reminder, we have a meeting this Wednesday at 9:00 a.m. In addition to our standard early voting check-in we would like provide a preview of the reconciliation form the SOS was required to prescribe under Section 127.131(f). I've attached our draft forms and the instructions to go along with those forms. If you have time, I'm hoping you can take a look prior to our call.

Our new RLA trainer, Erik Buntin, worked on the development of this form. Our other trainers (also former county folks) also contributed to this and I believe their experience and knowledge made this a well thought out document. We are also planning on doing a webinar to explain and demo the form after it's released. The training team is also working on some broader instructions and guidance to help with reconciliation on a daily/weekly basis throughout the election process. This more in depth guidance will be released at a late date.

Let me know if you have any additional questions or concerns about this process. I know we have a lot of overwhelmed election folks with all the new laws the state and counties are implementing. I know that many of you are working overtime not just to help your county, but to help your fellow election officials navigate these changes. Thank for you leadership in the election world.

As you prepare for the first day of early voting, please know that Keith, Kristi and I are just a phone call away. Please don't hesitate to call us if you need us over the weekend.

Thanks,

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov

AMERICAN OVERSIGHT

For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

CEO Advisory Group					
Date	**Time**	**Link**	**Password**	**Audio Conf #**	**Access Code**
Feb 2	9: 00 AM	https://texassos.webex.com/texassos/onstage/	[redacted]	408-418-9388	[redacted]
Feb 16	9:00 AM	https://texassos.webex.com/texassos/onstage		408-418-9388	
March 9	9: 00 AM	https://texassos.webex.com/texassos/onstage/		408-418-9388	
March 23	9: 00 AM	https://texassos.webex.com/texassos/onstage/		408-418-9388	
April 6	9: 00 AM	https://texassos.webex.com/texassos/onstage/		408-418-9388	
April 20	9: 00 AM	https://texassos.webex.com/texassos/onstage/		408-418-9388	
May 4	9: 00 AM	https://texassos.webex.com/texassos/onstage/		408-418-9388	
May 18	9: 00 AM	https://texassos.webex.com/texassos/onstage/		408-418-9388	

AMERICAN OVERSIGHT

DRAFT Preliminary Election Reconciliation - Unofficial Totals

Disclaimer: These numbers are subject to change as information is verified after election day

County _____ Election Name _____

Registered Voters _____ Election Date _____

1. Voters (from election rosters)	
A. In person voters	
B. By mail voters	
C. Total voters (A+B)	

2. Ballots not counted (pending voter action, pending review, or rejected)	
D. In person ballots not counted	
E. By mail ballots not counted	
F. Total ballots not counted (D+E)	

3. Counted ballots (from tabulation software)	
G. In person ballots counted	
H. By mail ballots counted	
I. Total ballots counted (G+H)	

4. Comparison of voters and counted ballots

J. Difference between voters and ballots (C-F-I) _____

K. Difference as percentage of voters (J÷(C-F)*100) _____ %

L. Notes:

5. Attestation

M. "I certify that the information contained in this preliminary election reconciliation document accurately reflects the unofficial votes and voters as known to me on election night. The information may change based on provisional votes, mail ballots, and additional reconciliation efforts by election personnel."

Presiding judge signature _____ Print name _____ Date _____

6. Ballots that could be added to the final count

Disclaimer: These numbers typically change as information is verified after election day

N. Mail ballots		**O.** Estimated Provisional ballot check-ins	

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COUNTY		DATE OF ELECTION	
TYPE OF ELECTION		REGISTERED VOTERS	

DRAFT Election Reconciliation Form-Official Canvass

1. VOTER CHECK IN (from election rosters and lists)	
A. Early Voting In Person Check-Ins	
B. Election Day In Person Check-Ins	
C. Mail Ballots Received	
D. Limited Ballot Voters (Early Voting Only)	
E. Provisional Voters	
F. Total Voter Check In (a+b+c+d+e)	

2 REJECTED MAIL IN BALLOTS AND PROVISIONAL BALLOTS	
G. Mail Ballots Rejected by EVBB	
H. Provisional Ballots Rejected by EVBB	
I Total Rejected Mail In and Provisional Ballots (g+h)	

3. COUNTED BALLOTS (from tabulation software)	
J. Early Voting ballots counted (in person)	
K. Election Day ballots counted (in person)	
L. Mail Ballots Counted	
M. Limited Ballots Counted	
N. Provisional Ballots Counted	
O. Total Ballots Counted (j+k+l+m+n)	

Attestation

"I hereby certify that this information is true and correct".

_____

Central Counting Presiding Judge Signature

_____ _____

Print Name Date

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COUNTY		DATE OF ELECTION	
TYPE OF ELECTION		REGISTERED VOTERS	

DRAFT Election Reconciliation Form-Election Day

1. VOTER CHECK IN (from election rosters and lists)			
A. Early Voting In Person Check-Ins			
B. Election Day In Person Check-Ins			
C. Mail Ballot Roster	c1. Received	c2. Sent	c3.Not Received c2-(c1+p)
D. Limited Ballot Voters (Early Voting Only)			
E. Provisional Voters			
F. Total Voter Check In (a+b+c.1 +d+e)			

2 REJECTED MAIL IN BALLOTS AND PROVISIONAL BALLOTS	
G. Mail Ballots Rejected by EVBB	
H. Provisional Ballots Rejected by EVBB	
I Total Rejected Mail In and Provisional Ballots (g+h)	

3. UNOFFICIAL RESULTS (from tabulation software)	
J. Early Voting ballots counted (in person)	
K. Election Day ballots counted (in person)	
L. Mail Ballots Counted	
M. Limited Ballots Counted	
N. Provisional Ballots Counted	
O. Total Ballots Counted (j+k+l+m+n)	

4. BALLOTS THAT COULD BE ADDED TO THE FINAL CANVASS	
P. Late Mail Ballots Received pending review	
Q. Provisional Ballots pending review	
R. Total Ballots that could be added (p+q)	

Attestation

"I hereby certify that this information is true and correct".

_____

Central Counting Presiding Judge Signature

_____ _____

Print Name Date

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From:	Kristen Bickham
To:	Christina Adkins
Cc:	Wes Bowen; Susan Fountain; jonathan.white@oag.texas.gov
Subject:	Concerns from Dallas County Central Counting activity on Tuesday, 4/27/21
Date:	Friday, April 30, 2021 11:52:02 AM
Attachments:	5-1-2021 - Joint Election - Texas Law Requiring Sequential Numbering of Ballots.pdf 5-1-2021 - Request for Records .pdf 5-1-2021 - Central Count Convening Schedule.pdf 5-1-2021 - Sample Pages of Audit Election Events Report.pdf

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Hello Christina,

I'm writing to bring to your attention issues about Central Counting and this Joint Election generally, in an attempt to correct some of these while tabulations are ongoing. I've also included Jonathan White of the Election Fraud Division of the Attorney General's office as certain aspects of this email pertain to certification of election systems pursuant to 122.0331(d) and Section 122.035 regarding the examination and certification of voting systems used in the State of Texas, in which the Attorney General's office actively participates.

1. **Lack of sequentially numbered ballots:** The ballots for Dallas County in this Joint Election were not sequentially numbered, which I presume is due to a waiver issued by the Secretary of State to Dallas County Elections Department. Certain constitutional provisions and statutes pertaining to numbering are attached. Because the ballots are not sequentially numbered and are distributed blank to the polling locations, in my estimation, the election essentially can't be audited and its outcome proven to be true and correct. In addition to the lack of sequential numbering, the Elections Department did not distribute the Epson printers to the polling locations, which eliminates two key paper audit trail items: 1) the "receipt" that's printed out and evidences a given voter checked in to vote and 2) the daily print out of voters who were checked in at a given e-pollbook station, where that list helps build the audit-ability of the election. Since the voters' names are hand-written in by the clerks into their paper sign in sheets, these lists would be very easy to falsify since the voter is no longer asked to sign

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their signature on paper when they appear to vote. In sum, the audit-ability of this election has been severely compromised, if not destroyed, by the waiver that appears to have been granted to Dallas County. A candidate could not trust recount results because it would be pretty easy to insert false ballots with randomly generated serial numbers into the recount, such that the recount results are easily manipulated (through the falsification of ballots with randomly generated serial numbers) and made to match the declared, yet false, results. Is a waiver from the SoS allowing for the distribution of blank ballots to polling locations the "new normal" for Dallas County elections?

2. **Likely violation of Section 87.101, delivery of EV USB drives to the Early Vote Ballot Board:** Section 87.101 calls for the EV USBs to be delivered to the Early Voting Ballot Board. From our conversation the other day regarding Tarrant County, it appears Tarrant County is delivering its EV USBs to the EVBB in accordance with Section 87.101. Then, Tarrant County is locking up those USBs until they are downloaded into the Central Accumulator either on Election Day or the day before Election Day. However, Dallas County is delivering its USBs straight to the Central Accumulator for download and bypassing the EVBB altogether. My question to you is: why is Tarrant County seeming to adhere to 87.101 and Dallas County is not? Is the SoS giving different guidance to two different counties such that their procedures are inconsistent? Has Dallas County been granted an SoS waiver of Section 87.101? Now, because of the apparent disregard of Section 87.101 Tuesday evening, the digital ballots of Early Voting are in digital form on the Central Accumulator and "in play" and potentially at risk for manipulation, because of Tuesday's download. It seems to me that the EV USBs should have been put under lock and key Tuesday evening by the Ballot Board and NOT put into a Central Accumulator whose network security is not known. In other words, the processes of Tarrant County and Dallas County should match, pursuant to Section 87.101, but they do not. Why is that?

3. **Potential violation of Section 129.053:** Under this section, it appears that the Central Counting Station should be keeping a log of everyone that logs into the Central Accumulator. Tuesday night, the operator of the Central Accumulator logged in with the user name "admin." I did not see anyone from the Elections Department documenting/witnessing the fact that this individual logged into the Central Accumulator, pursuant to Section 129.053. Additionally, I requested to see the Section 129.053 log under the "other records" provision of Section 33.056(c) of the Code (my written request is attached here to this email) and the

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personnel of the Central Counting Station either could not or would not produce this log yesterday evening. So, this begs the question… Who is keeping track of who is logging into the Central Accumulator? If "admin" is the user name, anyone could be performing activity on the Central Accumulator and there would be no way to know who, actually, was performing the activity. This is a huge security risk to the Central Accumulator and the EV votes that are currently on it and the Election Day votes that are soon to be on it.

4. **Potential violation of Administrative Rule 81.62:** While waiting to gain entry into Central Counting, I asked the Elections Administrator for a true and correct Audit Log consistent with Texas Administrative Rule 81.62. I said that for a system to be certified in the State of Texas, it has to be able to produce a true and correct Log consistent with Rule 81.62. He countered my statement and said that, if the system in Dallas County is certified by the SoS, then the Log we are provided is a true and correct Log. However, what I was provided as a watcher Tuesday evening was an Election Audit Events Report, which is a far cry from a real Audit Log. Since the Attorney General is part of the team that certifies systems, pursuant to 122.035, Mr. White should be aware that system certification standards appear to be flouted and that watchers appear to NOT be provided with true and correct Logs. Simply put, either the software running on Dallas County's Central Accumulator is certified and can provide a true and correct Audit Log, or the Central Accumulator is running un-certified software. To sell to Dallas County a voting system that is not certified is potentially a violation of Section 122.031(c), which has criminal penalties provided by the Texas Legislature. So, my request is: please instruct Dallas County Central Counting personnel to give us true and correct Audit Logs for all three intervals at which Logs are to be provided for this Joint Election. The Log we received Tuesday evening is in my estimation, a false log, as it does not meet the criteria detailed in Rule 81.62. Here is the certification history of the ES&S voting system that Dallas County uses: https://www.sos.state.tx.us/elections/laws/ess_system.shtml. I have also attached four sample pages of the Election Audit Events Report, so you both can evaluate for yourselves if/whether this document meets the criteria set forth in Rule 81.62. Generally speaking, we don't know who is making the decision to provide watchers with Election Audit Events Reports, and not true and correct Logs. I am simply asking that this action be corrected.

5. **Another potential violation of Administrative Rule 81.62:** At the end of the Early Voting download Tuesday evening, I asked for an Audit Log to be provided

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to me since Early Voting had been tabulated. I was told that final tabulation of Early Voting would be on Saturday, May 1, 2021, and that is when the Log would have to be provided to us, pursuant to Rule 81.62(h)(2). However, the spirit of Rule 81.62 is to provide watchers with Logs as a type of proof that the votes on the Central Accumulator have not been tampered with. The Rule, as I understand it, was amended in 2017 because the real-time Audit Log printers were no longer being used. The provision of Logs at the three specified intervals was meant to be a type of protection against fraud/manipulation occurring on the Central Accumulator, in the absence of a real-time log being printed. So now, at this point in tabulations, we have the above-mentioned potential violation of 87.101, and the digital ballots are downloaded, but not deemed to be "tabulated." Therefore because the EV results were downloaded but not "tabulated," we were not provided a true and correct Audit Log, or an Election Audit Events Report, Tuesday evening, in potential violation of Rule 81.62(h)(2). The protection that the Rule is supposed to give appears to have been flouted, based on the definitions of "downloaded" vs. "tabulated." This begs the question: who or what is protecting the digital ballots on the Central Accumulator right now? Data in real-time logs can be easily changed by operators of a given server/computer. How could we possibly validate if/whether any changes have been made after EV USBs were downloaded. Answer: We cannot. The Central Accumulator, containing Dallas County's downloaded Early Voting results, is ripe for manipulation. There is no true and correct paper record documenting the activity that occurred Tuesday night, where that record cannot be manipulated because we should have it, on paper, and in our possession. If someone logged in again as "admin," we could not know who actually logged into the system as the log required under Section 129.053 does not appear to be kept. Also, we have no idea where the Central Accumulator is networked to, within the Elections Building. A watcher made a written request Tuesday evening to see the Central Accumulator's network connections, pursuant to Section 33.056(c), but his request was ignored.

6. **Watchers not allowed to check cell phones in Public Viewing area:** Tuesday night, we watchers were told that we were not allowed to check our phones/messages in the Public Viewing area that is adjacent to Central Counting. In this area, we have historically taken breaks, eaten food, and checked our phones in accordance with Section 33.052. On Election Day, there will be media in this Public Viewing area who will be on their phones. Will they also be told that they cannot use their phones? There is a notice on the door that appears to be

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misleading, as though the Public Viewing room is a recount area and therefore cell phone use is prohibited. Tuesday night, the Public Viewing Room was NOT being used as a recount area so I don't see why there would be any prohibition of watchers using cell phones while on a break. We are asking you to work with the Central Counting Station personnel to cause them to lift this prohibition when any of we watchers are next at Central Counting. I'm not sure what they would be trying to hide by preventing us from communicating on our phones during breaks.

7. **Posting of a guard:** Section 127.1232 calls for the posting of a guard to guard the voted ballots in Central Counting: Tuesday night, there was a Sheriff Deputy that was escorting the drives into Central Counting from the drop-off point outside, but as we left Central Counting, I'm not sure that a guard was posted to guard the voted ballots on the Central Accumulator. Dallas County Central Counting is, in my estimation, a very low security environment, from a physical security and network security points of view. It is essential that a guard be posted to protect the digital voted ballots, especially in light of the above potential violations of the Election Code and Administrative Code.

8. **Potential for future obstruction of watchers & potential violation of 33.056(c):** Tuesday night we watchers had a discussion with certain election officers about watchers writing down the serial numbers on the USB drives. Under "other records," watchers ought to be able to write these numbers down, especially in light of all of the above potential violations of the Texas Constitution, Election Code and Administrative Code in this Joint Election. The essence of the conversation was, that we would be permitted to write the serial numbers down for the tabulating of Early Voting, but would not be permitted to write them down on Election Day, when hundreds of USB drives will arrive at Central Counting. Under Section 33.061 and 33.056(c) of the Election Code, this is a potential obstruction of a watcher to not let us gather/observe this information. With this email, I am asking for the Central Counting Station personnel to facilitate we watchers writing down the serial numbers of the Early Voting USB drives (as we did not write them down Tuesday night and are now in a safe in Central Counting) and also the Election Day USB drives. I believe it is a right that we be able to observe the serial numbers, not a privilege extended by election officers to watchers, where we can see serial numbers on slower evenings, but can't see them on busy evenings, as determined in their sole discretion. To be fair to the election officers, they did agree to let us write down the Early Voting serial numbers Tuesday evening, but it did not seem to be good timing to attempt

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to do so and we focused on writing down the # of ballots on each USB drive. On the night of Election Day, I'd like to propose that after the drives are downloaded, that 1-2 watchers focus on writing down the serial numbers of the USB drives, and that it be done at a table or location that is several feet away from the Central Accumulator so as to not impede the Tabulation Supervisor Assistants' progress during the evening. I would propose the Alternate Judge supervise this activity of the watchers. Can you work with the Central Counting Station personnel to see if this can be a workable solution?

9. **Potential obstruction of watchers (Section 33.061) to observe preparations to count the vote, Section 33.055:** On the evening of 4/27/21, we watchers were waiting in the Public Viewing Room and one of the election officers appeared to be instructing the Central Counting team prior to Central Counting "opening" at 7:00 PM. Please see attached notice detailing when the Central Counting Station is deemed to be "open." The Election Code specifies that watchers may be present to observe preparations to process election results, per Section 33.055. If an election officer is instructing Central Count personnel to prepare them to process election results, we should have been immediately allowed in the room upon our arrival on Tuesday evening. Would you please instruct the Central Counting personnel that watchers ought to be present when preparations to process election results are being made? 90% or more of the votes in our elections are digitally tabulated and sit on the Central Accumulator, in a state of preparing to be processed, for six full days (in potential violation of Texas Administrative Code Rule 81.36(n)). This means that, at all times, watchers ought to be permitted in Central Counting during all six days of tabulations, which occur despite the apparent prohibition of more than two days tabulations as specified in Texas Administrative Rule 81.36(n). Watchers should be in there even if the purpose is merely to sit and watch who logs in and out of the Central Accumulator using "admin" as their login to the system.

10. **Oaths:** Because we were not permitted to be in Central Counting during the preparations to process election results Tuesday evening, we don't know if/whether the Central Counting Station personnel were put under oath pursuant to Section 127.0015 (or the appropriate oath for a Joint Election), including the Presiding and Alternate Judges who have never previously worked Central Counting. So, this begs the question, did we have non-sworn personnel tabulating our votes Tuesday evening? If they are not under oath, can you please cause them to be put under oath? We watchers will need to see and observe

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written documentation of their oaths under the "other records" provision in Section 33.056(c).

11. **Manske Library red anti-static baggy in Cockerell Hill pouch:** Once again, we observed a red anti-static baggy containing an EV USB drive arriving in the wrong pouch. An anti-static baggy labeled "Manske Library" arrived in Central Counting in the pouch from the Cockerell Hill polling location. We brought this to the attention of the election officer in charge of Central Counting, after one of the tabulation assistants brought it to our attention. I don't know how serious/not serious this occurrence might be, but as you may recall in March 2020, the UP Methodist USB drive arrived in the El Centro West anti-static baggy and vice versa, clear evidence of likely tampering with the USB drives in the March 2020 primary election, which was never investigated, let alone prosecuted. Did we observe a mistake or did we observe potential evidence of fraud on Tuesday evening? Who is going to investigate this to ensure that it was a mistake, and not evidence of more tampering with Dallas County's EV USB drives? For example, the judges from Cockerell Hill and Manske Library should be interviewed to document their own observations about the anti-static pouches they were provided. If they were not aware of this occurrence at the time they closed their polling locations, then further investigation is likely warranted to see where in the process the Manske baggy was inserted into the Cockerell Hill materials. I observed during my watching that the Early Voting judges were NOT provided with any forms for documenting the Chain of Custody of Early Voting USB drives, a potential violation of Section 129.051(b). Without Chain of Custody documentation of the EV USB drives, the voters' votes are again put at risk of dilution, similar to March 2020's EV USB drives.

In summary, we have many potential violations of the Texas Constitution, Texas Election Code and Texas Administrative Code in yet another Dallas County election. If you take all of these potential violations together, we have strong potential for fraud and dilution of legitimate voters' votes because it appears that certain major fraud prevention provisions of Texas election law have been disregarded in the administration of this election.

I do not have confidence that the declared results of this election can be trusted as a voter and as a watcher.

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The candidates deserve to have elections that are conducted in accordance with the full body of Texas state law. Before they become candidates, is the Elections Department making disclosures to the candidates about what laws they intend to follow for a given election, and what laws they intend to waive? No, the candidates become candidates thinking they will receive legally-conducted elections. It is inequitable, at best, that candidates and voters are not protected from potential wrongdoing, at polling locations OR the Central Accumulator, by the apparent inconsistent adherence to, and apparent lack of application of, the full body of Texas election law.

What can you both do to address the above items during this tabulation cycle and future elections?

I have cc'ed Susan Fountain (Dallas GOP precinct chair, SREC committeewoman for SD16 and Central Counting watcher) and Wes Bowen (Ballot Integrity Chair of the Dallas GOP, past Central Count Presiding and Alternate Judge and Central Counting watcher), who were also present for Tuesday evening's tabulations.

Thank you both for your attention to this email and any support you can provide to us in achieving lawfully-conducted elections in Dallas County,

Sincerely,

Kristen Bickham
Central Counting Station Watcher

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Mandatory Texas Law Requiring Sequential Numbering of Ballots

Only the Texas Legislature can change law:

Texas Bill of Rights, Sec. 28. SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the Legislature.

The Texas Constitution says in Article 6, Section 4 that ballots shall be numbered:

Sec. 4. ELECTIONS BY BALLOT; PURITY OF ELECTIONS; REGISTRATION OF VOTERS. In all elections by the people, the vote shall be by ballot, and **the Legislature shall provide for the numbering of tickets** and make such other regulations as may be necessary to **detect and punish fraud and preserve the purity of the ballot box**; and the Legislature shall provide by law for the registration of all voters.

The Texas Election Code in Section 52.062 says ballots shall be numbered sequentially:

Sec. 52.062. NUMBERING OF BALLOTS. The ballots prepared by each authority responsible for having the official ballot prepared **shall be numbered consecutively beginning with the number "1."**

Chapter 51 of the Texas Election Code is very specific regarding the ballots having a range of serial numbers, and includes a criminal penalty if the supplies (ie, ballots) are not distributed according to the Election Code:

Sec. 51.006. PREPARING BALLOTS FOR DISTRIBUTION. The authority responsible for distributing election supplies **shall** package and seal each set of ballots before their distribution and shall mark the package with the number of ballots enclosed and **the range of the ballot serial numbers.** If the authority is the early voting clerk, the ballots allocated for early voting need not be packaged and sealed.

Sec. 51.007. RECORD OF BALLOT DISTRIBUTION. (a) As soon as practicable after the ballots are packaged for distribution, the authority responsible for distributing election supplies **shall prepare a record of the number of ballots and the range of serial numbers on the ballots to be distributed to each presiding judge and the early voting clerk.**
(b) The authority shall preserve the record for the period for preserving the precinct election records.

Sec. 51.008. SUPPLEMENTING DISTRIBUTED BALLOTS. (a) The authority responsible for distributing election supplies **shall** retain a reserve of ballots to supplement the distributed ballots and on election day may reallocate previously distributed ballots among the polling places.
(b) The authority **shall** enter on the record of ballot distribution the number of ballots reserved and the number of ballots distributed from the reserve to each polling place. **The range of serial numbers on the ballots shall be included in the record.**
(c) If distributed ballots are reallocated, the authority **shall** indicate the reallocation on the record of ballot distribution and shall issue a receipt to each presiding election judge showing the number of ballots and **the range of serial numbers on the ballots** taken from the judge's polling place for redistribution. **Each presiding judge shall indicate on the ballot register any reallocation of ballots affecting that polling place.**
(d) The authority **shall** retain the undistributed reserve for the period for preserving the precinct election records.

Sec. 51.010. FAILURE TO DISTRIBUTE OR DELIVER SUPPLIES. (a) A person commits an offense if the person is responsible for distributing election supplies for an election and intentionally fails to distribute any of the supplies by the deadline prescribed by Section 51.004(b).
(b) A person commits an offense if the person is entrusted with the delivery of election supplies for use at polling places and intentionally fails to deliver any of the supplies within the time specified by the person who entrusted the delivery to the person.
(c) An offense under this section is a Class C misdemeanor.

Chapter 122.001 of the Texas Election Code explicitly state that election systems in this state MUST generate records that create an audit trail of a given election:

Sec. 122.001. VOTING SYSTEM STANDARDS.
(a) A voting system may not be used in an election unless the system:
(10) is capable of providing records from which the operation of the voting system may be audited.

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NOTICE OF CONVENING OF THE CENTRAL COUNT STATION

Notice is hereby given to the registered voters of Dallas County, that the Central Count Station will convene for the purpose of receiving, counting, and tabulating Early Voting Mail Ballots, Early Voting In-Person Ballots and Election Day Ballots at the following times:

Date	**Time**
Tuesday, April 27, 2021	7:00pm until completion
Thursday April 29, 2021	9am to 5:00pm
Friday, April 30, 2021	9am to 5:00pm
Saturday, May 1, 2021	9am - until finished
Friday, May 7, 2021	9am to 5:00pm or until finished *(if necessary)*

Signature of the Early Voting Clerk

4/21/21

Date

AVISO DE CONVOCATORIA DE LA ESTACIÓN DE CUENTA CENTRAL

Por este medio se da aviso a los votantes registrados del Condado de Dallas, que la Estación Central se reunirá con el propósito de recibir, contar y tabular las Boletas por correo de votación adelantada, las Boletas en persona para la votación adelantada y las Boletas electorales en los siguientes horarios:

Fecha	***Hora***
Martes, 27 de abril de 2021	7:00 pm – *terminación*
Jueves, 29 de abril de 2021	9am - 5:00pm
Viernes 30 de abril de 2021	9am - 5:00pm
Sabado 1 de mayo de 2021	9am- *terminación*
Viernes 7 de mayo de 2021	9am - *hasta su finalización (si es necesario)*

Firma del Secretario de Votación Adelantada

Fecha

AMERICAN OVERSIGHT

May 1, 2021 – Joint Election

Date: 4/27/21

RE: Request for "other records" pursuant to Chapter 33.056(c)

Dear Presiding Judge Bertram Vandenberg at Dallas County Central Counting Station

Chapter 33.056 of the Texas Election Code states (*emphasis added*):

> Sec. 33.056. OBSERVING ACTIVITY GENERALLY. (a) Except as provided by Section 33.057, a watcher is entitled to observe any activity conducted at the location at which the watcher is serving. A watcher is entitled to sit or stand conveniently near the election officers conducting the observed activity.
> (b) A watcher is entitled to sit or stand near enough to the member of a counting team who is announcing the votes to verify that the ballots are read correctly or to a member who is tallying the votes to verify that they are tallied correctly.
> (c) ***A watcher is entitled to inspect the returns and other records prepared by the election officers at the location at which the watcher is serving.***
> (d) A watcher may not be prohibited from making written notes while on duty. Before permitting a watcher who made written notes at a precinct polling place to leave while the polls are open, the presiding officer may require the watcher to leave the notes with another person on duty at the polling place, selected by the watcher, for retention until the watcher returns to duty.

I respectfully request the following:

1. To examine any document (email, text, etc.) that gave guidance to the Elections Department to NOT sequentially number the ballots for the Joint Election, including communications from the Secretary of State's Elections Division, or District Attorney's office.
2. To see what version of software is running on the Central Accumulator.
3. To receive three Audit Logs, preferably on CD: one before Early Vote is downloaded, one after Early Vote is downloaded, and one after Election Day votes are tabulated, pursuant to Texas Administrative Rule 81.62.
4. To view all Early Voting election returns as reports are generated.
5. To view all Election Day returns as reports are generated.
6. To view the log that is required to be created under Section 129.053 of the Texas Election Code.

Respectfully,

Kristen J. Beckham
Signature
Poll Watcher

Kristen J. Bickham
Printed Name

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Election Audit Events Report

04/27/2021 07:54PM

Dallas County
2021 Joint Election
May 1, 2021

Event	Description	Timestamp	User Id	Module
Info	Running report: Election Audit Events Report	04/27/2021 07:58:02PM	admin	Setup
Info	Load Results activated by admin on WORKSTATION-11.	04/27/2021 07:57:11PM	admin	Reporting
Info	Loading of results has been stopped.	04/27/2021 07:57:08PM	admin	Reporting
Info	Finished looking for Results in Q:\	04/27/2021 07:57:08PM	admin	Reporting
Info	Load Results tab was closed. System will complete any results currently loading, then stop.	04/27/2021 07:57:08PM	admin	Reporting
Info	Stop Load selected.	04/27/2021 07:57:08PM	admin	Reporting
Info	Updated Election Results	04/27/2021 07:57:02PM	admin	Reporting
Info	Election Summary was saved successfully.	04/27/2021 07:57:02PM	admin	Reporting
Warning	User Response: Yes	04/27/2021 07:57:02PM	admin	Reporting
Warning	There are pending changes. Do you want to save?	04/27/2021 07:56:59PM	admin	Reporting
Info	Election Summary was printed successfully.	04/27/2021 07:56:29PM	admin	Reporting
Info	Running report: Election Summary	04/27/2021 07:56:16PM	admin	Reporting
Info	Results successfully cleared	04/27/2021 07:55:57PM	admin	Reporting
Warning	User Response: Yes	04/27/2021 07:55:56PM	admin	Reporting
Warning	All Electionware election results will be cleared. You may want to backup the election before proceeding. Do you want to continue?	04/27/2021 07:55:49PM	admin	Reporting
Info	Load Results activated by admin on WORKSTATION-11.	04/27/2021 07:55:37PM	admin	Reporting
Info	Election Summary was printed successfully.	04/27/2021 07:38:49PM	admin	Reporting
Info	Running report: Election Summary	04/27/2021 07:38:28PM	admin	Reporting
Info	Running report: Election Summary	04/27/2021 07:37:54PM	admin	Reporting
Info	Updated Election Results	04/27/2021 07:37:53PM	admin	Reporting
Info	Election Summary was saved successfully.	04/27/2021 07:37:53PM	admin	Reporting

Report generated with Electionware Copyright © 2007-2018

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TX-SOS-24-0322-C-001003

Election Audit Events Report

04/27/2021 07:54PM

Dallas County
2021 Joint Election
May 1, 2021

Event	Description	Timestamp	User Id	Module
Info	Load Results activated by admin on WORKSTATION-11.	04/27/2021 07:35:45PM	admin	Reporting
Info	Election Summary was printed successfully.	04/27/2021 07:33:35PM	admin	Reporting
Info	Running report: Election Summary	04/27/2021 07:33:20PM	admin	Reporting
Info	Election Results activated.	04/27/2021 07:33:08PM	admin	Reporting
Info	Election Results activated.	04/27/2021 07:33:07PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:32:32PM	admin	Reporting
Info	Committing new Batch B0030-EV Mail - 1 ID 35 Number of Ballots 83	04/27/2021 07:32:28PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:32:28PM	admin	Reporting
Info	Committing new Batch B0024-EV Mail - 1 ID 34 Number of Ballots 477	04/27/2021 07:32:20PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:32:19PM	admin	Reporting
Info	Committing new Batch B0027-EV Mail - 1 ID 33 Number of Ballots 226	04/27/2021 07:32:14PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:32:13PM	admin	Reporting
Info	Committing new Batch B0032-EV Mail - 1 ID 32 Number of Ballots 47	04/27/2021 07:32:10PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:32:10PM	admin	Reporting
Info	Committing new Batch B0029-EV Mail - 1 ID 31 Number of Ballots 76	04/27/2021 07:32:05PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:32:05PM	admin	Reporting
Info	Committing new Batch B0025-EV Mail - 1 ID 30 Number of Ballots 503	04/27/2021 07:31:57PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:31:56PM	admin	Reporting
Info	Committing new Batch B0031-EV Mail - 1 ID 29 Number of Ballots 31	04/27/2021 07:31:53PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:31:53PM	admin	Reporting
Info	Committing new Batch B0028-EV Mail - 1 ID 28 Number of Ballots 83	04/27/2021 07:31:49PM	admin	Reporting

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AMERICAN OVERSIGHT

TX-SOS-24-0322-C-001004

Event	Description	Timestamp	User Id	Module
Info	Finished Load of Results E:\	04/27/2021 07:31:49PM	admin	Reporting
Info	Committing new Batch B0026-EV Mail - 1 ID 27 Number of Ballots 351	04/27/2021 07:31:43PM	admin	Reporting
Info	Starting Load of Results E:\	04/27/2021 07:31:37PM	admin	Reporting
Info	Queuing for results processing: E:\	04/27/2021 07:31:37PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:31:24PM	admin	Reporting
Info	Committing new Batch B0046-EV Mail - 1 ID 26 Number of Ballots 200	04/27/2021 07:31:18PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:31:17PM	admin	Reporting
Info	Committing new Batch B0048-EV Mail - 1 ID 25 Number of Ballots 225	04/27/2021 07:31:11PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:31:11PM	admin	Reporting
Info	Committing new Batch B0042-EV Mail - 1 ID 24 Number of Ballots 112	04/27/2021 07:31:05PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:31:05PM	admin	Reporting
Info	Committing new Batch B0045-EV Mail - 1 ID 23 Number of Ballots 199	04/27/2021 07:30:59PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:30:58PM	admin	Reporting
Info	Committing new Batch B0043-EV Mail - 1 ID 22 Number of Ballots 306	04/27/2021 07:30:52PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:30:51PM	admin	Reporting
Info	Committing new Batch B0047-EV Mail - 1 ID 21 Number of Ballots 201	04/27/2021 07:30:45PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:30:44PM	admin	Reporting
Info	Committing new Batch B0044-EV Mail - 1 ID 20 Number of Ballots 580	04/27/2021 07:30:35PM	admin	Reporting
Info	Starting Load of Results E:\	04/27/2021 07:30:30PM	admin	Reporting
Info	Queuing for results processing: E:\	04/27/2021 07:30:30PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:30:15PM	admin	Reporting

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AMERICAN OVERSIGHT

TX-SOS-24-0322-C-001005

Event	Description	Timestamp	User Id	Module
Info	Committing new Batch B0002-EV Mail - 1 ID 19 Number of Ballots 375	04/27/2021 07:30:10PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:30:10PM	admin	Reporting
Info	Committing new Batch B0003-EV Mail - 1 ID 18 Number of Ballots 276	04/27/2021 07:30:06PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:30:06PM	admin	Reporting
Info	Committing new Batch B0001-EV Mail - 1 ID 17 Number of Ballots 306	04/27/2021 07:30:02PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:30:02PM	admin	Reporting
Info	Committing new Batch B0005-EV Mail - 1 ID 16 Number of Ballots 502	04/27/2021 07:29:54PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:29:53PM	admin	Reporting
Info	Committing new Batch B0004-EV Mail - 1 ID 15 Number of Ballots 380	04/27/2021 07:29:48PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:29:48PM	admin	Reporting
Info	Committing new Batch B0006-EV Mail - 1 ID 14 Number of Ballots 2	04/27/2021 07:29:47PM	admin	Reporting
Info	Starting Load of Results E:\	04/27/2021 07:29:42PM	admin	Reporting
Info	Queuing for results processing: E:\	04/27/2021 07:29:42PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:29:23PM	admin	Reporting
Info	Committing new Batch B0007-EV Mail - 1 ID 13 Number of Ballots 349	04/27/2021 07:29:17PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:29:17PM	admin	Reporting
Info	Committing new Batch B0009-EV Mail - 1 ID 12 Number of Ballots 430	04/27/2021 07:29:10PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:29:10PM	admin	Reporting
Info	Committing new Batch B0011-EV Mail - 1 ID 11 Number of Ballots 96	04/27/2021 07:29:07PM	admin	Reporting
Info	Finished Load of Results E:\	04/27/2021 07:29:07PM	admin	Reporting
Info	Committing new Batch B0010-EV Mail - 1 ID 10 Number of Ballots 505	04/27/2021 07:28:59PM	admin	Reporting

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AMERICAN OVERSIGHT

TX-SOS-24-0322-C-001006

From: Heidi Martinez
Sent: Thursday, December 16, 2021 9:59 PM
To: [redacted]
Cc: Elections Internet
Subject: Countywide polling, Hart eSlate & results tape (EI Response)

Thank you for your inquiry.

In order to best assist you, please confirm which county this is in reference to, as this information was not provided below.

Heidi Martinez
Staff Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.state.tx.us/elections

For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Cindy Dishman [redacted]
Sent: Thursday, December 9, 2021 12:56 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Countywide polling, Hart eSlate & results tape

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I am looking for the procedure regarding the printing of the results tape for my county which has a Countywide Polling Place Program and we use the Hart e-slate equipment. I need the procedure for EV and ED.

Thank you,
Cindy Dishman

AMERICAN OVERSIGHT

From: Francis L. Martin <flmartin@chamberstx.gov>
Sent: Thursday, February 17, 2022 1:39 PM
To: Christina Adkins; Chambers - Heather Hawthorne
Subject: Draft Reconciliation Forms
Attachments: Election Day Reconciliation.docx; Canvass Reconciliation.docx

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Hey Christina,
I attached our draft 2.0 Reconciliation Forms above for your review.
Happy Friday-Eve,
Leanne

Leanne Martin
Deputy Clerk
Chambers County Clerk's Office
404 Washington Avenue
P.O. Box 728
Anahuac, TX 77514
409-267-2407 Office
409-267-8405 Fax
flmartin@chamberstx.gov
www.co.chambers.tx.us

AMERICAN OVERSIGHT

COUNTY		DATE OF ELECTION	
TYPE OF ELECTION		REGISTERED VOTERS	

DRAFT Election Reconciliation Form-Election Day

1. VOTER CHECK IN (from election rosters and lists)			
A. Early Voting In Person Check-Ins			
B. Election Day In Person Check-Ins			
C. Mail Ballot Roster	c1. Received	c2. Sent	c3.Not Received c2-(c1+p)
D. Limited Ballot Voters (Early Voting Only)			
E. Provisional Voters			
F. Total Voter Check In (a+b+c.1 +d+e)			

2 REJECTED MAIL IN BALLOTS AND PROVISIONAL BALLOTS	
G. Mail Ballots Rejected by EVBB	
H. Provisional Ballots Rejected by EVBB	
I Total Rejected Mail In and Provisional Ballots (g+h)	

3. UNOFFICIAL RESULTS (from tabulation software)	
J. Early Voting ballots counted (in person)	
K. Election Day ballots counted (in person)	
L. Mail Ballots Counted	
M. Limited Ballots Counted	
N. Provisional Ballots Counted	
O. Total Ballots Counted (j+k+l+m+n)	

4. BALLOTS THAT COULD BE ADDED TO THE FINAL CANVASS	
P. Late Mail Ballots Received pending review	
Q. Provisional Ballots pending review	
R. Total Ballots that could be added (p+q)	

Attestation

"I hereby certify that this information is true and correct".

_____

Central Counting Presiding Judge Signature

_____ _____

Print Name Date

AMERICAN OVERSIGHT

COUNTY		DATE OF ELECTION	
TYPE OF ELECTION		REGISTERED VOTERS	

DRAFT Election Reconciliation Form-Official Canvass

1. VOTER CHECK IN (from election rosters and lists)	
A. Early Voting In Person Check-Ins	
B. Election Day In Person Check-Ins	
C. Mail Ballots Received	
D. Limited Ballot Voters (Early Voting Only)	
E. Provisional Voters	
F. Total Voter Check In (a+b+c+d+e)	

2 REJECTED MAIL IN BALLOTS AND PROVISIONAL BALLOTS	
G. Mail Ballots Rejected by EVBB	
H. Provisional Ballots Rejected by EVBB	
I Total Rejected Mail In and Provisional Ballots (g+h)	

3. COUNTED BALLOTS (from tabulation software)	
J. Early Voting ballots counted (in person)	
K. Election Day ballots counted (in person)	
L. Mail Ballots Counted	
M. Limited Ballots Counted	
N. Provisional Ballots Counted	
O. Total Ballots Counted (j+k+l+m+n)	

Attestation

"I hereby certify that this information is true and correct".

_____

Central Counting Presiding Judge Signature

_____ _____

Print Name Date

AMERICAN OVERSIGHT

From: Kristin Miles, REO <kristin.miles@co.bastrop.tx.us>
Sent: Wednesday, May 25, 2022 11:04 AM
To: Charles Pinney
Cc: Christina Adkins
Subject: DS200 Closing Procedures
Attachments: DS200 OpenClose Procedures_ELECTION DAY.docx

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Attached are the printed guides provided by our account manager. As I mentioned on the phone, the contradicts what the DS200 screen says. The screen reads it is safe to remove media while the results tapes are printing, after pressing the close polls button.

Thank you,

Kristin Miles, REO
Elections Administrator | Bastrop County
804 Pecan St | Bastrop, TX 78602
(512) 581-7160 | kristin.miles@co.bastrop.tx.us | http://www.bastropvotes.org

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AMERICAN OVERSIGHT

DS200 Opening Procedures



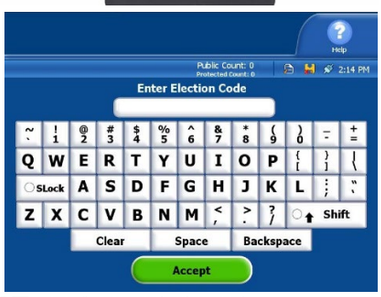
Plug the DS200 power cord into an AC outlet.



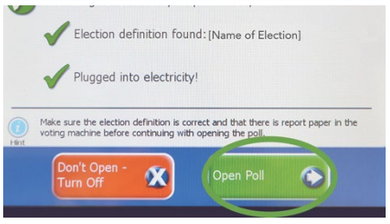
Verify that the auxiliary and main ballot compartments are empty.



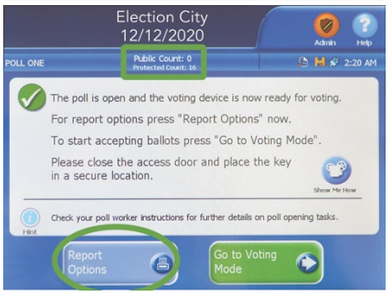
Open the ballot box lid. Unlock the front, flip up the screen, and the DS200 will automatically power up.
(If the DS200 does not automatically power up, unlock the access door on the front left, and press the Power button)



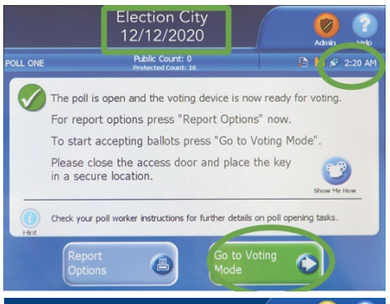
Enter the Election Code:



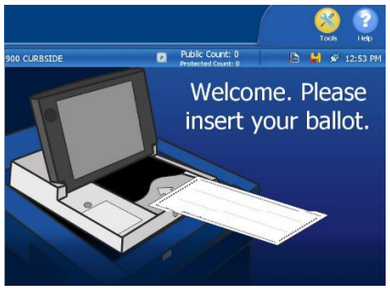
The Configuration Report will automatically print. Make sure the screen shows a green check mark before “Election definition found” and “Plugged into electricity.” Then press **Open Poll**.



The Status and Zero Totals reports will automatically print — if you have any issues with these reports not printing, be sure to press **Report Options** to print these reports.



Ensure that the Public Count is zero. If it is not, call Election Central for assistance. Make sure the date, time, election and poll names are accurate. Press **Go to Voting Mode**.



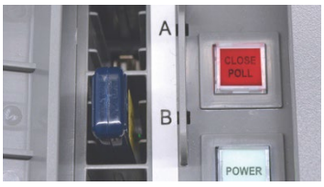
The DS200 is ready to scan ballots.

DS200 Close Procedures

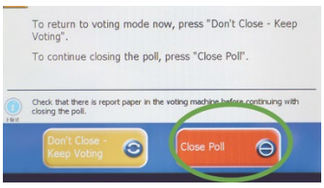
Close your polling place for voting at the assigned time, and then prepare the results for processing. Report printing and processing vote totals from the DS200's media stick are only possible after you properly close the polls.

If applicable, check the auxiliary ballot compartment for uncounted ballots, and follow your jurisdiction's rules accordingly.

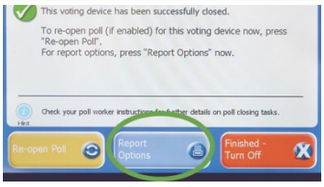




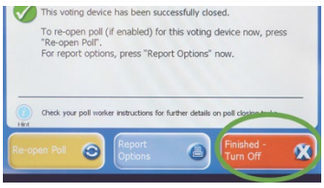
1. To officially close the polls, unlock the access door, press and release the **Close Poll** button.
   *The **Close Poll** button will turn red and then turn off.*



2. This screen will appear to confirm you are ready to close the poll — press **Close Poll**.



3. Depending on how your election definition was set up, the DS200 may automatically print one or more reports.
   *If you need to print additional reports, press **Report Options**.*



4. Press **Finished - Turned Off** to shut down the DS200.



5. Remove the Election Definition media stick after the power button is no longer lit. Shutdown is complete.
   Removing the media stick before shutdown is complete could damage the equipment.



6. Close and lock the access door and DS200. Unplug and return the power cord, close the back door and close/lock the screen and lid. Following your jurisdiction's procedures, take the Election Definition media stick and any printed reports to Election Central.



That's it! You're all done!

From: Melanie Best
To: vona.hudson@co.tom-green.tx.us
Cc: Melanie Best; Christina Adkins; Elections Internet
Subject: FW: Election Code - Hudson (EIR)
Date: Monday, March 9, 2020 4:56:49 PM
Attachments: image001.gif

Thank you for your inquiry.

The Election Commission is addressed in this chapter, starting at 31.032:
https://statutes.capitol.texas.gov/Docs/EL/htm/EL.31.htm

We are not sure what you mean by the Election Committee. Do you mean the legislative House Elections Committee?

The comparison of number of voters who voted to number of votes cast is part of our advisories. Where we say it depends on the voting system. Use Control F to search for "signatures" or "combination form," as in this section

Section 7 – Central Accumulation Procedures (Ch. 127)

1. **Election Night Verification for Central Accumulation System:**
    a. As the media is loaded into a central accumulator, the election official shall verify that the vote totals on the electronic media match the vote totals on the printed results tape, if applicable.
    b. After uploading all precinct results to the central accumulator system, the election official must verify and document that the central accumulator's total number of votes cast in an election matches the number of signatures on the combination form. If there is a discrepancy, the presiding judge of the counting station in conjunction with the central counting station manager shall determine if a further audit is necessary.

- No. 2019-23 - Electronic Voting System Procedures Advisory

We hope this will be helpful to you.

Sincerely,

Elections Division Staff
Texas Secretary of State
1-800-252-8683
Elections@sos.texas.gov

From: Vona Hudson <vona.hudson@co.tom-green.tx.us>
Sent: Monday, March 9, 2020 2:48 PM

AMERICAN OVERSIGHT

To: Elections Internet <Elections@sos.texas.gov>
Subject: Election Code

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Can you point me to the section that addresses the duties of the Election Commission and the Election Committee?

Also, I think there is either administrative code or election code that addresses balancing the number of voters versus the number of votes when processing the media on election night. I am unable to locate that at this time.

Thank you,
Vona

AMERICAN OVERSIGHT

From: Melanie Best
To: vona.hudson@co.tom-green.tx.us
Cc: Melanie Best; Christina Adkins; Elections Internet
Subject: FW: Election Code - Hudson (EIR)
Date: Monday, March 9, 2020 5:10:06 PM
Attachments: image001.gif

Thank you for your follow-up inquiry.

That is the county election board:

> Sec. 51.002. COUNTY ELECTION BOARD. (a) A county election board is established in each county for the general election for state and county officers, a special election for an officer regularly elected at the general election, and any other election ordered by a county authority or held at county expense.
>
> (b) For the general election for state and county officers and for a special election for an officer regularly elected at the general election, the county election board consists of the county judge, county clerk, voter registrar, sheriff, and county chair of each political party required to nominate candidates by primary election. For other elections, the board consists of the county judge, county clerk, voter registrar, and sheriff.
>
> (c) The county clerk is the chair of the county election board.

We hope this will be helpful to you.

Sincerely,

Elections Division Staff
Texas Secretary of State
1-800-252-8683
Elections@sos.texas.gov

From: Vona Hudson <vona.hudson@co.tom-green.tx.us>
Sent: Monday, March 9, 2020 5:00 PM
To: Melanie Best <MBest@sos.texas.gov>
Subject: RE: Election Code - Hudson (EIR)

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Thank you.

I thought it was called Election Committee – the group that orders supplies, appts. EVBB, etc.

AMERICAN OVERSIGHT

From: Melanie Best <MBest@sos.texas.gov>
Sent: Monday, March 09, 2020 4:57 PM
To: Vona Hudson <vona.hudson@co.tom-green.tx.us>
Cc: Melanie Best <MBest@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>; Elections Internet <Elections@sos.texas.gov>
Subject: FW: Election Code - Hudson (EIR)

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https://statutes.capitol.texas.gov/Docs/EL/htm/EL.31.htm

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- No. 2019-23 - Electronic Voting System Procedures Advisory

We hope this will be helpful to you.

Sincerely,

Elections Division Staff
Texas Secretary of State
1-800-252-8683
Elections@sos.texas.gov

AMERICAN OVERSIGHT

From: Vona Hudson <vona.hudson@co.tom-green.tx.us>
Sent: Monday, March 9, 2020 2:48 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Election Code

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Also, I think there is either administrative code or election code that addresses balancing the number of voters versus the number of votes when processing the media on election night. I am unable to locate that at this time.

Thank you,
Vona

AMERICAN OVERSIGHT

From: Keith Ingram
Sent: Friday, April 22, 2022 4:29 PM
To: Charles Pinney; Christina Adkins
Subject: Fw: New rule
Attachments: SOS Amendments to 1 TAC 81.36 - 4.19.22 DRAFT.doc

FYI. Senator Hall has made revisions.

From: John Scott <JScott@sos.texas.gov>
Sent: Friday, April 22, 2022 4:15 PM
To: Adam Bitter <ABitter@sos.texas.gov>; Keith Ingram <KIngram@sos.texas.gov>
Cc: Sam Taylor <SMTaylor@sos.texas.gov>; Joe Esparza <JEsparza@sos.texas.gov>
Subject: Fwd: New rule

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From: Bob Hall <senatorbobhall@gmail.com>
Sent: Friday, April 22, 2022 4:08:37 PM
To: John Scott <JScott@sos.texas.gov>
Subject: New rule

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Para r - v added to cover the tapes
Bob

AMERICAN OVERSIGHT

April 19, 2022
SECRETARY OF STATE DRAFT

TITLE 1. ADMINISTRATION
PART 4. OFFICE OF THE SECRETARY OF STATE
CHAPTER 81. ELECTIONS

SUBCHAPTER B. EARLY VOTING

1 TAC §81.36

§81.36. Counting Ballots Prior to Election Day in Counties with a Population of 100,000 or More

(a) The following procedure to count ballots before election day that were voted by mail or early in person may be used if the county is authorized to count early voting ballots before election day under Texas Election Code, Chapter 87, Subchapter B [~~following conditions in paragraphs (1) - (7) of this subsection are met:~~

~~(1) the election is conducted by the county elections officer;~~
~~(2) the election is a county election ordered by the Governor, county judge, or commissioners court, a joint election between the county and another political subdivision using the same electronic ballot, or a primary election;~~
~~(3) the county has a population of 100,000 or more;~~
~~(4) electronic system ballots are used in the election;~~
~~(5) tabulation can be completed without revealing the vote count prior to the close of polls on election day;~~
~~(6) the 2nd and 3rd logic and accuracy test required by Texas Election Code, Chapter 127 can be performed before the count and after the count;~~
~~(7) a real time audit report can be produced immediately after the count to verify the number of ballots counted with the ballot transmittal form~~].

(b) The central counting station is authorized to convene to count the ballots early in accordance with Texas Election Code, Chapter 87, Subchapter B.

(c) The manager of the central counting station will determine whether to count the early voted ballots prior to election day.

(d) The manager must notify, in writing, the presiding judge of the early voting ballot board as to the time and place where the presiding judge must deliver the ballots voted early. The notice must be given at least eight days before convening the central counting station. The early voting clerk is sent a copy of the notice.

(e) The early voting clerk must post a notice of time and place on the county's Internet website and on the bulletin board used for posting open meetings where the central counting station personnel will be meeting. The notice must be posted no later than 24 hours before the central counting station will convene or the last day for early voting in person, whichever is earlier. In the general election for state and county officers, the notice must also be sent to each county chair that has a nominee on the general election ballot.

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(f) All tests of the tabulating equipment must be conducted pursuant to [~~the~~] Texas Election Code, Chapter 127, Subchapter D. [~~The testing authority must conduct the second test immediately prior to the count of the early voted ballots.~~]

(g) Poll watchers are authorized to be present during the early count in accordance with Texas Election Code, Chapter 33.

(h) The judge of the early voting ballot board must convene the ballot board after the close of early voting in person in order to qualify and prepare the ballots for counting prior to the convening of the central counting station. The presiding judge of the ballot board and the early voting clerk shall provide notice of the delivery of balloting materials in accordance with Texas Election Code, Chapter 87, Subchapter B. [~~issue a notice of delivery prior to the meeting of the ballot board in the regular manner (Texas Election Code, §87.022 and §87.025). The early voting clerk must post notice of delivery of ballots to the ballot board in the regular manner (Texas Election Code, §87.023). These procedures do not supercede the regular procedures of notice, delivery, and processing of ballots voted by mail by the signature verification committee.~~]

(i) After the count is concluded, the tabulation supervisor must store the vote tabulation on an electronic storage device that is not connected to any external communications network, including the Internet, in accordance with Texas Election Code, §129.054 [~~a tape or other electronic device (personal computer) without producing a printout or any other method of the vote count~~].

(j) The tabulation supervisor must run a report from the central accumulator and each tabulation device, including devices used to scan or tabulate ballots by mail, indicating the number of ballots counted for each location and each device [~~precinct~~]. The tabulation supervisor must perform [~~and do~~] a comparison between the reports from the tabulation devices and the reports from the central accumulator, and then must also perform a comparison between the reports from the central accumulator [~~those numbers~~] and the number of ballots indicated on the ballot transmittal form. These reports are [~~This report is~~] used to verify the number of ballots counted [~~since a report showing vote totals is not authorized to be produced prior to election day~~].

(k) The tabulation supervisor must conduct the second and third tests of the tabulating equipment in accordance with Texas Election Code, Chapter 127, Subchapter D [~~zero the votes on the tabulation device and run the 3rd test. If the 3rd test is not successful, the count is void~~].

(l) The counted ballots must be locked in the ballot box and delivered to the custodian. The key to the ballot box must be delivered to the custodian of the key pursuant to [~~the~~] Texas Election Code, §66.060.

(m) The box containing the counted ballots may not be opened unless the count of the ballots stored on tape or other electronic means is blank or appears to be incorrect when the tabulation supervisor reloads those results on the computer or accumulator on election day. In that event, the manager of the central counting station shall direct the custodian of the box and the custodian of the key to the box to deliver those items to the central counting station.

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(n) The Central Counting Station personnel may convene more than [~~only~~] once prior to election day to count early votes. The notice procedures applicable to the first meeting of the central counting station under this section apply to subsequent meetings of the central counting station before election day, except that the presiding judge of the central counting station may authorize the central counting station manager to provide notice to the presiding judge of the central counting manager less than eight days before a subsequent meeting. [~~Any ballots received after the ballot board judge delivered the ballots to the manager shall be counted on election day.~~]

(o) The central counting station personnel will reconvene on election day at a time determined by the manager. When the central counting station reconvenes, the tabulation supervisor or central counting station manager will run a report from the central accumulator indicating the number of ballots counted for each location and will review and compare that report to the reports previously generated from the central accumulator demonstrating the total number of ballots counted by the central accumulator to verify that the tabulation performed prior to election day was accurate. [~~Prior to the start of counting any ballots, the 2nd test must be conducted to determine the tabulating equipment is tabulating correctly. After a successful test has been conducted, the results of the early voting count shall be loaded into the tabulating equipment. The tabulation supervisor must run the same report showing the number of the ballots counted. This report must be compared with the report ran after the conclusion of counting before election day.~~]

(p) If the review process under subsection (o) of this section demonstrates that the tabulation performed prior to election day was not accurate [~~two reports do not match~~], the count of the ballots prior to election day is void. The tabulation supervisor shall zero out the votes loaded on the tabulating machine. After a second [~~2nd~~] test is successfully conducted, all ballots counted prior to election day must be rerun.

(q) On election day, the counting of early votes and election day votes shall be conducted in accordance with the procedures set forth in the Texas Election Code.

(r) On the first day of early voting, immediaterly prior to the opening of the polling location, at each early voting ~~precinct~~location the presiding election judge shall print a zero tape from each applicable tabulation device used to count early voting ballots. The presiding election judge and deputy election clerk shall sign the zero tape from each applicable device and maintain the zero tapes in a locked, sealed container until after the polls open on election day. ~~The tabulation supervisor or central counting station manager may print results tapes or reports at the central counting station from tabulation devices used to count early voting ballots. If results tapes or reports are printed before the opening of the polls on election day, the information on the results tapes or reports may not be reviewed by any person until after the polls open on election day, but the presiding judge of the central counting station and poll watchers serving at the central counting station may sign the tapes or reports without reviewing the information contained on the tapes or reports. Those tapes or reports must be secured in a locked, sealed container until after the polls open on election day.~~

Formatted: Font: No underline, (Asian) Chinese (PRC)

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(s) ~~At~~Immediately after the close of early voting, at each early voting ~~precinct~~location the presiding election judge shall print the results tape for each tabulation device used ~~to count early voting ballots~~at that location. The presiding election judge and deputy election clerk shall sign the results tape from each applicable device without reviewing the information contained on the tapes. Those tapes must be secured in a locked, sealed container until after the polls open on election day. A chain of custody must be established and maintained until the time for a recount has passed.

(t) If a tabulator has to be moved after the start of the period of early voting but prior to the close on the last day of early voting, the presiding election judge and deputy election clerk for that precinct shall print and sign the results tape from the applicable device prior to its relocation. The tape must be secured in a locked, sealed container and maintained at the precinct location through the end of the early voting period. A chain of custody must be established and maintained until the time for a recount has passed.

(u) The printed results tapes for each early voting precinct shall be delivered to the central counting station in addition to the electronic media from the tabulation devices from which the tapes were printed. The tapes shall remain secured in a locked, sealed container until after the polls open on election day.

(v) The printing of results tapes at each early voting precinct ~~does not constitute the revealing of results for the purpose of counting ballots. The tapes~~ are ~~a measure of~~for election security and are not part of the counting process. ~~If results tapes or reports are not generated before election day under the procedures described in subsection (r) of this section, those results tapes or reports shall be generated on election day.~~

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From: Keith Ingram
Sent: Saturday, May 29, 2021 10:23 AM
To: Christina Adkins; Adam Bitter
Subject: Fw: Urgent Action Needed - Sen. Bill 7 Needs Help!!!! - Link Correction

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From: Hope Shelton <Hope.Shelton@senate.texas.gov>
Sent: Saturday, May 29, 2021 10:16 AM
To: Keith Ingram <KIngram@sos.texas.gov>
Subject: FW: Urgent Action Needed - Sen. Bill 7 Needs Help!!!! - Link Correction

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From: Laura Pressley, Ph.D. <[redacted]
Sent: Friday, May 28, 2021 6:49 PM
To: Hope Shelton <Hope.Shelton@senate.texas.gov>
Subject: Urgent Action Needed - Sen. Bill 7 Needs Help!!!! - Link Correction

Click HERE to view the images in this email

Help Needed! Urgent!!!
Last Ditch Effort to Ensure Election Integrity Senate Bill 7 DOES NO HARM

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Senate Bill 7 - The Good News - Senate Bill 7, the Omnibus election integrity bill, is about to be passed by the House and Senate.

Senate Bill 7 - The Bad News - It has several flaws. The most dangerous flaw is that it will DESTROY decades of mandatory election law that requires precinct returns at the polls to document the unofficial election results and go to the central counting stations.

Details of the Flaws - SB7's Zero and Results Tape section 129.003(f) **undoes decades** of mandatory election laws and rules. The bills current language is dangerous and will enable election administrators to weasel out of retaining proper paper backups to validate election results.

Specifically, the language in SB 7 for Zero Tapes and Results Tapes is grossly inconsistent with Texas Admin. Code 81.52(h)1 for Zero Tapes, and Tex. Elec. Code 62.022 and SoS Advisory 2019-23 for Results Tapes/precinct returns.

The horrid language in SB 7 eviscerates over 100 years of Texas Supreme Court Case Law

In 1911, the Texas Supreme Court clarified election returns must be completed at polling locations and be delivered to the county clerk:

- "the returns together with the poll list and tally lists of the election shall be delivered to…the clerk of the county court." *Clary v. Hurst* 104,Tex. at 430, 1911.
- "it must have occurred to any thoughtful mind that in the returns made from the many boxes, where both sides would ordinarily be represented and where their fidelity was to some extent assured by heavy penalties for any violation of duty" *Clary* 104, Tex. at 431.

We must preserve the current laws related to zero and results tapes.

The flawed SB 7 zero and results tapes language has to be STRICKEN!!!!

Call to Action: Email and Call

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Tell Senators and House Reps STRIKE the Current Zero and Results Tapes Language in SB 7

- **Call members of Senate and House Conf. Committee:**
  - Sen. Bryan Hughes - Senate Chair - (512) 463-0380
  - Rep. Briscoe Cain - House Chair
  - Rep. Travis Clardy - (512) 463-0592
  - Sen. Paul Bettencourt - (512) 463-0107
  - Sen. Dawn Buckingham - (512) 463-0124
  - Sen. Lois Kolkhorst - (512) 463-0118
  - Sen. Beverly Powell (512) 463-0110
  - Rep. Jacey Jetton - (512) 463-0710

- **Email members of Senate and House Conf. Committee:**
  - Bryan.Hughes@Senate.Texas.Gov
  - Drew.Tedford@Senate.Texas.Gov
  - Briscoe.Cain@House.Texas.Gov
  - Travis.Clardy@House.Texas.Gov
  - Paul.Bettencourt@Senate.Texas.Gov
  - Beverly.Powell@Senate.Texas.Gov
  - Dawn.Buckingham@Senate.Texas.Gov
  - Jacey.Jetton@House.Texas.Gov

True Texas Elections trains and works with election watchers all over Texas to ensure the vote counting processes at county central counting stations are transparent.

Dr. Pressley and True Texas Elections have trained more than 250 election watchers all over the state and is currently a consulting and testifying expert on several Texas election lawsuits that allege vote counting irregularities, illegalities and/or fraud.

Dr. Pressley holds a Ph.D. in Physical Chemistry and hold 4 U.S. patents on semiconductor device technology. Over the last 5 years, she has given more than 450 presentations all over Texas on how we can ensure honest and legal elections.

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Donate Here if you want to help
True Texas Elections continue our work

Contact us if you are interested in having Dr. Pressley present to your group.

True Texas Elections, LLC | 101 Oak Street, #311, Copperas Cove, TX 76522

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From: Melanie Best
To: "elections@bosquecounty.us"
Cc: Melanie Best; Christina Adkins; Elections Internet
Subject: legal question - Denman (EIR)
Date: Friday, July 16, 2021 11:19:09 AM

Thank you for your follow-up inquiry.

Box No. 3 (or the equivalent) with voted ballots is not available to public inspection until after the 22 month retention period. Office of the Attorney General, ORD-505 (1988): https://www.texasattorneygeneral.gov/sites/default/files/ord-files/ord/2020/ord19880505.pdf

Box No. 4 is locked, but is available for public inspection, after return to the custodian, subject to this rule:

Sec. 66.057. REGULATING PUBLIC INSPECTION OF CERTAIN ELECTION RECORDS. (a) The election returns for a particular precinct that are delivered to the general custodian of election records do not become public information until the custodian completes the unofficial tabulation of the results for that precinct.

(b) The general custodian of election records or the custodian's designee shall be present at all times when the records delivered in ballot box no. 4 are inspected.

(c) The election records in envelope no. 3 become public information when delivery of the precinct election records is completed.

We hope this will be helpful to you.

Sincerely,

Elections Division Staff
Texas Secretary of State
1-800-252-8683
Elections@sos.texas.gov

From: Crystal Denman <elections@bosquecounty.us>
Sent: Wednesday, July 14, 2021 2:42 PM
To: Melanie Best <MBest@sos.texas.gov>
Subject: RE: legal question - Denman (EIR)

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Ms. Best,

Thank you for your response.
I just want to make sure I understand what I read.

The contents of Ballot Box No 3 (voted ballots, printout of result tapes, copy of precinct returns,

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copy of the poll lists or combination forms, the original ballot and seal certificates and memory cards) all need to be in a sealed box together without any of Ballot Box No 4 contents.

And the contents of Ballot Box No 4 (printout of results tape, original ballot register, register of spoiled ballots, any spoiled ballots, any defectively-printed ballots, cancelation requests to cancel ballots and any other unused ballots) all go into their own sealed box.

Since both of these boxes contents are sealed they are to remain that way until the expiration of their retention period.

All other forms are kept out of the boxes and stored in the office with the other materials from that election.

Crystal Denman
Elections Administrator
PO Box 411
Meridian, Texas 76665
254-435-6650
254-435-2311 (fax)

From: Melanie Best <MBest@sos.texas.gov>
Sent: Wednesday, July 14, 2021 11:32 AM
To: 'elections@bosquecounty.us' <elections@bosquecounty.us>
Cc: Melanie Best <MBest@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>; Elections Internet <Elections@sos.texas.gov>
Subject: legal question - Denman (EIR)

Thank you for your inquiry.

Hi Crystal, as your question indicates, this area covers a lot of ground. I am going to summarize a few things and then give you some online materials.

The voted ballots (along with copies of a few other things) go in ballot box Number 3. This box has the highest security, and must be retained in a locked box for 60 days; then, it can be transferred to a secure container for the rest of the 22 months you are required to preserve it. See generally Chapter 66 for disposition of records:
https://statutes.capitol.texas.gov/Docs/EL/htm/EL.66.htm

For Box 3, this is what I am referring to:

Sec. 66.025. CONTENTS OF BALLOT BOX NO. 3. (a) Ballot box no. 3 must contain:
(1) the voted ballots;
(2) a copy of the precinct returns;
(3) a tally list; and
(4) a copy of the poll list.
(b) The copy of the poll list may be placed in a container other than ballot box no. 3

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on approval by the secretary of state if the secretary determines that placement in the other container is more suitable for a particular election.

Sec. 66.058. PRESERVATION OF PRECINCT ELECTION RECORDS.

(a) Except as otherwise provided by this code, the precinct election records shall be preserved by the authority to whom they are distributed for at least 22 months after election day.

(b) For a period of at least 60 days after the date of the election, the voted ballots shall be preserved securely in a locked room in the locked ballot box in which they are delivered to the general custodian of election records. On the 61st day after election day, the general custodian of election records may:

(1) require a person who has possession of a key that operates the lock on a ballot box containing voted ballots to return the key to the custodian; and

(2) unlock the ballot box and transfer the voted ballots to another secure container for the remainder of the preservation period.

….

A more detailed outline of where things go (all the envelopes and boxes) as well as advice and nuances to fine-tune the records for various voting systems, is at the end of the election day handbook: Election Judges and Clerks Handbook 2020 (PDF) As outlined in the handbook, some things, like the combination form, have multiple copies that go to different places.

You also found the advisory providing detail on voting system records. A more recent advisory covering these issues is here: https://www.sos.texas.gov/elections/laws/advisory2019-23.shtml#section12

I also recommend reviewing Schedule EL, from the State Library and Archives Commission: https://www.tsl.texas.gov/slrm/localretention/schedule_el Sometimes Schedule El lags behind amendments to the Election Code, but it can always help you find the right section of the Code.
All references are to the Texas Election Code (unless otherwise cited) available here: http://www.statutes.legis.state.tx.us/Index.aspx
We hope this will be helpful to you.

Sincerely,

Elections Division Staff
Texas Secretary of State
1-800-252-8683
Elections@sos.texas.gov

From: Crystal Denman <elections@bosquecounty.us>
Sent: Wednesday, July 14, 2021 9:00 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: legal question

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Good morning,

I have questions about what all is supposed to be put into the boxes for retention after an election.

I found the below link to an advisory.
https://www.sos.texas.gov/elections/laws/advisory2011-18.shtml

I put all of those documents in the retention boxes.

I keep out the results, payroll, RID forms, Notices, Orders, Combination Forms, Provisional Envelopes and ABBM. Am I supposed to keep out other documents? I cannot find an actual list or Statue that says exactly what to do here.

Thanks,

Crystal Denman
Elections Administrator
PO Box 411
Meridian, Texas 76665
254-435-6650
254-435-2311 (fax)

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From: Elections Internet
Sent: Friday, December 10, 2021 4:57 PM
To: Elections Internet
Subject: MASS EMAIL ADVISORY (CSO-3371) - Advisory 2021-23 - May 7, 2022 Election Law Calendar
Attachments: May 7, 2022 Election Law Calendar (FINAL).pdf

Dear Election Officials:

Our office has issued Advisory 2021-23 – May 7, 2022 Election Law Calendar. It is attached to this email as a PDF.

Additionally, there are a few relevant dates and deadlines for those cities, schools, and other political subdivisions that may be having an election in May 2022 that we wanted to draw to your attention.

Important Upcoming Dates

Monday, December 20, 2021 (30th day before Wednesday, January 19, 2022, first day to file an application for a place on the ballot)

- Deadline to Post Notice of Deadline to File Applications for Place on the Ballot in a building in which the authority maintains an office.

Wednesday, January 19, 2022 (30th day before Friday, February 18, 2022, regular filing deadline for a place on the ballot)

- First day to file an application for a place on the ballot or a declaration of write-in candidacy.
  - Application for Place on City/School/Other Political Subdivision Ballot (PDF)
    - If your home rule city or special law district allows for a petition, the following petition may be used: Petition for Place on the City General Election Ballot (PDF)
  - Declaration of Write-In Candidacy for City, School, or other Political Subdivisions (PDF)

Friday, February 18, 2022 (78th day before election day)

- **5:00 p.m. -** Last day for a candidate in a political subdivision (other than a county) to file an application for a place on the ballot for general election for officers for most political subdivisions.
- Deadline for political subdivisions to order a general election to be held on Saturday, May 7, 2022, unless otherwise provided by the Election Code. (Sec. 3.005).
  - Order of Election for Municipalities
  - Order of Election for Other Political Subdivisions (Including Schools)

Filing Method of Candidate Application

- A candidate application may be filed in person, by mail, by fax, or by email.
  - **Filing in Person:** The Elections Division recommends that political subdivisions take steps to have someone available for at least a few hours most days during the candidate filing period to accept filings, and that political subdivisions post a schedule on their websites and on the bulletin boards where notices of meetings are posted of the days and times when someone will be available to accept filings. The Elections Division also strongly recommends having someone available at the place of business on the filing deadline, especially from 2:00 p.m. to 5:00 p.m., if you are otherwise closed.
  - **Filing by Mail**: An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b); 144.005(b)).

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- **Filing by Fax or Email**: A signed, sworn, scanned candidate application (and petition, if applicable) may be submitted by fax or email if there is no filing fee. The SOS recommends that the filing authority establish a dedicated fax number or email address for the submission of candidate applications. This fax number or email address should be posted on the Notice of Deadline to File Applications for Place on the Ballot or wherever information about filing candidate applications is posted. Please be advised that an application must be notarized prior to filing via fax or email.

When posted, this advisory and other resources can be found on our Conducting Elections page. Please let us know if you have any questions or concerns.

Thank you,

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

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May 7, 2022 Election Law Calendar

The uniform election date in May of an even-numbered year is a date on which many local political subdivisions, such as cities, school districts, and water districts, have their regular general elections for members of their governing bodies or special elections to fill vacancies. Additionally, this May uniform election date will include proposed constitutional amendments passed by the Texas Legislature during its recent special sessions. Therefore, this calendar is required to meet the needs of many diverse governmental bodies. If there are questions about the applicability of something in this calendar to your specific election, do not hesitate to call the Elections Division of the Office of the Texas Secretary of State at 1-800-252-VOTE(8683).

Notes

1. Campaign Information
2. Statutory and Administrative Code References
3. Web Posting Requirements
4. May Uniform Date (Even-Numbered Years)
5. Required Use of County Polling Places
6. Notice of Candidate Filing Periods
7. Joint Election Requirement for School Districts
8. Joint Elections Generally
9. Notice of Elections
10. Regular Days and Hours for Voting
11. Extended Early Voting Hours and Branch Locations
12. Temporary Branch Locationse
13. Notice of Previous Polling Place
14. Notice of Change of Polling Place Location
15. Testing Tabulating and Electronic Voting Equipment
16. Accepting Voters with Certain Disabilities
17. Law Regarding Faxed or Emailed ABBMs and Faxed FPCAs
18. Opportunity to Correct Defects in Mail Ballots

1. Note on Campaign Information

Under Title 15 of the Texas Election Code, candidates running for an office must file campaign contribution and expenditure reports. For further information and all questions about such disclosure filings, campaign finance, and political advertising, please contact the Texas Ethics Commission at 201 E. 14th Street, 10th Floor, Austin, Texas 78701; call 512-463-5800; or access their website.

2. Note on Statutory and Administrative Code References

Unless otherwise indicated, all references are to the Texas Election Code. The county election officer is the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 31.031, 31.071, 31.091). The county voter registrar is the county clerk, the county elections administrator, or the county tax assessor-collector, depending on the actions of the county commissioners court. (Secs. 12.001, 12.031, 31.031, 31.071).

Any references to the Texas Administrative Code are cited to the relevant section of the “T.A.C.”

3. Note on Web Posting Requirements

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TX-SOS-24-0322-C-001035

Please see our Web Posting Advisory, Election Advisory No. 2019-19 for more details on web posting requirements; however, the requirements are summarized below.

As of January 1, 2020, each county *shall maintain* a website. (Sec. 26.16(a), Tax Code).

A political subdivision with the authority to impose a tax that maintained a publicly accessible website at any time on or after January 1, 2019, and that is not subject to Section 2051.202 of the Government Code must post the following items on the entity's Internet website (Secs. 2051.201, 2051.202, Government Code). *See* Internet Posting Requirements for Political Subdivisions (PDF):

1. The political subdivision's contact information, including a mailing address, telephone number, and e-mail address;
2. Each elected officer of the political subdivision;
3. The date and location of the next election for officers of the political subdivision;
4. The requirements and deadline for filing for candidacy of each elected office of the political subdivision, which shall be continuously posted for at least one year before the election day for the office;
5. Each notice of a meeting of the political subdivision's governing body under Subchapter C, Chapter 551 of the Government Code; and
6. Each record of a meeting of the political subdivision's governing body under Section 551.021 of the Government Code. (Sec. 2051.201, Government Code).

Our office recommends consulting with your political subdivision's local counsel regarding the particular posting requirements under Subdivisions (5) and (6) referenced above. Please note, the requirements for posting notice of meetings and record of meetings of the political subdivision's governing body do not apply to:

1. A county with a population of less than 10,000;
2. A municipality with a population of less than 5,000 located in a county with a population of less than 25,000; or
3. A school district with a population of less than 5,000 in the district's boundaries and located in a county with a population of less than 25,000.

NOTE-NEW LAW: HB 1154 (2021, R.S.) amended the Government Code to include Section 2051.202, effective September 1, 2021. Section 2051.202 of the Government Code requires a special purpose district with certain financial and population characteristics to post specific information on an Internet website. "Special purpose district" excludes from the term a municipality, county, junior college district, independent school district, groundwater conservation district, river authority, or political subdivision with statewide jurisdiction. (Sec. 2051.202, Government Code).

During the 21 days before the election, a debt obligation order under Section 3.009 must be posted on the political subdivision's Internet website, prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website. (Sec. 4.003(f)).

NOTE-NEW LAW: SB 1116 (2021, R.S.) amended Chapter 4 of the Election Code by adding Section 4.009 regarding candidate and polling place information which must be posted on county, city, and school district websites. Specifically, not later than the 21st day before election day, a county that holds an election or provides election services for an election must post certain information related to their upcoming elections. 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 date of the election;
- The location of each polling place;
- Each candidate for an elected office on the ballot; and
- Each measure on the ballot. (Sec. 4.009)

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NOTE-NEW LAW: SB 1116 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.016 of the Code regarding election results information which must be posted on county, city, and school district websites. Specifically, a county that holds an election or provides election services for an election for a public entity must post certain information on their website. 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 such information. Information should be posted **as soon as practicable after the election** and must be accessible without having to make more than two selections or view more than two network locations after accessing the home page of the county, city or school district, whichever is applicable. Required information on the websites must include:

- the results of each election;
- the total number of votes cast;
- the total number of votes cast for each candidate or for or against each measure;
- the total number of votes cast by personal appearance on election day;
- the total number of votes cast by personal appearance or mail during the early voting period; and
- the total number of counted and uncounted provisional ballots cast. (Sec. 65.016).

4. Note on May Uniform Date (Even-Numbered Years)

With few exceptions, counties are not authorized to hold an election ordered by county authority on the May uniform election date in an **even-numbered year**. A county elections administrator may refuse to provide election services by contract for an election that is held on the May uniform election date in an **even-numbered year**. (Sec. 41.001(d)). This remains true even though counties will be conducting a constitutional amendment election. However, it is **strongly recommended** that counties contract with political subdivisions to ensure uniform polling places for voters.

5. Note on Required Use of County Polling Places

Political Subdivisions other than Counties: Political subdivisions are not required to use county election precincts and polling places for elections held on the May uniform date. The governing body of a political subdivision other than a county shall establish the election precincts for elections ordered by an authority of the political subdivision and follow the requirements of Secs. 42.061 and 42.0615.

Counties: Counties are required to use county election precincts and polling places for a special election ordered by the governor. (Sec. 42.002(a)(2)).

NOTE - In a special election for which use of county election precincts is required, the commissioners court may consolidate, on the recommendation of the county election board, two or more county election precincts into a single precinct if the polling place is located so it will adequately serve the voters of the consolidated precinct. If county election precincts are consolidated for a countywide election, at least one consolidated precinct must be situated wholly within each commissioners precinct. (Sec. 42.008).

NOTE – When a county is using the countywide polling place program and a court order requires any of the polling locations to remain open past 7 PM, then ALL countywide polling place locations MUST remain open for the same amount of time, as ordered by the court order. (Sec 43.007).

NOTE – While a county elections administrator may refuse to provide election services by contract for an election that is held on the May uniform date in an even-numbered year, it is **strongly recommended** that counties contract with political subdivisions to ensure uniform polling places for voters.

6. Note on Notice of Candidate Filing Periods

The authority with whom an application for a place on the ballot is filed must post a Notice of Deadline to File Applications for Place on the Ballot (PDF), listing the filing period dates in a building in which the authority maintains an office. The notice must be posted not later than the 30th day **before** the first day to file. (Sec. 141.040). If you order a special election to fill a vacancy, the order must include the filing deadline; we recommend posting the notice

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of the filing period as soon as practicable after a special election is ordered. Note that an application for a place on the ballot for a special election may not be filed before the election is ordered.

> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) requires the authority with whom an application for a place on the ballot is filed to designate an e-mail address in the notice required by Section 141.040 of the Code for the purpose of filing an application for a place on the ballot. (Sec. 141.040).

7. Note on Joint Election Requirement for School Districts

School districts conducting trustee elections must have joint polling places on election day with either:

1. a city holding an election on the uniform election day (located wholly or partly within the school district's boundaries);
2. a public junior college district if it is having an election for members of its governing board in which the school district is wholly or partly located;
3. in limited circumstances, a hospital district; or
4. the county on the November uniform election day in even-numbered years.

For purposes of this calendar, we will continue to use separate subheads for cities and school districts when their rules are different. However, many entities will be working out joint election agreements. (Sec. 11.0581, Texas Education Code; Sec. 271.002).

NOTE – At minimum, a school district needs to share polling places with a city or public junior college district conducting an election on the uniform election day. Sharing polling places is sufficient to meet the joint election requirement.

8. Note on Joint Elections Generally

Many entities will have joint elections for the May 7, 2022 election. Note that the entries in this calendar are generally written in terms of elections held individually rather than jointly. Depending on the plan, different entities may choose not to hold early voting together and to do things separately. Not all joint election plans are alike. With a few exceptions, we do not discuss the impact of coordinating rules for a joint election, as we think this would make the calendar longer and confusing. We encourage joint election partners to read through the entire calendar, taking note of the rules affecting the partner entities, and to address the differences within the agreement itself. If you have questions about how different rules apply to a particular joint election plan, please contact our office by phone or email.

9. Note on Notice of Elections

Political subdivisions other than cities and school districts may have specific statutory notice requirements. In the absence of specific statutory requirements, such political subdivisions must post a notice on or before the 21st day before the election. (Sec. 4.003(b)). For the Saturday, May 7, 2022 election, this notice must be posted on or before Saturday, April 16, 2022. (Secs. 1.006, 4.003(b)). 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 21st day before the election, Saturday, April 16, 2022. (Sec. 4.003(a)(2)).
2. By publishing the notice at least once between the 30th day and the 10th day before the election, Thursday, April 7, 2022–Wednesday, April 27, 2022. (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, April 27, 2022. (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)). Counties, school districts, and cities must also publish notice on the governmental bulletin board used for posting notice of public meetings, no later than April 16, 2022. (Sec. 4.003(b).

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Note for Counties: Notice of an election ordered by the governor or by a county authority must be published in a newspaper; the county may also give any additional notice. (Secs. 4.003(a)(1), 4.003(c)).

Notice for State Constitutional Amendment Election: The constitutional amendment election is ordered by the governor. However, the commissioners court should also complete a local order (PDF) to ensure that all required actions related to the election have been completed. Additionally, your county may post notice of the election on the commissioners court bulletin board and must also provide notice under the method authorized under number 2 above. (Secs. 4.002(1), 4.003(a) and (b)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) provides that in addition to any other notice given, notice of an election ordered by the governor, by a county authority, or by an authority of a city or school district must be given by the method prescribed by Section 4.003(a)(1) of the Code. (Sec. 4.003(c)).

This notice must include:

1. The type and date of the election;
2. The location of the main early voting polling place**, including the street address, room number, and building name. The notice must designate which location is the main early voting polling place**;
3. The location of each polling place, **including the street address, room number, and building name**;
4. The hours the polls will be open;
5. The regular dates and hours for early voting by personal appearance;
6. The dates and hours of any Saturday or Sunday early voting;
7. 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;
8. We ***recommend*** that the information regarding branch early voting locations be included as part of your notice; and
9. Any other information required by law.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 4.004 of the Code to require the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 85.004 of the Code to provide that an election order and election notice must designate which location is the main early voting polling place. (Sec. 85.004).

NOTE – ANY notice of polling locations must include more detailed information regarding the polling locations including: the polling location's street address, any applicable suite or room number, and any applicable building name. (Sec. 1.021).

Note regarding branch early voting locations: The branch early voting locations are no longer a required part of your notice under the Texas Election Code. (Sec. 4.004).

The following forms may be used:

- Notice of General Election for Cities (PDF)
- Notice of General Election for Other Political Subdivisions (Including Schools) (PDF)
- Notice of Special Election for Counties (PDF)

All Political Subdivisions: The election notice shall be posted on the political subdivision's website, if the political subdivision maintains a website. For political subdivisions other than counties, the original order and notice should include all days and hours for early voting by personal appearance, including voting on **ANY** Saturday or Sunday.

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(Secs. 85.006, 85.007). **Note for counties**, the election notice must be subsequently amended to include voting ordered for **ANY** Saturday or Sunday and must be posted on the political subdivision's website, if maintained.

Notice for Bond Elections: Entities holding bond elections must provide additional notice per Section 4.003(f). A debt obligation order under Section 3.009 must be posted:

1. On election day and during early voting by personal appearance, in a prominent location at each polling place;
2. Not later than the 21st day before the election, in three public places in the boundaries of the political subdivision holding the election; and
3. During the 21 days before the election, on the political subdivision's Internet website, prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website.

The same requirements apply to the voter information document required by Government Code Section 1251.052(b) (see law for full contents of notice). The requirement referenced in Section 1251.052(b) of the Government Code applies to a political subdivision with at least 250 registered voters on the date the governing body of the political subdivision adopts the debt obligation election order.

Home-Rule Charter Cities: Home-rule cities MUST also give notice as provided in their charters.

Notice for Political Subdivisions other than Counties, School Districts, and Cities: Political subdivisions other than counties, school districts, and cities may have specific statutory election notice requirements either in their enabling acts or in the code governing them (such as the Water Code). In the absence of specific statutory requirements, such political subdivisions may post a copy of the notice on or before the 21st day before the election (i.e., Saturday, April 16, 2022) on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision. (Sec. 4.003(b)).

Note for All Political Subdivisions, Except Counties: The governing body of a political subdivision must deliver notice of the election to the county election officer and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day, Tuesday, March 8, 2022. (Sec. 4.008).

Note for Counties: 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. *See* Note for All Political Subdivisions above.

Notice of Nearest Polling Places in Countywide Election: EACH countywide polling place must post a notice, at that location, of the four nearest locations, by driving distance. (Sec. 43.007(o)). Notice of Four Nearest Countywide Polling Place Locations (PDF)

10. Note on Regular Days and Hours for Voting

NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 85.005 to modify the required days and hours for early voting by personal appearance.

Counties: For elections in which the county is serving as the early voting clerk, early voting must be conducted at the main early voting location on each weekday that is not a legal state holiday for a period of at least **nine (9) hours**. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.

Political Subdivisions Other Than Counties: For all other elections in which the county is **NOT** the early voting clerk, early voting must be conducted at the main early voting location on each weekday that is not a legal state holiday for a period of at least **nine (9) hours** unless the territory has fewer than 1,000 registered votes. For territories with less than 1,000 registered voters, voting shall be conducted for at least **four (4) hours** each day. (Sec. 85.005(b)).

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NOTE for Cities: SB 1 (2021, 2nd C.S.) amended Section 85.005(d) to remove the provision that required cities 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).

11. Note on Extended Early Voting Hours and Branch Locations

In a county with a population of **55,000 or more**:

- Voting in a primary election or general election for state and county officers shall be conducted at the main early voting location for at least 12 hours on each weekday of the last week of the early voting period. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.
- **Voting in a special election ordered by the governor shall be conducted at the main early voting location for at least 12 hours on each of the last two days of the early voting period. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.**
- Voting in a primary election or general election for state and county officers shall be conducted at the main early voting location on the last Saturday of the early voting period for at least 12 hours. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.
- Voting in a primary election or general election for state and county officers shall be conducted at the main early voting location on the last Sunday of the early voting period for at least six hours. Voting may not be conducted earlier than 9:00 AM or later than 10:00 PM.

In a county with a population of **less than 55,000**:

- Voting in a special election ordered by the governor must be conducted at the main early voting location for at least 12 hours on each of the last two days of the early voting period if the early voting clerk receives a written request (PDF) submitted by at least 15 registered voters of the county requesting extended weekday hours. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM. The request must be submitted in time to enable compliance with Sec. 85.067. See Notice of Extended Weekday Voting at Main Early Voting Location for County Elections (PDF).
- On receipt of a written request submitted by at least 15 registered voters, voting shall be conducted at the main early voting location on the last Saturday of the early voting period for at least 12 hours. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM.
- On receipt of a written request submitted by at least 15 registered voters, voting shall be conducted at the main early voting location on the last Sunday of the early voting period for at least six hours. Voting may not be conducted earlier than 9:00 AM or later than 10:00 PM.

Note for Counties: The county election officer may also order early voting on a Saturday or Sunday, and determine the hours for such Saturday or Sunday early voting. This must be done by written order (PDF). (Secs. 85.006(b), 85.006(c)). Notice (PDF) of Saturday or Sunday early voting must be posted for at least 72 hours immediately preceding the first hour that voting will be conducted. (Sec. 85.007(c)). The county election officer must have early voting on Saturday or Sunday, *if* a written request (PDF) is received from at least 15 registered voters of the county in time to comply with the posting requirement. (Secs. 85.006(d), 85.007).

Note: The election notice must be subsequently amended to include voting later ordered for ANY Saturday or Sunday and must be posted on the political subdivision's website, if maintained. (Sec. 85.007).

All Political Subdivisions, *Except* Counties: Voting on **ANY** Saturday or Sunday must be included in the order and notice of election. The order and notice must include the dates and hours of Saturday or Sunday voting. (Secs. 85.006, 85.007). The political subdivision **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Sec. 85.006(d)). The election notice must be posted on the political subdivision's website, if the political subdivision maintains a website. (Sec. 85.007).

NOTE for Cities – NEW LAW: SB 1 (2021, 2nd C.S.) provides that in an election in which a city secretary is the early voting clerk, voting on any Saturday or Sunday **must** be included in the order and notice of election. City secretaries no longer have the authority to order Saturday or Sunday early voting 72 hours immediately preceding

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the first hour that voting will be conducted. However, the city **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Secs. 85.006, 85.007).

12. Note on Temporary Branch Locations

Effective September 1, 2021, the rules for temporary branch locations are different for counties with a population of 100,000 or more.

Note for Counties with a Population of 100,000 or More and Political Subdivisions Situated in Such a County: Early voting at any temporary branch polling place **MUST** be conducted on the same days that voting is required to be conducted at the main early voting polling place under Section 85.005 of the Code and **MUST** remain open for at least eight hours each day. For certain political subdivisions, this will require your temporary branch locations to be open on every weekday of the early voting period, for at least eight hours on each of those days. **This only applies to an election in which the territory served by the early voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the early voting clerk is situated in more than one county, this section applies if the sum of the populations of the counties is 100,000 or more.** (Secs. 85.005 and 85.064).

NOTE for political subdivisions other than city or county – If the city or county election officer does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters, the temporary branch polling place(s) must be open for at least three hours each day that voting is required to be conducted at the main early voting polling place under Section 85.005 of the Code. **This applies if the territory served by the early voting clerk is in a county with a population of 100,000 or more. In an election in which the territory served by the early voting clerk is situated in more than one county, this also applies if the sum of the populations of the counties is 100,000 or more.** (Secs. 85.005 and 85.064).

NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.064 of the Code to provide that the section only applies to an election in which the territory served by the early voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the clerk is situated in more than one county, this section applies if the sum of the populations of the counties is 100,000 or more. (Sec. 85.064).

NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.068 of the Code to provide that if the early voting clerk is a county election officer or city secretary, the clerk must post notice (PDF) for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Sections 85.064(d) or 85.065(b). (Sec. 85.068).

Note for Counties with a Population of Less than 100,000 and Political Subdivisions Situated in Such a County: Early voting at any temporary branch polling place may be conducted on any days and during any hours of the period for early voting by personal appearance, as determined by the authority establishing the branch. However, voting at a temporary branch polling place must be conducted on at least two consecutive business days and for at least eight consecutive hours on each of those days. The authority authorized under Section 85.006 of the Code to order early voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. The schedules for conducting voting are not required to be uniform among the temporary branch polling places. **This applies only to an election in which the territory served by the early voting clerk is situated in a county with a population under 100,000. In an election in which the territory served by the early voting clerk is situated in more than one county, this applies if the sum of the populations of the counties is under 100,000.** (Sec. 85.065)

NOTE - NEW LAW: HB 3107 (2021, R.S.) added Section 85.065 of the Code to modify the requirements regarding the days and hours for early voting by personal appearance at any temporary branch polling place if the territory served by the early voting clerk is situated in a county with a population under 100,000 or if the territory served by the early voting clerk is situated in more than one county and the sum of the populations of the counties is under 100,000. (Sec. 85.065).

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NOTE - NEW LAW: HB 3107 (2021, R.S.) amended Section 85.068 of the Code to provide that if the early voting clerk is a county election officer or city secretary, the clerk must post notice (PDF) for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Sections 85.064(d) or 85.065(b). (Sec. 85.068).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 85.062 to provide that the location of temporary branch polling places in an election in which countywide polling places are used must be determined with the same methodology that is used for the location of countywide polling places.

13. Note on Notice of Previous Polling Place

If a different polling place is being used from the previous election held by the same authority, a Notice of Previous Precinct (PDF) must be posted at the entrance of the previous polling place informing voters of the current polling place location, if possible. (Sec. 43.062).

14. Note on Notice of Change of Polling Place Location:

For elections ordered by the **governor or county judge only**, if the location of the polling place changes after notice has been given under Section 4.003 of the Texas Election Code, and the county election officer maintains a website to inform voters about elections, the notice of the change must be posted on the website. The notice on the website must be posted not later than the earlier of (1) 24 hours after the location was changed; or (2) 72 hours before the polls open on election day. (Sec. 43.061). If the county election officer is conducting a legislative vacancy election, the candidates listed on the ballot are entitled to receive notice directly from the county judge.

15. Note on Testing Tabulating and Electronic Voting Equipment

Ballot Testing:

Once all candidate filing deadlines have passed, we recommend that you proof and test your ballot programming as soon as possible. Early testing will allow adequate time to locate any errors and make any necessary corrections in ballot programming. We also strongly suggest that you have candidates proof their names and offices before finalizing the ballot to avoid the necessity for last minute ballot corrections.

Logic and Accuracy Test:

We recommend establishing a date to perform the test of your electronic voting equipment (L&A, or Logic and Accuracy Test) as soon as possible. We recommend that this test be performed on a date that allows time to correct programming and retest, if necessary. A notice of this test must be published by the custodian of the electronic voting equipment at least 48 hours before the date of the test. (Sec. 129.023; Tex. Sec'y of State Election Advisory No. 2019-23). The L&A test must be conducted not later than 48 hours before voting begins on a voting system. (Sec. 129.023).

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) requires the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

Testing Tabulating Equipment:

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The automatic tabulating equipment used for counting ballots at a central counting station must be tested three times for each election. (Ch. 127, Subch. D). We recommend you test the equipment as soon as possible; early testing will allow adequate time to locate any errors and make any necessary corrections in programming. However, the first test **must be conducted at least 48 hours before** the automatic tabulating equipment is used to count ballots voted in the election. The second test shall be conducted immediately before the counting of ballots with the equipment begins. The third test must be conducted immediately after the counting of ballots with the equipment is completed. Please note that the custodian of the automatic tabulating equipment must publish notice of the date, hour, and place of the first test in a newspaper at least 48 hours before the date of the test. (Sec. 127.096). The electronic files created from the L&A testing are what must be used for testing the tabulating equipment. (Tex. Sec'y of State Election Advisory No. 2019-23).

Precinct tabulators must also be tested in accordance with the procedures set forth in Chapter 127, Subchapter D of the Texas Election Code to the extent those procedures can be made applicable. (Sec. 127.152; Tex. Sec'y of State Election Advisory No. 2019-23).

Our recommendation is that both L&A testing and testing of the automatic tabulating equipment take place prior to ballots by mail being sent out. However, should there be a reason to delay testing, please be advised that L&A testing must be conducted at least 48 hours before voting begins on a voting system. This means that L&A testing should be completed before early voting and possibly, before election day, if your election day system is different than your early voting system. Additionally, the automatic tabulating equipment may not be used to count ballots voted in the election until a test is successful. (See Chapters 127 and 129, Election Code).

For more information on testing tabulating equipment used at the central counting station, please see Chapter 127, Subchapter D of the Election Code and Tex. Sec'y of State Election Advisory No. 2019-23. See Chapter 129, Subchapter B of the Election Code and Tex. Sec'y of State Election Advisory No. 2019-23 **for other types of testing such as functionality tests, logic and accuracy tests, tests for central accumulators, etc**. Please see Tex. Sec'y of State Election Advisory No. 2019-23 for additional information regarding voting system equipment access, security and preservation, and chain of custody.

16. Note on Accepting Voters with Certain Disabilities

All Political Subdivisions:

An election officer may accept a person with a mobility problem that substantially impairs a person's ability to ambulate who is offering to vote before accepting others offering to vote at the polling place who arrived **before** the person. "Mobility problem that substantially impairs a person's ability to ambulate" has the meaning assigned by Section 681.001, Transportation Code. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order priority. Notice of the priority given to persons with a mobility problem that substantially impairs a person's ability to ambulate **shall** be posted:

1. at one or more locations in each polling place where it can be read by persons waiting to vote;
2. on the website of the Secretary of State; **and**
3. on each website relating to elections maintained by a county. (Sec. 63.0015).

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) provides that a qualified individual with a disability may 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. (Sec. 1.022).

The voting order priority notice required under Section 63.0015 **must** read as follows:

> "Pursuant to Section 63.0015, Election Code, an election officer may give voting order priority to individuals with a mobility problem that substantially impairs the person's ability to move around. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order priority. Disabilities and conditions that may qualify you for voting order priority include paralysis, lung disease, the use of portable oxygen, cardiac deficiency, severe limitation in the ability to walk due to arthritic, neurological,

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or orthopedic condition, wheelchair confinement, arthritis, foot disorder, the inability to walk 200 feet without stopping to rest, or use of a brace, cane, crutch, or other assistive device."

The ***recommended*** time to include the voting order priority notice on a county website is when the Notice of Election is also posted on the website. (Sec. 85.007(d)). See Note 9 regarding Notice of Elections.

Cities, Schools, and Other Political Subdivisions: It is ***strongly recommended*** that the notice regarding accepting voters with certain disabilities also be posted on the subdivision's website, if one is maintained by the political subdivision.

17. Note on Law Regarding Faxed or Emailed ABBMs and Faxed FPCAs

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).

If a voter faxes or emails the ABBM or faxes the FPCA, the date the early voting clerk receives the fax or email is considered the date of submission. Essentially, the faxed or emailed form serves as a place-holder for the voter. Therefore, a voter whose application was faxed or emailed by the 11th day before election day (the deadline), and whose original application is received on or before the 4th business day after that date, would still be entitled to receive a ballot for the election (if otherwise eligible). The early voting clerk will have to hold the faxed or emailed ABBM or faxed FPCA until the clerk receives the original, and would only send the voter a ballot if the original is received by the 4th business day after the faxed or emailed ABBM or faxed FPCA was received. *See* Tex. Sec'y of State Election Advisory No. 2018-02.

The requirement to mail the original application does not apply to an **emailed** FPCA, but does apply to a faxed FPCA.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 84.008 of the Code to provide 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 now 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.) (Sec. 84.008).

18. Note on Opportunity to Correct Defects in Mail Ballots

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NEW LAW: Pursuant to SB 1 (2021, 2nd C.S.), effective December 2, 2021, the early voting ballot board, or signature verification committee (if one is appointed), will need to provide voters voting a ballot by mail the opportunity to correct certain defects in the voter's carrier envelope containing the voter's ballot.

Early Voting Ballot Board: Section 87.0411 provides a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an early voting ballot board discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. Poll watchers are entitled to observe these activities by the early voting ballot board.

Signature Verification Committee (if appointed): Section 87.0271 provides a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after a signature verification committee discovers the defect and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, the committee shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the committee determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the signature verification committee takes one of the actions described above, the committee must take that action with respect to each ballot in the election that to which these options apply. Poll watchers are entitled to observe these activities by the signature verification committee.

The Secretary of State is authorized to prescribe any procedures necessary to implement Sections 87.0271 and 87.0411. (Secs. 87.0271(f), 87.0411(f)). The Secretary of State will issue such procedures prior to the May 2022 election.

Calendar of Events

December

Monday, December 20, 2021 (30th day before Wednesday, January 19, 2022, first day to file an application for a place on the ballot)

Cities, Schools, and Other Political Subdivisions: Post Notice of Deadline to File Applications for Place on the Ballot in a building in which the authority maintains an office. The notice must be posted not later than the 30th day before the first day to file. (Sec. 141.040; Sec. 49.113, Water Code). This notice must be posted in addition to the posting the requirements and deadline for filing for candidacy under Section 2051.201, Government Code. (See Note 3, above.)

Water Districts: The notice must be posted at the district's administrative office or at the public place established by the district under Section 49.063 of the Water Code. (Sec. 49.113, Water Code).

NOTE-NEW LAW: HB 3107 (2021, R.S.) requires the authority with whom an application for a place on the ballot is filed to designate an e-mail address in the notice required by Section 141.040 of the Code for the purpose of filing an application for a place on the ballot.

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NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include with the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

January

Saturday, January 1, 2022

First day for voters to submit an **application** for a ballot by mail (ABBM) for an election in 2022. The application is considered submitted at the time of receipt. (Secs. 84.001(e), 84.007).

First day for voters to submit an ABBM, an Annual ABBM, or a Federal Postcard Application (FPCA). The Annual ABBM and FPCA allows the voter to receive ballots for all elections in which they are eligible to vote held in 2022. Voters who will be 65 or older on election day or voters with a disability are eligible to submit an annual application. The application is considered submitted at the time of receipt. (Secs. 84.001(e), 84.007, 86.0015).

Wednesday, January 19, 2022 (30th day before Friday, February 18, 2022, regular filing deadline for a place on the ballot)

First day to file an application for a place on the ballot or a declaration of write-in candidacy. (Secs. 143.007, 144.005, Election Code; Secs. 11.055, 130.082(g), Educ. Code). *See* Candidacy Filing outline for more details. The following forms are available on the Secretary of State's website:

- Application for Place on City/School/Other Political Subdivision Ballot (PDF)
- If your home rule city or special law district allows for a petition, the following petition may be used: Petition for Place on the City General Election Ballot (PDF)
- Declaration of Write-In Candidacy for City, School, or other Political Subdivisions (PDF)

NOTE: We are often asked how filing can begin if you have not yet ordered the general election. You do not need to order your **general** (regularly occurring) election in order for the filing period to begin.

NOTE - Cities, Schools, and Other Political Subdivisions: There are political subdivisions that do not have office hours on all days of the business week (Monday through Friday) or do not have an office that is open for eight hours each day of the business week. The Elections Division recommends that political subdivisions take steps to have someone available for a few hours most days during the candidate filing period to accept filings, and that political subdivisions post a schedule on their websites and on the bulletin boards where notices of meetings are posted of the days and times when someone will be available to accept filings. The Elections Division also strongly recommends having someone available at the place of business on the filing deadline, especially from 2:00 PM to 5:00 PM, if you are otherwise closed. This guideline is based on the office-hour rule under Section 31.122 of the Election Code. Although a political subdivision may accept applications by mail, fax, or email without a person present at the office, the political subdivision will not be able to determine which applications were timely filed by 5:00 PM.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Sections 143.004 and 144.003 of the Code to provide that candidate applications, other than those that must be accompanied by a filing fee, may be filed via

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email. The application must be a scanned copy of the candidate application and must be sent to the filing authority's designated email address for accepting applications. (Secs. 143.004, 144.003).

Monday, January 31, 2022 (last weekday before February)

Recommended date that county election officials and local political subdivisions meet to discuss conducting elections at the same polling locations pursuant to Section 42.002, as well as any applicable joint election issues needed to be agreed upon. **NOTE: This is not a deadline; just a recommendation.**

February

February Term

Recommended time for the county commissioners court to decide whether to consolidate county election precincts for the May 7, 2022 state constitutional amendment election. The county may consolidate two or more precincts into a single precinct if it will be so located as to adequately serve the voters. At least one consolidated precinct must be wholly within each commissioners precinct. If a county consolidates county election precincts, they must provide a Notice of Consolidated Precinct (PDF) at each polling place used in the preceding general election to inform voters of the precinct's consolidation and the location of the consolidated precinct polling place. This notice must be posted not later than the 10th day before election day and must remain posted continuously through election day. (Secs. 42.008, 4.003(b)). The county shall deliver to the Secretary of State notice of the consolidated precinct no later than the date of the election. (Sec. 4.003(e)).

Monday, February 7, 2022 (89th day before election day, extended from 90th day, Sunday, February 6, 2022, Sec. 1.006)

Last day for eligible political subdivisions to submit Notice of Exemption Under Section 61.013 or an Application of Undue Burden Status to the Secretary of State for exemption from the accessible voting system requirement. (Sec. 61.013). For additional information, consult the most current advisory on this topic, Tex. Sec'y of State Election Advisory No. 2021-02.

Tuesday, February 15, 2022 (81st day before election day; 3rd day before filing deadline)

Political Subdivisions Other Than Counties: If a candidate dies on or before this date, his or her name is not placed on the ballot, if the filing deadline is Friday, February 18, 2022. (Sec. 145.094(a)(1)).

NOTE: Section 145.098 states if a candidate dies on or before the deadline for filing an application for a place on the ballot, the authority responsible for preparing the ballots MAY choose to omit the candidate. If the authority does choose to omit the candidate, the deadline for filing an application for a place on the ballot is extended to the fifth day after the filing deadline, Wednesday, February 23, 2022. This extended deadline only applies to the regular filing deadline. It **DOES NOT** apply to the write-in deadline.

Friday, February 18, 2022 (78th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM - Last day for a candidate in a political subdivision (other than a county) to file an application for a place on the ballot for general election for officers for most political subdivisions, except as otherwise provided by the Texas Election Code. (Secs. 143.007(c), 144.005(d); Sec. 11.055, Education Code; Chapter 286, Health & Safety Code). *See* Candidacy Filing outline for more details.

NOTE – A home-rule city's charter may **NOT** provide an alternate candidate filing deadline. (Secs. 143.005(a), 143.007).

NOTE – City Offices with Four-Year Terms: If no candidate has filed for a city office with a four-year term, the filing deadline is extended to 5:00 PM on Friday, March 11, 2022. (Sec. 143.008).

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NOTE – An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b), 144.005(b)).

Deadline for political subdivisions to order a general election to be held on Saturday, May 7, 2022, unless otherwise provided by the Election Code. (Sec. 3.005). One of the following forms may be used:

- Order of Election for Municipalities
- Order of Election for Other Political Subdivisions (Including Schools)

Political Subdivisions Other Than Counties (Special Election): Deadline to order a special election on a measure to be held on Saturday, May 7, 2022. The following form may be used:

- Order of Special Election for Municipalities (PDF)

Notice for State Constitutional Amendment Election: The constitutional amendment election is ordered by the governor**.** However, the commissioners court should also complete a local order (PDF) to ensure that all required actions related to the election have been completed.

The order must include:

1. The date of the election;
2. The location of the main early voting polling place **including the street address, room number, and building name. The order must designate which location is the main early voting polling place;**
3. The offices or measures to be voted on;
4. **(*Recommended*)** Branch early voting polling places (*see* Notice of Elections above);
5. The dates and hours for early voting (recommended for counties and cities, but required for all other entities);
6. The dates and hours of any Saturday and Sunday early voting (if applicable, it is recommended that this information be included in the order for counties, but it must be included for all other entities); and
7. 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.

In addition to the information included above, an order for a debt obligation (bond) election **must** include (Sec. 3.009):

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

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

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NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 85.004 of the Code to provide that an election order and election notice must designate which location is the main early voting polling place. (Sec. 85.004).

Recommended date to order the lists of registered voters from the county voter registrar. The list should include both the voters' residences and mailing addresses in order to conduct early voting by mail. (Sec. 18.006). The political subdivision should confirm that the most recent maps or boundary changes have been provided to the voter registrar.

Recommended date to confirm telephone number for the county voter registrar's office on election day.

Recommended date to order election supplies, other than ballots. (Subchapter A, Chapter 51).

Political Subdivisions Other Than Counties: ***Recommended*** date to appoint **presiding and alternate judges**. Currently, the Election Code does not establish a deadline for appointing election officials; there is only a notification deadline. For further information concerning procedures for appointing judges and their alternates, see Sections 32.005, 32.008, and 32.011. General eligibility requirements are found in Subchapter C, Chapter 32. In addition to appointing a judge and alternate judge for each election precinct pursuant to Sections 32.001 and 32.005, the governing body must allow the judge to appoint no less than two clerks; however, the alternate judge must serve as one of the clerks as a matter of law. (Secs. 32.032, 32.033). The presiding judge then appoints an additional clerk(s), but not more than the maximum set by the governing body. (Sec. 32.033). Presiding judges and their alternates must be given a Notice of Appointment not later than the 20th day after the appointment is made. (Sec. 32.009). If the appointment is for a single election, the notice may be combined with the Writ of Election, which is required to be delivered to each presiding judge not later than the 15th day before the election, Friday, April 22, 2022. (Secs. 4.007, 32.009(e)). If the notices are combined, both must be delivered by the date required by the earlier notice.

Water Districts: A water district is not required to provide a Notice of Appointment to a presiding judge, as required under Section 32.009, but must provide a Writ of Election. (Sec. 4.007; Sec. 49.110, Water Code).

Recommended date to appoint the **central counting station personnel** (manager, tabulation supervisor and assistants to the tabulation supervisor), if applicable. (Secs. 127.002, 127.003, 127.004, and 127.005). There is no statutory notice requirement for members of the central counting station, but good practice suggests that written notice be given to them.

Recommended date to appoint the **presiding judge and alternate presiding judge of the early voting ballot board** or to designate the election workers of one election precinct to serve as the early voting ballot board. (Secs. 87.001, 87.002, and 87.004). There is no statutory notice requirement for members of the early voting ballot board, but good practice suggests that written notice be given to them.

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 87.002 to require the early voting ballot board to have an alternate judge. The alternate judge is appointed in the same manner as the presiding judge.

Tuesday, February 22, 2022 (74th day before election day)

5:00 PM - Deadline for write-in candidates to file Declarations of Write-In Candidacy (PDF) for regular officers for city, school district, library district, junior college district, hospital district, common school districts, Chapter 36 and 49 Water Code districts, and other political subdivision elections, unless otherwise provided by law. (Secs. 144.006(b), 146.054(b), 146.055, Election Code; Secs. 11.056, 11.304, 130.0825, Education Code; Sec. 326.0431, Local Government Code; Sec. 285.131, Health and Safety Code; and Secs. 36.059, 49.101, 63.0945, Water Code). See Candidacy Filing outline for more details.

NOTE: An application submitted by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b), 144.005(b)).

Wednesday, February 23, 2022 (73rd day before election day; 5th day after regular filing deadline)

If a candidate dies on or before the deadline for filing an application for a place on the ballot, the authority responsible for preparing the ballots MAY choose to omit the candidate. If the authority does choose to omit the candidate, the deadline for filing an application for a place on the ballot is extended to the fifth day after the filing deadline, February

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23rd. This extended deadline only applies to the regular filing deadline. It does NOT apply to the write-in deadline. (Sec. 145.098).

Thursday, February 24, 2022 (72nd day before election day)

First day to post Notice of Drawing for Place on Ballot if drawing is to be conducted on Monday, February 28, 2022. This notice must be posted for 72 hours immediately preceding the time of the drawing. (Sec. 52.094(c)).

> **For an election held by a political subdivision, other than a city**, a notice of ballot position drawing must be **mailed** to candidates by this day (not later than the 4th day before the drawing) if drawing is to be conducted on Monday, February 28, 2022. (Sec. 52.094(d)). Candidates who have not filed by this date should be given a copy of the notice at the time of filing.
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> **For an election held at county or city expense**, if a candidate gives the filing authority a written request, accompanied by a stamped, self-addressed envelope, the filing authority must mail the candidate a notice of ballot position drawing. (Sec. 52.094(d)).
>
> > **NOTE-NEW LAW**: Effective September 1, 2021, HB 3107 (2021, R.S.) amended Section 52.094 of the Code to require the authority conducting the drawing to provide notice of the date, hour, and place of the drawing to each candidate by: 1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or 2) provided at the time the candidate files an application with the appropriate authority. If notice was not provided at the time the candidate filed an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

Friday, February 25, 2022 (71st day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to withdraw, by submission of a notarized Certificate of Withdrawal or a notarized letter. **If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot**. (Secs. 145.092(f), 145.094(a)(4), 145.096(a)(4)). For special circumstances regarding withdrawal of a candidate before ballots are prepared, please contact the Elections Division of the Office of the Texas Secretary of State.

Political Subdivisions Other Than Counties: 5:00 PM – Last day to **withdraw** as a **write-in** candidate in the general election ordered by a political subdivision other than a county. (Secs. 144.006(c), 146.0301, 146.054(c)). (Candidates may use the Certificate of Withdrawal (PDF)).

Recommended first day that an election may be cancelled **if** all filing deadlines have passed, each candidate for an office listed on the ballot is unopposed (except as discussed below), and write-in votes may be counted only for names appearing on a list of write-in candidates. (Sec. 2.052). The Certification of Unopposed Candidates for Other Political Subdivisions may be used to certify candidates as unopposed. Also, see our Sample Order of Cancellation.

A special election of a political subdivision is considered to be a separate election with a separate ballot from a general election for officers of the same political subdivision held at the same time as the special election. Therefore, the fact that there may be a proposition on the ballot will not prevent a cancellation of an election for candidates who are unopposed. (Sec. 2.051(a)). If any members of the political subdivision's governing body are elected from territorial units, such as single member districts, an election **shall** be cancelled in a particular territorial unit if each candidate for an office that is to appear on the ballot in that territorial unit is unopposed **and no opposed at-large race is to appear on the ballot.** An unopposed at-large race **shall** be cancelled in an election regardless of whether an opposed race is to appear on the ballot in a particular territorial unit. (Sec. 2.051(b)). **This recommended cancellation deadline presumes a filing deadline of Friday, February 18, 2022 and a write-in deadline of Tuesday, February 22, 2022. Special elections may have different deadlines, and may now be cancelled separately.**

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NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Sections 2.053 and 2.056 of the Texas Election Code to make this cancellation process mandatory, rather than discretionary. For additional information, consult the outline on Cancellation of Election for Local Political Subdivisions.

NOTE: Political Subdivision Holding a Special Election to Fill a Vacancy: If you are having a special election to fill a vacancy for an unexpired (partial) term, you must not cancel the special election until after all deadlines to file for a special vacancy election have passed. Reminder: The cancellation procedures allow general and special elections to be considered separate elections for cancellation purposes. If the elections are separated, note there are procedures related to listing unopposed candidates in the same relative order on the ballot. See Sec. 2.053, Election Code and the Secretary of State's outline on Cancellation of Election for Local Political Subdivisions (Not County).

Saturday, February 26, 2022 (70th day before election day)

Last day to order a special election to fill a vacancy (if authorized to fill vacancies by special election) and have the filing deadline be the 62nd day before election day. (Secs. 201.054(a)(1), 201.052). Please note that the Election Code requires the election to be ordered as soon as practicable after the vacancy occurs. (Sec. 201.051). The following form may be used: Order of Special Election for Municipalities.

NOTE: Section 201.054 provides that if the special election to fill a vacancy is ordered (1) on or before the 70th day before election day, the candidate application must be filed by 5:00 PM on the 62nd day before election day, OR (2) after the 70th day but on or before the 46th day before election day, the candidate application must be filed by 5:00 PM on the 40th day before election day. This is the first of the two possible ordering times. We do **not** interpret the 70th day order date here as "moving" to the next business day because the date falls on a Saturday, as this is not the last day to order a special election to fill a vacancy for this uniform election date.

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

Monday, February 28, 2022 (68th day before election day)

Recommended date to conduct ballot position drawing. (Sec. 52.094). You should also certify today to the county election officer the offices, propositions (in all necessary languages), and candidates' names (including the order) as they are to appear on the ballot, **if you are contracting** to have the county conduct your election or if you are conducting a joint election with the county. *See* entry for February 24, 2022, referencing new law regarding ballot drawing.

NOTE: After the ballot drawing has occurred, the Elections Division recommends that you proof and test your ballot programming as soon as possible and **prior to the deadline to mail a ballot** if the political subdivision will be using automatic tabulating equipment to count the mail ballots or if your mail ballots are printed from the same database used to program your precinct scanners and/or DREs (See Note 15 prior to Calendar of Events). **The Elections Division also recommends that you provide candidates with copies of ballot proofs so that candidates may verify the correctness of their names, positions sought, and order of names on the ballot.**

Deadline for the Secretary of State to certify the state constitutional amendment election. (Sec. 274.003). The certification will include the ballot order of the constitutional amendments.

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March

Monday, March 7, 2022 (61st day before election day, extended from 62nd day, Sunday, March 6, 2022, Sec. 1.006)

Political Subdivisions Other Than Counties: 5:00 PM – Last day to file an application for a place on the ballot in a special election to fill a vacancy, if the special election is ordered on or before the 70th day before election day, Saturday, February 26, 2022. (Secs. 1.006, 201.054(a)(1)). (For more details about Section 201.054 and the two possible special election deadlines, see entry for Saturday, February 26, 2022).

Political Subdivisions Other Than Counties: 5:00 PM – Deadline for write-in candidates to file Declarations of Write-In Candidacy for officers for city, school district, library district, junior college district, hospital district, and common school districts in a special election to fill a vacancy if the special election is ordered on or before the 70th day before election day, Saturday, February 26, 2022. (Sec. 201.054(a)(1) and 201.054(g)).

> **NOTE:** A declaration of write-in candidacy for a special election must be filed not later than the regular filing deadline to apply for a place on the ballot. The deadline to file an application for a place on the ballot in a special election to fill a vacancy, if the special election is ordered on or before the 70th day before election day, Saturday, February 26, 2022, is Monday, March 7, 2022. (Sec. 1.006).
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> > **NOTE-NEW LAW**: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 52.094 of the Code to require the authority conducting the drawing to provide notice of the date, hour, and place of the drawing to each candidate by: 1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or 2) provided at the time the candidate files an application with the appropriate authority. If notice was not provided at the time the candidate files an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

Tuesday, March 8, 2022 (60th day before election day)

First day of period during which the Secretary of State must publish first statewide notice of state constitutional amendment election. The Secretary of State will publish this notice a second time on the same day of the next week after the first notice was published. (Art. XVII, Sec. 1, Texas Constitution).

Political Subdivisions Other Than Counties: Last day for the governing body of a political subdivision to deliver notice of the election to the county clerk/elections administrator and voter registrar of each county in which the political subdivision is wholly or partly located. (Sec. 4.008).

> **NOTE FOR COUNTIES -** 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. *See* Note 9 for more information on the requirements related to the Notice of Election.

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NOTE-NEW LAW: HB 3107 (2021, R.S.) requires the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 83.010 to require 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) .

Recommended date for county clerk/county elections administrator to deliver an initial list of voters who have submitted annual applications for ballot by mail under Section 86.0015 and scans or photocopies of those applications to the early voting clerk of any political subdivision located within the county that is holding an election on May 7, 2022. The list should only include voters that reside in the political subdivision holding the election. The list should only be created and sent to those political subdivisions that have provided notice of the election to the county clerk/elections administrator. *See also*, the note below and the entry at Tuesday, April 26, 2022, for more information about delivery of a final list of voters. *See* entry at Wednesday, May 4, 2022 for more information on the delivery of copies/images of the applications.

NOTE: Section 86.0015 requires the county clerk/elections administrator to provide a list of voters that have submitted an annual application for ballot by mail to all political subdivisions in their county holding an election. The law only applies to elections for which the county clerk/elections administrator is not the early voting clerk via a contract for election services or joint election agreement. The Election Division *strongly recommends* that the county and political subdivisions **discuss the frequency and method for which these lists should be transmitted** to ensure that ballots are sent out in a timely manner. Finally, the county clerk/elections administrator **must deliver either photocopies or scanned images of the applications (under Section 87.126) to the early voting clerk** of the political subdivision before the ballots by mail are delivered to the early voting ballot board for qualifying and counting under Section 87.041.

Thursday, March 10, 2022 (58th day before election day, 20th day after February 18, 2022)

Last day to notify election judges of their appointment if they were appointed, as recommended, by Friday, February 18, 2022. (Sec. 32.009(b)). Presiding judges and their alternates must be notified of their appointment in writing, not later than the 20th day after the date the appointment is made. If the appointment is for a single election, the notice may be combined with the Writ of Election, which is required to be delivered to each presiding judge not later than the 15th day before the election, Friday, April 22, 2022. (Sec. 4.007, 32.009(e)). If the notices are combined, both must be delivered by the date required by the earlier notice.

Friday, March 11, 2022 (57th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to file Certificate of Withdrawal in a special election, in which the filing deadline is the 62nd day before election day. If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot. (Secs. 145.092(b), (e) and 145.094(a)(3)).

For special circumstances regarding withdrawal of a candidate before ballots are prepared, please contact the Elections Division of the Office of the Texas Secretary of State.

Political Subdivisions Other Than Counties: 5:00 PM – **City Offices with Four-Year Terms**: Extended filing deadline in cities with four-year terms of office, when no candidate files for a particular office by the regular filing deadline of Friday, February 18, 2022. (Sec. 143.008). (*See* entry for Friday, February 18, 2022).

Friday, March 18, 2022 (50th day before election day)

Deadline to challenge the filing of an application for a place on the ballot as to form, content, and procedure. (Sec. 141.034)

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 141.034 of the Code to provide that a candidate application cannot be challenged for "Form, Content, and Procedure" defects after the 50th day before the date of the election for which the application is made. (Sec. 141.034).

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Last day of period during which the Secretary of State must publish first statewide notice of state constitutional amendment election. The Secretary of State will publish this notice a second time on the same day of the next week after the first notice was published. (Art. XVII, Sec. 1, Texas Constitution).

Friday, March 18, 2022 - Thursday, June 16, 2022 (50th day before election day – 40th day after election day)

Mandatory Office Hours: Each county clerk, city secretary, or secretary of a governing body (or the person performing duties of a secretary) must keep the office open for election duties for at least 3 hours each day, during regular office hours, on regular business days. (Sec. 31.122).

NOTE - Counties: This office hour rule applies to the entity's general election or special election ordered by that authority; we recommend that the county maintain these office hours, because the county conducts the constitutional amendment election.

NOTE: Independent School Districts: A "regular business day" means a day on which the school district's main business office is regularly open for business. (Sec. 31.122(b)).

NOTE: If a school district's spring break falls during the mandatory office hour period under Section 31.122 of the Election Code, a school district is not required to have someone present for three hours during the days the school district's main business office is not regularly open for business. However, we strongly recommend posting notice with contact information for open records requests. You should also have one of your elections personnel check at least once a day in the event a voter sent an ABBM to the school district address, fax, or e-mail.

NOTE: Special Elections: In the case of a special election, the office hour rule is triggered starting the third day after the special election is ordered. (Sec. 31.122).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 31.096 of the Code, which addresses nontransferable functions under an election services contract. Specifically, an election services contract may not change the political subdivision's requirement to maintain office hours under Section 31.122. The amendment to Section 31.096 of the Code also allows a county that has contracted with a city to be the custodian of voted ballots for a city election. (Sec. 31.096).

Sunday, March 20, 2022 (48th day before election day)

Last day to publish notice for testing of automatic tabulation equipment testing and logic and accuracy testing (L&A testing) of a voting system that uses direct recording electronic (DRE) voting machines and precinct scanners **if test will be completed by recommended deadline of Tuesday, March 22, 2022.** Notice of the public tests must be published at least 48 hours before the test begins. (Secs. 127.093, 127.096, 129.022, 129.023). *See* Note 15, above.

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).

Tuesday, March 22, 2022 (46th day before election day)

Political Subdivisions Other Than Counties: Last day to order a special election to fill a vacancy (if authorized to fill vacancies by special election). If the election was ordered after the 70th day before election day, the filing deadline will be the 40th day before election day. (Secs. 201.052 and 201.054(a)(2)). Please note that the Election Code requires the election to be ordered as soon as practicable after the vacancy occurs. (Sec. 201.051). (For more information about the write-in declaration deadline, see Monday, March 28, 2022 note entry. For more details about Section 201.054 and the two possible special election deadlines, see Saturday, February 26, 2022 note entry.)

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate

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application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

Recommended date to conduct the first test of the automatic tabulating equipment and for logic and accuracy (L&A test) test on precinct scanners and DREs. (Secs. 127.093, 127.096, 129.022, 129.023). The SOS recommends you complete your first round of testing **prior to mailing your mail ballots** if those ballots will be counted using automatic tabulation equipment. If you conduct your first round of testing by this date, you must publish notice of the test 48 hours prior to testing. *See* Note 15, above.

NOTE-NEW LAW: SB 1 (2021, 2nd C.S.) requires the general custodian of election to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

Wednesday, March 23, 2022 (45th day before election day)

Deadline to mail ballots to military or overseas voters who already submitted their ballot requests via a federal postcard application (FPCA) or via a standard application for ballot by mail (ABBM) and indicated that they are outside the United States. If the early voting clerk cannot meet this 45th-day deadline, the clerk **must** notify the Secretary of State within 24 hours. (Sec. 86.004(b)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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).

Reminder Regarding FPCAs and Overseas ABBMs: If the early voting clerk receives an FPCA (from a military or non-military voter) or an ABBM from an overseas voter after the 45th day deadline, then the ballot **must** be mailed within seven days after the early voting clerk **receives** the FPCA or ABBM. (Secs. 86.004(b), 101.104).

Reminder: In regards to mail ballots for other voters (not military voters using an FPCA or overseas voters using an FPCA or ABBM), the early voting clerk **must** mail a ballot not later than the 7th day after the later of: (1) the date the early voting clerk has accepted a voter's application for a ballot by mail or (2) the date the ballots become available for mailing. However, if the 7th day falls earlier than the 37th day before election day, the voter's mail ballot must be mailed no later than the 30th day before election day. (Sec. 86.004(a)). This means that for every application that comes in before the 37th day before election day, the balloting materials must be mailed by the 30th day before election day. Any application that comes in after the 37th day before election day will follow the 7-day timeline in Sec. 86.004.

NOTE: Information on the early voting roster for both early voting in person and early voting by mail must be made available for public inspection and on the county's website if the county clerk or elections administrator is serving as

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the early voting clerk. For an election held by a political subdivision in which the county clerk or elections administrator is not serving as the political subdivision's early voting clerk, then the information on the roster must be made available on the Internet website of the authority ordering the election. The early voting roster shall be posted by 11:00 AM on the day after the information is entered on the roster (for early voting in person) or by 11:00 AM on the day after the early voting clerk receives a ballot voted by mail. If the entity does not maintain a website, the information must be on the bulletin board used for posting notices. (Sec. 87.121).

NOTE-NEW LAW: HB 1622 (2021, R.S.) amended Section 87.121 of the Code to provide that if an early voting clerk fails to post their early voting rosters in accordance with Section 87.121, a person registered to vote in the county where the early voting clerk is conducting early voting may file a complaint with the Secretary of State regarding the early voting clerk's noncompliance. The Secretary of State by rule shall create and maintain a system for receiving and recording these complaints. (Sec. 87.121).

Monday, March 28, 2022 (40th day before election day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day to file for a place on the ballot in a special election to fill a vacancy, if the special election is ordered after the 70th day before election day, but on or before the 46th day before election day, Tuesday, March 22, 2022. (Sec. 201.054(a)(2)). (For more details about Section 201.054 and the two possible special election deadlines, see Saturday, February 26, 2022 note entry.)

Political Subdivisions Other Than Counties: 5:00 PM – Deadline for write-in candidates to file Declarations of Write-In Candidacy (PDF) for officers for city, school district, library district, junior college district, hospital district, and common school districts in a special election to fill a vacancy if the special election is ordered after the 70th day before election day, but on or before the 46th day before election day, Tuesday, March 22, 2022. (Sec. 201.054(a)(1) and 201.054(g)).

NOTE - Sec. 201.054(g) provides that a declaration of write-in candidacy for a special election must be filed not later than the filing deadline.

NOTE-NEW LAW: HB 4555 (2021, R.S.) amended Sections 141.031 and 141.039 of the Code by modifying the application requirements related to a candidate's final felony conviction status and what must be included on the candidate application form. Specifically, candidates will need to provide an indication on their candidate application that the candidate has either not been finally convicted of a felony, or if so convicted, has been pardoned or otherwise released from the resulting disabilities. A person who has been convicted of a felony will need to include in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form must include a statement informing candidates of the requirement to submit this information. Further, the official application form will need to include a statement informing candidates that knowingly providing false information on their application related to their final felony conviction status is a Class B misdemeanor. (Secs. 141.031, 141.039).

NOTE - School Districts: In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), a candidate for school board trustee must not have been convicted (finally convicted or otherwise) of specific crimes under the Education Code in time to serve. (Sec. 11.066, Education Code).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 52.094 of the Code to require the authority conducting the drawing to provide notice of the date, hour, and place of the drawing to each candidate by: 1) written notice that is mailed to the address stated on the candidate's application not later than the fourth day before the date of the drawing; or 2) provided at the time the candidate files an application with the appropriate authority. If notice was not provided at the time the candidate files an application, the notice may be provided by telephone, if a telephone number is provided on the candidate's application or by e-mail, if an e-mail address was provided on the candidate's application. (Sec. 52.094).

April

Friday, April 1, 2022 (36th day before election day)

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Deadline for the Secretary of State to mail each county judge a copy of the governor's proclamation ordering the state constitutional amendment election. (Sec. 3.003(c)).

Saturday, April 2, 2022 (35th day before election day; 5th day after 40th day)

Political Subdivisions Other Than Counties: 5:00 PM – Last day for a candidate to file a Certificate of Withdrawal in a special election in which the filing deadline is the 40th day before election day. **If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot.** This deadline does not extend to the next business day under Section 1.006. (Secs. 145.092(a) and 145.094(a)(2)).

Thursday, April 7, 2022 (30th day before election day)

Last day to register to vote or make a change of address effective for the May 7, 2022 election. (Secs. 13.143, 15.025).

> **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. (Secs. 15.025, 63.0011).
>
> **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)).

Last day for the county clerk to post a full copy of all amendments to be voted on at the state constitutional amendment election. (Art. XVII, Sec. 1, Texas Constitution).

First day of period during which notice of the constitutional amendment election and other elections must be published 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 the governor 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) and (d)). This notice may be combined with the other notices you are required to publish. The election notice shall be posted on the political subdivision's website. *See* Note on Notice of Elections.

> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) requires the notice of election to include the Internet website of the authority conducting the election. (Sec. 4.004(a)).
>
> **NOTE-NEW LAW**: HB 3107 (2021, R.S.) amended Section 83.010 of the Code to require 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).

Recommended date for early voting clerk to issue order calling for appointment of signature verification committee. (Sec. 87.027). This form may be used to issue order: Order Calling for Signature Verification Committee. If the signature verification committee will start meeting on Sunday, April 17, 2022, the early voting clerk must post a copy of the order calling for appointment of the signature verification committee on or before this date, in order to give notice of the meeting. The order must remain posted continuously for at least 10 days before the first day the committee meets. (Secs. 87.027, 1.006).

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. 63.0015 & 85.007(d)). For more information on this requirement, *see* Note 16.

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. 63.0015 & 85.007(d)).

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NOTE - Notice of Change of Polling Place Location: For elections **ordered by the governor**, if the location of the polling place changes after notice has been given under Section 4.003, and the county election officer maintains a website to inform voters about elections, **the notice of the change must be posted on the website.** The notice on the website must be given not later than the earlier of (1) 24 hours after the location was changed; or (2) 72 hours before the polls open on election day. (Sec. 43.061). If the county election officer is conducting a legislative vacancy election, the candidates listed on the ballot are entitled to receive notice directly from the county judge.

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 Previous Precinct (PDF) must be posted at the entrance of the previous polling place informing voters of the current polling place location, if possible. (Sec. 43.062).

Friday, April 8, 2022 (29th day before election day)

Recommended last day for early voting clerk to coordinate with the voter registrar receipt of supplemental and registration correction lists, if applicable, or coordinate receipt of revised original list 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).

Tuesday, April 12, 2022 (25th day before election day)

Recommended last date for the county election board (or governing body of political subdivision, as appropriate) to appoint a signature verification committee (if one was ordered by the early voting clerk on Thursday, April 7, 2022). See entry under Thursday, April 7, 2022. (Secs. 51.002, 87.027). The members must be appointed not later than the fifth day after the order was issued by the early voting clerk. The appointing authority must post a notice of the appointment of committee members continuously until the last day the signature verification committee meets. This form may be used for the notice: Notice of Appointment of Signature Verification Committee.

Friday, April 15, 2022 (22nd day before election day)

Note that the office hour requirement of Sec. 31.122 does apply to Good Friday. For more information on the office hour rule, see the entry on March 18, 2022 – June 16, 2022.

Saturday, April 16, 2022 (21st day before election day)

Last day to post notice of election on bulletin board used for posting notices of meetings of governing body. (Sec. 4.003(b)). A Record of Posting Notice of Election should be completed at the time of posting. (Secs. 1.006, 4.005). *See* Note on Notice of Elections.

Last day to post notice of election in each election precinct, if the method of giving notice is **not** specified by a law outside the Election Code and notice is given by this method in lieu of publication. (Secs. 1.006, 4.003(a)(2)). Cities and school districts **must** publish their notice in the newspaper. A Record of Posting Notice of Election should be completed at the time of posting. (Secs. 1.006, 4.005).

> **All Political Subdivisions:** The election notice shall be posted on the political subdivision's website, if the political subdivision maintains a website. The order and notice should include all days and hours for early voting by personal appearance including voting on ***ANY*** Saturday or Sunday. (Secs. 85.006 & 85.007). **Note for counties,** the election notice **must** be subsequently amended to include voting later ordered for ***ANY*** Saturday or Sunday and **must** be posted on the political subdivision's website, if maintained.
>
> **NOTE FOR COUNTIES -** 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, regardless of whether the entity is conducting their own election or contracting with the county.

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For Bond Elections: First day a political subdivision must post on their Internet website prominently and together with the notice of the election, a copy of the sample ballot, and the contents of the proposition, if the political subdivision maintains an Internet website. (Sec. 4.003(f)).

The ***recommended*** time to include the notice of accepting voters with certain disabilities on a county website is when the notice of election is also posted on the website. (Secs. 63.0015 & 85.007(d)). *See* Note 16 regarding notice on accepting voters with certain disabilities.

Counties, Cities, and School Districts: NEW LAW: SB 1116 (2021, R.S.) amended Chapter 4 of the Election Code by adding Section 4.009 regarding candidate and polling place information which must be posted on county, city, and school district websites. 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).

Sunday, April 17, 2022 (20th day before election day)

First day that the signature verification committee may begin operating, if one is created. (Sec. 87.027).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) added Section 87.0271 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after a **signature verification committee** discovers the defect and before the committee decides whether to accept or reject a timely delivered ballot under Section 87.027, the committee shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the committee determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the signature verification committee takes one of the actions described above, the committee must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0271). *See* Note 18.

Monday, April 18, 2022 (19th day before election day, extended from 20th day, Sunday, April 17, 2022, Sec. 101.052(i)(2))

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 May 7, 2022. A person 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* Friday, April 22, 2022 entry for timeliness of an FPCA received without a postmark. (Secs. 101.052(e), 101.052(i)(2)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, a member of the Texas National Guard or the National Guard of another state or a member

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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 (PDF), 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 (PDF), **or "my return is uncertain"** (2017 form (PDF) receive a federal ballot **only** regardless of the date filed. (Chapter 114). In a local election (where there is no federal office on the ballot), this means there is **no ballot to send the voter**.

Monday, April 18, 2022 – Tuesday, April 26, 2022 (19th day before election day – 11th day before election day)

A person submitting an FPCA (PDF) during this period who is **not** registered to vote is not entitled to receive a ballot for any non-federal election held on Saturday, May 7, 2022. This means that a person submitting an FPCA during this period is entitled to receive a federal ballot only, if not already a permanent registered voter. (Secs. 101.052(f), 114.002, 114.004). In a local election (where there is no federal office on the ballot), this means there is **no ballot to send the voter.**

The early voting clerk is required to maintain a copy of this application since it may be used for other elections and forward the original to the voter registrar. Also see entry below under Friday, April 22, 2022 (FPCA without a postmark). (Secs. 84.007, 101.052(e), (f)).

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 (PDF), 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 (PDF), or "**my return is uncertain**" (2017 form (PDF), 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**.

Tuesday, April 19, 2022 (18th day before election day)

If a **defective application to vote early by mail** is received on or before this date, the early voting clerk must mail the applicant a new application with explanation of defects and instructions for submitting the new application. For defective applications received after this date and before the end of early voting by personal appearance, the early voting clerk must mail only the Notice of Rejected Application for Ballot by Mail and a statement that the voter is not entitled to vote early by mail unless he or she submits a sufficient application by the deadline, which is Tuesday, April 26, 2022. (Secs. 84.007(c), 86.008).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 86.001 to provide that if the information required by Section 84.002(a)(1-a) included on the application does not identify the same voter identified on the applicant's voter registration application, the clerk shall reject the application. (Sec. 86.001(f)). If an application is rejected under Section 86.001(f), the clerk shall provide notice of the rejection.The notice must include information regarding the ability to correct or add the required information through the online ballot by mail tracker described in Section 86.015(c). (Sec. 86.001(f-1)). If the applicant corrects the application for ballot by mail online and that application subsequently identifies the same voter identified on the applicant's voter registration application, the clerk shall provide a ballot to the voter. (Sec. 86.001(f-2)).

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Wednesday, April 20, 2022 (17th day before election day)

Last day to publish notice of L&A test for voting systems or precinct scanners if test will be held on Friday, April 22, 2022, if testing was not already completed by March 22, 2022. Notice of the public L&A Test must be published at least 48 hours before the test begins. (Secs. 129.001, 129.023). See Note 15, above.

> **NOTE - NEW LAW:** SB 1 (2021, 2nd C.S.) provides that if logic and accuracy testing is being conducted for an election in which a county election board has been established under Section 51.002 of the Texas Election Code, the general custodian of election records shall notify each member of the board of the test at least 48 hours before the date of the test. If the county election board chooses to witness the test, each member shall sign the statement required for logic and accuracy testing. (Sec. 129.023(b-2)).

Last day to post notice (PDF) of 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) and (d)).

> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) amended Section 85.062 to provide that the location of temporary branch polling places in an election in which countywide polling places are used must be determined with the same methodology that is used for the location of countywide polling places.

Friday, April 22, 2022 (15th day before election day)

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 indicating **"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)). *See* Note under entry for Monday, April 18, 2022.

Last day to conduct public L&A test of a voting system or precinct scanner. We highly ***recommend*** that this test is done on an earlier date to allow time for corrections to programming, if necessary. (*See* Note 15, above). Per Section 129.023, the L&A test shall be conducted not later than 48 hours before voting begins on such voting systems, assuming that the voting system will first be used for early voting in person.

> **NOTE-NEW LAW:** SB 1 (2021, 2nd C.S.) requires the general custodian of election to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment has not been altered. (Sec. 129.023(c-1)). *See* Tex. Sec'y of State Election Advisory No. 2019-23 for more information on voting system procedures.

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).

NEW LAW: ***Recommended date*** for a signature verification committee (if appointed) that has discovered a defect in a voter's carrier envelope to return the voted ballot in the carrier envelope to the voter. (Sec. 87.0271).

> **NOTE:** If the committee determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the signature verification committee may notify the voter of the defect by **phone or email** and inform the voter that the voter may cancel

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their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. (Sec. 87.0271). *See* Note 18.

Monday, April 25, 2022 (12th day before election day; day before the last day to apply for a ballot by mail)

First day to vote early in person. (Sec. 85.001(e)).

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 – NEW LAW: Political Subdivisions Other than Counties: Early voting in person at the main early voting polling place must be conducted for 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 for at least **four (4) hours** per day. (Sec. 85.005(b)).

NOTE – NEW LAW: Counties: Early voting in person must be conducted on each weekday of the early voting period that is not a legal state holiday and for a period of at least **nine (9) hours**, except that voting may not be conducted earlier than 6:00 AM or later than 10:00 PM. (Sec. 85.005(a)).

NOTE – NEW LAW: Cities: SB 1 (2021, 2nd C.S.) amended Section 85.005(d) to remove the provision that requires cities 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.

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.

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 61.002 to provide that immediately before the opening of the polls on the first day of early voting and 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. Each election judge and alternate judge shall sign the printed tapes. (Sec. 61.002).

NOTE - NEW LAW: Temporary Branch Locations: Effective September 1, 2021, the rules for temporary branch locations differ based on the population size of the county. *See* Note 12 for additional information regarding temporary branch location days and hours.

First day a county with a population of 100,000 or more, or entities that are having joint elections or are contracting with such a county, may convene their early voting ballot board and begin processing and qualifying mail ballots; however, the mail ballots may not be counted until (i) the polls open on election day; or (ii) for 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). 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. (Sec. 87.0222). **NOTE: Results may not be released until the polls close on election day.**

NOTE – NEW LAW: HB 3107 (2021, R.S.) clarified that if a county with a population of 100,000 or more is conducting an election through a contract for election services for a political subdivision in May of an even-numbered year, the county's ballot board timeframes apply to the election. (Secs. 87.0222, 87.0241).

NOTE – The county clerk/elections administrator must ensure that photocopies or scanned images 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.

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NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) added Section 87.0411 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an **early voting ballot board** discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0411). *See* Note 18.

A voter who becomes sick or disabled on or after Monday, April 25, 2022 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 (PDF). An application may be submitted after the last day of the period for early voting by personal appearance and before 5:00 PM on Election Day. (Sec. 102.003).

Tuesday, April 26, 2022 (11th day before election day)

Last day to receive an FPCA (PDF) 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)).

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 requirement to mail the original application does not apply to an **emailed** FPCA. For additional information on this law, please see Note 17, above.

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.001 of the Code regarding FPCAs. Effective September 1, 2021, 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).

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, April 26, 2022. (Sec. 84.008).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 101.052 of the Code regarding FPCAs. Effective September 1, 2021, 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).

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NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 84.008 of the Code to provide 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 effective September 1, 2021, voters may now 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 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 May 7, 2022, 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)).

NOTE for Counties: Deadline to file a petition (PDF) to require the county early voting clerk to conduct extended early voting on Saturday, April 30, 2022. Notice of weekend voting (PDF) must be posted beginning no later than Wednesday, April 27, 2022, and continuing through Friday, April 29, 2022. (Secs. 85.006(d), 85.007(c)).

Wednesday, April 27, 2022 (10th day before 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 of election ordered by the governor 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. (Secs. 4.003(c) and (d)).

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 notice **if method of giving notice is not specified by a law outside the Election Code** and this method of giving notice is selected. (Sec. 4.003(a)(3)).

Last day to post notice (PDF) of the precinct's consolidation and the location of the polling place in the consolidated precinct for each precinct that is combined to form a consolidated precinct under Section 42.008. This notice must be posted at the polling place used in the preceding general election **and** must remain posted continuously through election day. (Sec. 4.003(b)).

Counties – Weekend Early Voting Hours – Notice Requirement: Last day to post notice on bulletin board used for posting notice of meetings of the commissioners court, if early voting will be conducted on Saturday, April 30, 2022. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Saturday or Sunday. Notice (including the days and hours of early voting) must also be posted to the political subdivision's website, if one is maintained.

NOTE for Counties: If the county election officer on her/his own motion by written order orders early voting on Saturday or Sunday OR if the county election officer orders Saturday or Sunday voting after being petitioned to do so by at least 15 registered voters, such voting need not be included in the regular order or notice of the election. (Secs. 85.006(b), (d) and 85.007(b), (c)).

NOTE – NEW LAW: All Political Subdivisions, Except Counties: SB 1 (2021, 2nd C.S.) provides that in an election in which a city secretary is the early voting clerk, voting on any Saturday or Sunday **must** be included in the order and notice of election. City secretaries no longer have the authority to order Saturday or Sunday early voting 72 hours immediately preceding the first hour that voting will be conducted. However, the city **must** have early voting on Saturday or Sunday, *if* a written request is received from at least 15 registered voters of the political subdivision prior to the election being ordered. (Secs. 85.006, 85.007).

NOTE for Counties: Deadline to file a petition (PDF) to require the county early voting clerk to conduct extended early voting on Sunday, May 1, 2022 (Sec. 85.006(d)). Notice of weekend voting (PDF) must be posted beginning no later than Thursday, April 28, 2022, and continuing through Saturday, April 30, 2022. (Sec. 85.007(c)).

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Note for Counties with Population of Less than 55,000: Extended Early Voting Hours - Notice Requirement: Deadline for counties with populations of less than 55,000 to post the Notice of Extended Hours (PDF) for the constitutional amendment election if the early voting clerk received a timely **petition** for extended early voting hours for Monday, May 2, 2022. The notice must be posted beginning no later than Wednesday, April 27, 2022, and continuing through Sunday, May 1, 2022. For additional information, *see* Note 11 regarding extended early voting hours.

> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) modified the days and hours for extended early voting by personal appearance. Effective December 2, 2021, in counties with a population of 55,000 or more, voting in a special election ordered by the governor shall be conducted for at least 12 hours on each of the last two days of the early voting period. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM. (Sec. 85.005(c)).

Thursday, April 28, 2022 (9th day before election day)

Counties – Weekend Early Voting Hours – Notice Requirement: Last day to post notice on bulletin board used for posting notice of meetings of commissioners court, if early voting will be conducted on Sunday, May 1, 2022. (Sec. 85.007). Notice must be posted at least 72 hours before early voting begins on a Saturday or Sunday. Notice (including the days and hours of early voting) must also be posted to the political subdivision's website, if one is maintained.

Note for Counties with Population of Less than 55,000: Extended Early Voting Hours - Notice Requirement: Deadline for counties with populations of less than 55,000 to post the Notice of Extended Hours (PDF) for the constitutional amendment election if the early voting clerk received a timely **petition** for extended early voting hours for Tuesday, May 3, 2022. The notice must be posted beginning no later than Thursday, April 28, 2022, and continuing through Monday, May 2, 2022. For additional information, *see* Note 11 regarding extended early voting hours.

> **NOTE – NEW LAW:** SB 1 (2021, 2nd C.S.) modified the days and hours for extended early voting by personal appearance. Effective December 2, 2021, in counties with a population of 55,000 or more, voting in a special election ordered by the governor shall be conducted for at least 12 hours on each of the last two days of the early voting period. Voting may not be conducted earlier than 6:00 AM or later than 10:00 PM. (Sec. 85.005(c)).

May

Monday, May 2, 2022 (5th day before election day, day before last day of early voting, 4th business day after the deadline to apply for a ballot by mail)

Note for Counties: For the constitutional amendment election, early voting must be conducted for at least 12 hours on this day in counties with populations of 55,000 or more. Early voting must be conducted for at least 12 hours on this day in counties with populations under 55,000 if the early voting clerk received a timely petition (PDF). For additional information, *see* Note 11 regarding extended early voting hours. (Secs. 85.005(c), 85.067).

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, May 4, 2022 (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).

Deadline for the early voting clerk to receive, by mail, the original of an ABBM that was faxed or emailed or an FPCA that was faxed on the deadline to apply for a ballot by mail, Tuesday, April 26, 2022.

> A voter who faxed or emailed their ABBM or faxed their FPCA must mail the original 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**. For more information, see the entry under Tuesday, April 26, 2022 and Note 17.

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Last day to publish notice of public test of automatic tabulating equipment, if test will be held on Wednesday, May 4, 2022, and testing was not already completed. The public notice of the test of automatic tabulating equipment must be published at least 48 hours before the test begins. (Sec. 127.096).

Tuesday, May 3, 2022 (4th day before election day)

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

Note for Counties: For the constitutional amendment election, early voting must be conducted for at least 12 hours on this day in counties with populations of 55,000 or more. Early voting must be conducted for at least 12 hours on this day in counties with populations under 55,000 if the early voting clerk received a timely petition (PDF). For additional information, *see* Note 11 regarding extended early voting hours. (Secs. 85.005(c), 85.067).

5:00 PM – Deadline to submit a Request for Election Inspectors for election day, Saturday, May 7, 2022 to the Secretary of State. (Sec. 34.001).

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, May 4, 2022. 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).

> The Notice of Delivery of Early Voting Balloting Materials serves as notice of the convening of the early voting ballot board. Your entity should also post notice every time the early voting ballot board reconvenes.

Wednesday, May 4, 2022 (3rd day before election day; day after early voting in person ends)

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):

> First day those counties and political subdivisions 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).

Counties with a population less than 100,000 (or local subdivisions who are **NOT** conducting a joint election with a county with a population of 100,000 or more or conducting an election through a contract for election services with such a county):

> First day those counties and political subdivisions may convene their early voting ballot board for **processing** and **qualifying** mail ballots, 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 (PDF).
>
> **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:** SB 1 (2021, 2nd C.S.) added Section 87.0411 to provide a procedure by which a voter can correct certain defects in their carrier envelope containing their voted ballot. Not later than the second business day after an **early voting ballot board** discovers the defect and before the board decides whether to accept or reject a timely delivered ballot under Section 87.041, the board shall: (1) determine if it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day; and (2) return the carrier envelope to the voter by mail, if the board determines that it would be possible for the voter to correct the defect and return the carrier envelope before the time the polls are required to close on election day. If the board determines that it would not be possible for the voter to correct the defect

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and return the carrier envelope before the time the polls are required to close on election day, the board may notify the voter of the defect by phone or email and inform the voter that the voter may cancel their mail ballot in accordance with Section 84.032 or come to the early voting clerk's office in person not later than the sixth day after election day to correct the defect. If the ballot board takes one of the actions described above, the board must take that action with respect to each ballot in the election that to which these options apply. (Sec. 87.0411). *See* Note 18.

First day to submit an Application for Emergency Early Ballot Due to Death in Family to vote a late ballot because of a death in the immediate family that occurred on or after Monday, May 2, 2022, and will require absence from the county on election day. (Secs. 103.001, 103.003(b)).

Last day to conduct public test of automatic tabulation equipment. Per Section 127.093, the test shall be conducted at least 48 hours before the automatic tabulating equipment is used to count ballots voted in an election and was not previously tested. We highly ***recommend*** that this test is done on an earlier date to allow time for corrections to programming, if necessary. (See Note 15, above).

Friday, May 6, 2022 (day before 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 e-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, May 6, 2022, 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 office of the custodian of election records and pick up the provisional ballots and forms.

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

NOTE FOR MAY 2023 ELECTION: Chapter 2051 of the Government Code requires any political subdivision with the authority to impose a tax that maintained a publicly available Internet website at any time on or after January 1, 2019, to post on that website the requirements and deadline for filing for candidacy of each elected office of the political subdivision continuously for one year before the election day for that office. *See* Tex. Sec'y of State Election Advisory No. 2019-19.

Saturday, May 7, 2022 (Election Day)

7:00 AM – 7:00 PM	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). A voter may vote at the main early voting polling place if **electronic voting systems** are used at regular polling place(s) on election day **and** the voter has a sickness or physical condition that prevents the voter from voting in the regular manner without personal assistance or a likelihood of injuring the voter's health. (Secs. 104.001, 104.003). However, if the early voting ballots by mail are processed at a location other

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	than the main early voting polling place, the early voting clerk may require the voting to be conducted at that location. (Sec. 104.003).
5:00 PM	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, April 25, 2022. (Sec. 102.003(b)).
7:00 PM	Regular deadline for receiving **early voting ballots** by mail. **BUT see entry for Monday, May 9, 2022 on "late domestic ballots," entry for Thursday, May 12, 2022, and entry for Friday, May 13, 2022 on other "late" ballots.** This is also the deadline for receiving **late ballots cast by voters who became sick or disabled** on or after Monday, April 25, 2022. (Secs. 86.007(a), 102.006(c)).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.) amended Section 61.002 to provide 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 – NEW LAW: SB 1 (2021, 2nd C.S.) requires 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).

NOTE: Receipt of Mail Ballots: All early voting ballots sent by mail from inside the United States that are received by 7:00 PM on election day, May 7, 2022, **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 that 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 pm on election day may not be counted unless the ballot may be counted late, which applies to late domestic ballots (Sec. 86.007(a)(2)), ballots mailed from outside the United States (Sec. 86.007(d)), 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, May 9, 2022 on "late domestic ballots," entry for Thursday, May 12, 2022, and entry for Friday, May 13, 2022 on other "late" ballots. See Tex. Sec'y of State Election Advisory No. 2018-02**.**

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 chief of police or city marshal for city elections, the constable of the justice precinct in which the office of the political subdivision governing body's main office is located (or the sheriff, if there is no constable) for an election ordered by an authority of a political subdivision other than a county or city, and the sheriff for an election ordered by the Governor or a county authority. (Sec. 66.060). If ballots are to be delivered before election day, the early voting clerk must post notice at least 24 hours before each delivery at the main early voting polling place. Form AW6-6

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Note on Delivery of Early Voting Ballot to Early Voting Ballot Board Before Election Day: Early voting ballots may be delivered to the early voting ballot board at any time after early voting by personal appearance ends. 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 at least 24 hours before each delivery at the main early voting polling place. Form AW6-6

> **Exception: Counties with a population of 100,000 or more, or entities that are having joint elections with counties with a population of 100,000 or more or who are conducting an election through a contract for election services with such a county, may process the mail ballots (i.e., qualify, and accept or reject, but not count) as early as the 8th day before the end of the early voting period; in such an election, votes may be counted 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 (PDF) 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 – NEW LAW:** SB 1 (2021, 2nd C.S.) amended Section 127.1232 to provide that in counties with a population of 100,000 or more (or political subdivisions contracting with a county with a population of 100,000 or more), 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).

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 on Election Night: The county voter registrar may take possession of the 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). Form AW8-19

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 are delivered to the appropriate authorities after completion. (Secs. 66.053(a), 127.065, 127.066, 127.067).

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Last day to post notice of governing authority's meeting to canvass returns of election if canvass is to take place on Tuesday, May 10, 2022 (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: NEW LAW: SB 1116 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.016 of the Code regarding 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).

Monday, May 9, 2022 (1st business day after election day)

5:00 PM – 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 Postcard 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 PM** at the location of the election on election day, May 7, 2022**.** (Secs. 86.007, 101.057 and 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 PM.

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 PM 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 PM** 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 who applied for a ballot using an ABBM or FPCA; 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 the **entry for Thursday, May 12, 2022, and the entry for Friday, May 13, 2022.**

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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 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: 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, May 7, 2022), 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 office of the custodian of election records 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, May 10, 2022 (3rd day after election day)

Last day to begin the **partial manual count** for entities using electronic voting systems for the counting of ballots. 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 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, but partial manual count must be completed for mail ballots. (Sec. 127.201(g)).

> **NOTE:** For information on how to begin the partial manual count, please see Tex. Sec'y of State Election Advisory No. 2018-30.

The first possible day to conduct official local canvass of returns by governing authority of the political subdivision. However, the canvass may not be conducted until the 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 and 86.007).** Notice of canvass must be posted at least 72 hours continuously before the canvass is conducted.

> **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 be issued a certificate of election and take the oath of office. (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, who cannot qualify until the 6th day after election day. *See* entry on Friday, May 13, 2022.

NOTE: Officially-canvassed returns for the state constitutional amendment election must be delivered by the county election officer to the Secretary of State within 24 hours of the canvass. (Sec. 67.007(d)).

Thursday, May 12, 2022 (5th day after election day)

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 PM on election

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day, Saturday, May 7, 2022, 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 a military FPCA) **cannot be counted** if it does **not** bear a cancellation mark or a receipt mark. (Sec. 86.007(c), (e), (f)). For military voters casting ballots who submitted an FPCA, please see entry for Friday, May 13, 2022.

> **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 PM** on election day.

Last day to receive ballots from **non-military voters** casting ballots from **overseas**, who submitted an **FPCA, AND** who placed their ballots in delivery by 7:00 PM on election day, Saturday, May 7, 2022. (Sec. 86.007(d) and (e)).

Friday, May 13, 2022 (6th day after election day)

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

> **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."
>
> **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).**
>
> **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 Monday, June 6, 2022 entry.

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 and 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 and 101.001).

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NOTE: The carrier envelope or, if applicable, the envelope containing the carrier envelope sent by the military 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)).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 65.052 of the Code to provide that, for the general election for state and county officers, the voter registrar will now have 10 days to review a provisional voter's eligibility. **Please note this extended deadline does not apply to the constitutional amendment election.** (Sec. 65.052).

NOTE – NEW LAW: SB 1 (2021, 2nd C.S.): 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). *See* Note 18.

Monday, May 16, 2022 (9th day after 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:

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 PM on election day, May 7, 2022, and were received not later than 5:00 PM on the first business day after election day, Monday, May 9, 2022. (Secs. 86.007(a) & (d-1), 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, May 12, 2022. (Secs. 86.007(d), 87.125(a)).
3. any ballots received by the 6th day after election day, Friday, May 13, 2022, 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)).

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-NEW LAW: HB 3107 (2021, R.S.) amended Chapter 65 of the Election Code by adding Section 65.0581 to provide 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 – NEW LAW: SB 1 (2021, 2nd C.S.) requires 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

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central counting station meets for the last time to process late-arriving ballots by mail and provisional ballots. (Sec. 127.131).

Tuesday, May 17, 2022 (10th day after election day)

The presiding judge of the EVBB shall mail a Notice of Rejected Ballot (PDF) to voters whose mail ballots were rejected no later than the 10th day after election day or as soon as practicable, depending on when the EVBB last convenes. (Sec. 87.0431).

Wednesday, May 18, 2022 (11th day after election day)

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

> **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).
>
> **NOTE - Officially-canvassed returns for the state constitutional amendment election must be delivered by the county election officer to the Secretary of State within 24 hours of the canvass. (Sec. 67.007(d)).**

Sunday, May 22, 2022 (15th day after election day)

Election records from the May 7, 2022 election must be available in an electronic format no later than this day, for a fee of not more than $50.00. (Sec. 1.012(e)).

First day that the Governor may conduct the state canvass of the state constitutional amendment election. (Sec. 67.012).

Monday, May 30, 2022 – Tuesday, July 5, 2022 (20th day after the canvass through the 48th day after the canvass; 23rd day after election day; 12th day after last canvass date)

Possible period for runoff election, depending on the date of the official canvass unless a charter provides for a later date. If Monday, May 30, 2022 (Memorial Day) is the first possible day, it does not move, since it is not the last possible day to hold a runoff election. If the 45th day is Saturday, July 2, 2022, that deadline will move to the next regular business day, Tuesday, July 5, 2022, under Section 1.006, because Monday, July 4, 2022 is a legal state holiday.

NOTE: The order of the names on the runoff ballot should be in the same relative order as they appeared on the general election ballot, so no ballot drawing is required for the runoff ballot. (Sec. 52.094).

Tuesday, May 31, 2022 (24th day after election day; extended from 21st day, Saturday, May 28, 2022, Sec. 1.006)

Last day for the presiding judge of the early voting ballot board to mail Notice of Outcome to Provisional Voter (PDF) to provisional voters, if the canvass was held on Wednesday, May 18, 2022. Such notices must be delivered to provisional voters by the presiding judge no later than the 10th day after the local canvass. (The deadline falls on Saturday, May 28, 2022, and is extended to Tuesday, May 31, 2022 under Section 1.006.) (Sec. 65.059; 1 T.A.C. § 81.176(e)).

Last day to complete the partial manual count, which is first business day after the 21st day after the election. (Secs. 1.006, 127.201(a)).

June

Monday, June 6, 2022 (30th day after 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).

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Last day for governor to conduct the state canvass for the state constitutional amendment election. (Sec. 67.012).

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).

NOTE-NEW LAW: HB 3107 (2021, R.S.) amended Section 18.069 of the Code by changing who is responsible for submitting voter history to the Secretary of State from the voter registrar to the general custodian of election records (early voting clerk). (Sec. 18.069).

Thursday, June 16, 2022 (40th day after election day)

Last day of the period for mandatory office hours. See entry for Friday, March 18, 2022. (Sec. 31.122).

July

Thursday, July 7, 2022 (61st day after election day)

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

2023-2024

Sunday, January 1, 2023 (1st day after the end of the calendar year in which the election was held)

NEW LAW: SB 1 (2021, 2nd C.S.): amended Section 127.1232 to provide that in counties with a population of 100,000 or more (or political subdivisions contracting with a county with a population of 100,000 or more), 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).

Friday, March 8, 2024 (day after 22 months after May 7, 2022 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.)

AMERICAN OVERSIGHT

Wednesday, May 8, 2024 (day after Two Years after May 7, 2022 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).

AMERICAN OVERSIGHT

From: Charles Pinney
To: Kathryn.Nealy@co.gregg.tx.us
Subject: RE: central counting station (EI Response)
Date: Wednesday, January 29, 2020 1:19:01 PM
Attachments: image001.png

Hello,

The answer depends on how the election day vote counting is handled.

If they use a paper-based system and the results will be tallied at each polling place (either using the results tapes on the precinct scanners or by hand-tallying paper ballots), then they will not need to establish a central counting station. If they use a paper-based system but the media containing the results are taken from the election day polling places to be tabulated on a computer at a central location, then they will need to establish a central counting station.

If they use DREs, then they will need to establish a central counting station to accumulate those results.

Chapter 4 of our Election Judges and Clerks Handbook outlines the differences in procedure between the traditional precinct-based setup and the central counting station setup when using precinct ballot counters:
https://www.sos.state.tx.us/elections/forms/election_judges_handbook.pdf

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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From: Kathryn Nealy <Kathryn.Nealy@co.gregg.tx.us>

AMERICAN OVERSIGHT

Sent: Tuesday, January 28, 2020 5:23 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: central counting station

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Some of our small cities are asking if they have to have a Central Counting Station.
In the past, they receive the Early Voting machines and Election Day voting machines in their office, and add the Tally reports together from those 2 machines.
They do not pull any media to announce their results that night; they just announce from the Tally reports.

Kathryn Nealy
Elections Administrator
Gregg County
903-237-2652

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AMERICAN OVERSIGHT

From: Heider I. Garcia <HIGarcia@tarrantcounty.com>
Sent: Tuesday, February 22, 2022 3:42 PM
To: Christina Adkins
Subject: RE: CEO Advisory Group - Updated Reconciliation Form
Attachments: Election Day Reconciliation - HG Comments.docx

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My comments attached. See you tomorrow.

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Tuesday, February 22, 2022 3:32 PM
To: Bastrop - Kristin Miles <kristin.miles@co.bastrop.tx.us>; Cameron - Remi Garza <remi.garza@co.cameron.tx.us>; Bexar - Jacque Callanen <jcallanen@bexar.org>; Brazos - Trudy Hancock <thancock@brazoscountytx.gov>; Brazoria - Joyce Hudman <joyceh@brazoria-county.com>; Brazoria - Lisa Mujica <Lisam@brazoria-county.com>; Collin - Bruce Sherbet <bsherbet@co.collin.tx.us>; Denton - Frank Phillips <Frank.Phillips@dentoncounty.gov>; 'Hays - Jennifer Anderson (elections@co.hays.tx.us)' <elections@co.hays.tx.us>; Hidalgo - Yvonne Ramon <yvonne.ramon@co.hidalgo.tx.us>; Houston - Cynthia Lum <clum@co.houston.tx.us>; Lubbock - Roxzine Stinson <rstinson@lubbockcounty.gov>; Heider I. Garcia <HIGarcia@tarrantcounty.com>; Travis - Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>; Williamson - Christopher Davis <cjdavis@wilco.org>; Potter - Melynn Huntley <melynn.huntley@co.potter.tx.us>; Midland - Carolyn Graves <cgraves@mcounty.com>; Chambers - Heather Hawthorne <hhawthorne@chamberstx.gov>; 'Harris - Neeharika Tumati (neeharika.tumati@cao.hctx.net)' <neeharika.tumati@cao.hctx.net>; Harris - Beth Stevens <Beth.Stevens@vote.hctx.net>; Harris - Isabel Longoria <Isabel.Longoria@vote.hctx.net>; Dallas - Michael J. Scarpello <michael.scarpello@dallascounty.org>
Cc: [redacted] Keith Ingram <KIngram@sos.texas.gov>; Adam Bitter <ABitter@sos.texas.gov>; Kristi Hart <KHart@sos.texas.gov>
Subject: CEO Advisory Group - Updated Reconciliation Form

EXTERNAL EMAIL ALERT! Think Before You Click!

Dear Advisory Group members,

Thanks for everyone's feedback during our last meeting --- and during the many calls I've had with some of you after the meeting! I've attached the new revised draft reconciliation form. It was very difficult to incorporate all the edits as some of you were asking about making changes that were the complete opposite of what others asked for. We did the best we could to incorporate as much as possible.

AMERICAN OVERSIGHT

If you have time tomorrow to talk, I'm setting up a call for tomorrow morning. I know you are all very busy, but if you have time to discuss the form, I would love to go over it with you all one more time. If you aren't able to join the call and wouldn't mind sending me your comments via email, we'd appreciate the feedback! These are my outstanding questions for you that I would like to discuss before we finalize.

1. **Total Number of In-Person Votes**: Rather than breaking this category down by early voting/election day, we combined the category based on suggestions to simplify the form. What are the consequences/advantages to keeping as a single category or breaking down into more categories?

2. **Box 4 (Comparison of Voters and Counted ballots):** Some of you very much liked this box because it would show the percentage which is going to be very, very low. Others did not like this box as they thought it would emphasize the difference more so than just the raw numbers in the columns above. What are the consequences/advantages to keeping this box on the election day form?

CEO Advisory Group	Wednesday, February 23, 2022	9:00 AM	https://texassos.webex.com/[redacted]	[redacted]	408-418-9388	[redacted]

Additionally, I've attached some additional forms that Chambers county created. They did a great job with these forms! They break things down into more categories and the group sentiment was a bit mixed on this issue. I did want to provide them to you to take a look at in case this is more the direction in which you think we need to be moving.

I look forward to your comments/suggestions! Thanks for all your help with this. I know you all are very busy and we very much appreciate you all taking the time to look over these forms for us.

Thank you,

Christina

From: Christina Adkins
Sent: Friday, February 11, 2022 8:14 PM
Subject: CEO Advisory Group - Reconciliation Form

Dear Advisory Group Members,

As a reminder, we have a meeting this Wednesday at 9:00 a.m. In addition to our standard early voting check-in we would like provide a preview of the reconciliation form the SOS was required to prescribe under Section 127.131(f). I've attached our draft forms and the instructions to go along with those forms. If you have time, I'm hoping you can take a look prior to our call.

AMERICAN OVERSIGHT

Our new RLA trainer, Erik Buntin, worked on the development of this form. Our other trainers (also former county folks) also contributed to this and I believe their experience and knowledge made this a well thought out document. We are also planning on doing a webinar to explain and demo the form after it's released. The training team is also working on some broader instructions and guidance to help with reconciliation on a daily/weekly basis throughout the election process. This more in depth guidance will be released at a late date.

Let me know if you have any additional questions or concerns about this process. I know we have a lot of overwhelmed election folks with all the new laws the state and counties are implementing. I know that many of you are working overtime not just to help your county, but to help your fellow election officials navigate these changes. Thank for you leadership in the election world.

As you prepare for the first day of early voting, please know that Keith, Kristi and I are just a phone call away. Please don't hesitate to call us if you need us over the weekend.

Thanks,

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

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CEO Advisory Group					
Date	**Time**	**Link**	**Password**	**Audio Conf #**	**Access Code**
Feb 2	9: 00 AM	https://texassos.webex.com/texassos/onstage	[redacted]	408-418-9388	[redacted]
Feb 16	9:00 AM	https://texassos.webex.com/texassos/onstag	[redacted]	408-418-9388	[redacted]
March 9	9: 00 AM	https://texassos.webex.com/texassos/onstage	[redacted]	408-418-9388	[redacted]
March 23	9: 00 AM	https://texassos.webex.com/texassos/onstage	[redacted]	408-418-9388	[redacted]
April 6	9: 00 AM	https://texassos.webex.com/texassos/onstage	[redacted]	408-418-9388	[redacted]

AMERICAN OVERSIGHT

April 20	9: 00 AM	https://texassos.webex.com/texasso	[redacted]	408-418-9388	[redacted]
May 4	9: 00 AM	https://texassos.webex.com/texasso		408-418-9388	
May 18	9: 00 AM	https://texassos.webex.com/texasso		408-418-9388	

AMERICAN OVERSIGHT

COUNTY		DATE OF ELECTION	
TYPE OF ELECTION		REGISTERED VOTERS	

DRAFT Election Reconciliation Form-Election Day

1. VOTER CHECK IN (from election rosters and lists)			
A. Early Voting In Person Check-Ins			
B. Election Day In Person Check-Ins			
C. Mail Ballot Roster	c1. Received	c2. Sent	c3.Not Received c2-(c1+p)
D. Limited Ballot Voters (Early Voting Only)			
E. Provisional Voters			
F. Total Voter Check In (a+b+c.1 +d+e)			

2 REJECTED MAIL IN BALLOTS AND PROVISIONAL BALLOTS	
G. Mail Ballots Rejected by EVBB	
H. Provisional Ballots Rejected by EVBB	
I Total Rejected Mail In and Provisional Ballots (g+h)	

3. UNOFFICIAL RESULTS (from tabulation software)	
J. Early Voting ballots counted (in person)	
K. Election Day ballots counted (in person)	
L. Mail Ballots Counted	
M. Limited Ballots Counted	
N. Provisional Ballots Counted	
O. Total Ballots Counted (j+k+l+m+n)	

4. BALLOTS THAT COULD BE ADDED TO THE FINAL CANVASS	
P. Late Mail Ballots Received pending review	
Q. Provisional Ballots pending review	
R. Total Ballots that could be added (p+q)	

Commented [HIG1]: What is p?

Commented [HIG2]: Should we break up EV and ED? EV we already know the number, ED is just a declaration and more likely to change.

Commented [HIG3]: Only a very small number will be rejected, most of them will be waiting to see if they can be cured. Where do you show that number?

Commented [HIG5]: Our limited ballots are read into the EV, they are not shown separately by the tabulation SW. I would prefer to eliminate this line.

Commented [HIG4]: Maybe here you can add a line for the the received and questioned that could be cured by voters.

Attestation

"I hereby certify that this information is true and correct".

_____

Central Counting Presiding Judge Signature

_____ _____

Print Name Date

AMERICAN OVERSIGHT

From: Scarlett R. Smith <Scarlett.Smith@senate.texas.gov>
Sent: Tuesday, March 15, 2022 11:22 AM
To: Christina Adkins
Cc: Joe Esparza
Subject: RE: Dallas County

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Thank you for your response! I spoke with Mr. Slaton and he mentioned that he is still asking that the results tapes be printed from the DS 850s and that Mr. Scarpello is not assenting. I am wondering where the disconnect lies. Does Mr. Scarpello have to comply with Mr. Slaton's request? Thank you in advance for clarifying.

Thank you,

Scarlett R. Smith

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Tuesday, March 15, 2022 10:33 AM
To: Scarlett R. Smith <Scarlett.Smith@senate.texas.gov>
Cc: Joe Esparza <JEsparza@sos.texas.gov>
Subject: FW: Dallas County

Scarlett,

Thanks for the follow up. Over the course of this election, I've worked with both Mike Slayton and Mike Scarpello on a regular basis. Last Thursday, I spoke to both Mike Slayton and Mike Scarpello about the situation you described below. I confirmed with Mr. Scarpello that they had provided reports that Mr. Slayton had initially asked for. Mr. Slayton was seeking some additional reports, and I confirmed that he could still seek the additional reports after the canvass had been completed by the county chair. After speaking to both of them, I didn't hear any additional concerns so I believe the situation was resolved.

Let me know if you have any additional questions or concerns!

Thanks,

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
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From: Scarlett R. Smith <Scarlett.Smith@senate.texas.gov>
Sent: Thursday, March 10, 2022 11:08 AM
To: Joe Esparza <JEsparza@sos.texas.gov>
Subject: Dallas County

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Good morning,

Senator Hall wondered what the Secretary of State's office is doing about the following report of malfunctioning of voting systems in Dallas County:

> Mike Slaton requested Michael Scarpello, Dallas County Elections Administrator, to print Early Voting results tapes with the DS 850 tabulator from 22 Early Voting locations that had failed USB drives sometime during the two weeks of Early Voting. All ballots were scanned in on the DS 850. Mr. Slaton was told that the tapes could not be printed by the tabulator and would be printed from the Central Accumulator. He asserts that the DS 850 is certified to print results tapes.

Thank you for your time and assistance in this matter.

Thank you,

Scarlett R. Smith
Policy Specialist
Office of the Honorable Bob Hall
Texas Senate, District 2
Texas State Capitol, E1.610
P.O. Box 12068
Austin, Texas 78711
Tel: 512.463.0102
Fax: 512.463.7202

AMERICAN OVERSIGHT

From: Scarlett R. Smith <Scarlett.Smith@senate.texas.gov>
Sent: Thursday, March 24, 2022 8:57 AM
To: Christina Adkins
Subject: RE: Dallas County

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Good morning,

I am just following up on my last question regarding whether there is anything the SoS's Office can do to encourage Mr. Scarpello to comply with Mr. Slaton's request.

Thank you,

Scarlett R. Smith

From: Scarlett R. Smith
Sent: Tuesday, March 15, 2022 2:14 PM
To: 'Christina Adkins' <CAdkins@sos.texas.gov>
Cc: Joe Esparza <JEsparza@sos.texas.gov>
Subject: RE: Dallas County

That helps, thank you! One last question: Mr. Scarpello apparently informed Mr. Slaton that the tapes could not be printed from the DS 850 machines. It is my understanding that y'all say they physically can. Is there anything the SoS's Office can do to encourage Mr. Scarpello to satisfy Mr. Slaton's request?

Thank you,

Scarlett R. Smith

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Tuesday, March 15, 2022 1:38 PM
To: Scarlett R. Smith <Scarlett.Smith@senate.texas.gov>
Cc: Joe Esparza <JEsparza@sos.texas.gov>
Subject: RE: Dallas County

It sounded to me like the request was filed pursuant to the Public Information Act. As long as Dallas County has these records, they would be producible.

From: Scarlett R. Smith <Scarlett.Smith@senate.texas.gov>
Sent: Tuesday, March 15, 2022 11:22 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Joe Esparza <JEsparza@sos.texas.gov>
Subject: RE: Dallas County

AMERICAN OVERSIGHT

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From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Tuesday, March 15, 2022 10:33 AM
To: Scarlett R. Smith <Scarlett.Smith@senate.texas.gov>
Cc: Joe Esparza <JEsparza@sos.texas.gov>
Subject: FW: Dallas County

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Let me know if you have any additional questions or concerns!

Thanks,

Christina Worrell Adkins
Legal Director – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
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From: Scarlett R. Smith <Scarlett.Smith@senate.texas.gov>
Sent: Thursday, March 10, 2022 11:08 AM

AMERICAN OVERSIGHT

To: Joe Esparza <JEsparza@sos.texas.gov>
Subject: Dallas County

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Good morning,

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> Mike Slaton requested Michael Scarpello, Dallas County Elections Administrator, to print Early Voting results tapes with the DS 850 tabulator from 22 Early Voting locations that had failed USB drives sometime during the two weeks of Early Voting. All ballots were scanned in on the DS 850. Mr. Slaton was told that the tapes could not be printed by the tabulator and would be printed from the Central Accumulator. He asserts that the DS 850 is certified to print results tapes.

Thank you for your time and assistance in this matter.

Thank you,

Scarlett R. Smith
Policy Specialist
Office of the Honorable Bob Hall
Texas Senate, District 2
Texas State Capitol, E1.610
P.O. Box 12068
Austin, Texas 78711
Tel: 512.463.0102
Fax: 512.463.7202

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Tuesday, March 1, 2022 9:09 AM
To: nroberts@co.jefferson.tx.us
Subject: Re: Election Day Complaint from Jefferson County Precinct #4 Commissioner Alfred (EI Response)

Hello,

Election Code 61.002 provides that a zero tape must be printed from the voting machines at the polling place before the polls open on election day. Because this is a recently added statutory requirement, our office does not have the authority to waive that requirement.

Our office does not have the authority to extend voting hours. If you wish to extend early voting hours at any particular location in your county, you would need to request a court order authorizing those extended hours. If you wish to pursue that option, I would recommend working with your county attorney to do so.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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From: nroberts@co.jefferson.tx.us <nroberts@co.jefferson.tx.us>
Sent: Tuesday, March 1, 2022 8:42 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Election Day Complaint from Jefferson County Precinct #4 Commissioner Alfred

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Secretary of State
State of Texas

This email is a complaint regarding the disallowing of a waiver that Jefferson County had in reference to zeroing out the voting machines before election day begins. This has caused delays throughout our county. It is 8:40am and we have had several individuals at my Precinct

AMERICAN OVERSIGHT

that have come once, twice, and some three times to vote and the voting process had not begun before they were scheduled to go to work. Will there be an extension of the voting hours given throughout Jefferson County?

Commissioner Everette "Bo" Alfred
Jefferson County Precinct # 4
(409) 835-8443 phone
(409) 784-5803 fax

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Friday, October 8, 2021 8:38 AM
To: 'ckern@co.mitchell.tx.us'
Subject: Re: Mitchell - By Mail results (EI Response)

Hello,

If you have no ballots by mail, then it would not be necessary for you to open and close the polls on the tabulator that you would have used to count those ballots by mail. You can simply report your totals from ballot by mail as "0" in that situation.

Your early voting rosters for ballot by mail and other records would be able to confirm that there were no ballots by mail for your election, and there is no need to open the polls on that tabulator and generate a results tape if you have no results to report for the ballot by mail portion of your election.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Carla Kern <ckern@co.mitchell.tx.us>
Sent: Wednesday, October 6, 2021 8:23 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Mitchell - By Mail results

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Good morning! We will be using our new equipment from ES&S (DS200) for upcoming election. My question: IF we have no By Mail ballots, is it best to open / close DS200 and get "0" results and report ENR?

Thanks!

Carla Kern

AMERICAN OVERSIGHT

Mitchell County Clerk
349 Oak Street, Room 103
Colorado City, TX 79512
ckern@co.mitchell.tx.us
(325) 728-3481

AMERICAN OVERSIGHT

From: Lena Proft
Sent: Friday, May 26, 2023 8:22 AM
To: [redacted]
Subject: RE: need verification (EI Response)

Thank you for contacting the Elections Division of the Office of the Texas Secretary of State.

Generally, all election records are public information, unless they are specifically exempted by the Election Code or Chapter 552, Texas Government Code. The candidate may want to be more specific in the documents they wish to see, but results tapes, canvass reports, reconciliation forms, and other chain of custody paper work would all be available if the candidate submits a public information act request.

Again, thank you for contacting our office. If you have any additional questions or if we can be of further assistance, please contact our office at 1.800.252.8683 or email us at Elections@sos.texas.gov.

Elections Division Staff
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)

elections@sos.texas.gov | www.sos.state.tx.us

or Voter Related Information, please visit:

VOTETEXAS.GOV
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From: Thom Hanson [redacted]
Sent: Tuesday, May 23, 2023 5:07 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: need verification

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I am in need of verification of the election procedure. May a candidate request to see the final paperwork and ending printout of the results of a municipal election?
--

AMERICAN OVERSIGHT

Thom Hanson
Hill County Democratic Party, County Chairman
State Democratic Executive Committeeman, Senate District 22
254-479-8369
http://www.hillcountydemocrats.com/

Become a Sustaining Member
https://secure.actblue.com/donate/hill-county-democratic-party--tx--1

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Friday, June 2, 2023 11:04 AM
To: James Parker
Subject: Re: PIA REQUEST (EI Response)

James,

I had a similar question about a similar request earlier this week, so hopefully you'll forgive me for using the text of an earlier email here to answer your questions, but it summarizes a lot of the relevant rules that might impact this type of request.

The answer will generally depend on the exact type of records we are talking about, and may depend on the location in which they are stored.

Based on your email, it sounds like the request you received was for the results tapes produced by the precinct scanners at the polling location.

Election records are generally considered public under Election Code 1.012(c) unless there is a more specific rule that provides that the records are not public. In some situations, the Election Code may provide that a specific type of record is not public until after a specific date.

For example, Election Code 66.057 provides that the precinct election records for a specific location do not become public until the general custodian of election records completes their unofficial tabulation of results on election night. For purposes of an entity using an electronic voting system such as a precinct scanner, those results tapes produced from the precinct scanner at a polling place would form part of the precinct election records for that location, and would generally be available after the general custodian completes their unofficial tabulation of results on election night. If the entity is using a central counting station to generate their election results, then the unofficial tabulation would be completed by the presiding judge of the central counting station under Election Code 127.131 and 127.1311.

Election Code 66.058 deals primarily with the retention requirements for voted ballots. Election Code 66.058(a) does require a 22-month retention period for all precinct election records, but the rest of Election Code 66.058 generally deals with the requirements for retaining and storing voted ballots. Under Election Code 66.058(b), those voted ballots must be stored in the original locked container in which they were delivered to the general custodian for 60 days after election day. After the 60th day, they can be transferred to another secure container for the remainder of the 22 month preservation period.

The Class A misdemeanor in Election Code 66.058(e) is specific to an unauthorized entry into the ballot box or secure container containing the voted ballots. Election Code 66.058(b-1), (c), (d), and (e) provide as follows:

> (b-1) Except as permitted by this code, a ballot box or other secure container containing voted ballots may not be opened during the preservation period.
> (c) If during the preservation period an authorized entry is made into a ballot box or other secure container containing voted ballots, when the purpose for the entry is fulfilled, the box or container shall be relocked or resecured, and the box and key or secure container returned to the custodian.
> (d) A custodian of a ballot box or secure container containing voted ballots commits an offense if, during the preservation period prescribed by Subsection (a), the custodian:
> (1) makes an unauthorized entry into the box or container; or
> (2) fails to prevent another person from handling the box or container in an unauthorized manner or from making an unauthorized entry into the box or container.

AMERICAN OVERSIGHT

(e) An offense under Subsection (d) is a Class A misdemeanor.

In other words, the secure container containing the voted ballots may not be opened during the preservation period unless there is specific legal authority to do so. If the general custodian makes an unauthorized entry into the ballot box during the 22-month preservation period, then they have committed a Class A misdemeanor. However, this restriction is specific to the secure container containing the voted ballots. However, please be aware that a recent attorney general opinion (KP-0411) has indicated that the container containing the voted ballots may be accessed during the 22-month preservation period to respond to a public information request.

If the results tapes and results reports we are talking about are locked in the secure container containing the voted ballots (which would generally not be the case), then access to those records would be subject to the same restrictions outlined above. If they are stored in a separate container, then they would generally be considered public after the general custodian has completed their unofficial tabulation under Election Code 66.057 and 1.012(c).

If you're not sure whether the records we're talking about can be produced, then you also have the option of following the procedures under the Public Information Act for requesting an opinion from the Office of the Attorney General about whether those records are required to be produced or whether they may be withheld from disclosure.

These questions can often be somewhat fact-specific, especially when it comes to voting system records. If you have any additional questions or would like to discuss this further, I'd be happy to set up a time for a call on this.

Thanks,

Chuck Pinney
Senior Staff Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:
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From: James Parker <[redacted]>
Sent: Thursday, June 1, 2023 3:51 PM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: PIA REQUEST

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Chuck:

I have a city that received a public information act request for the tally slips (requests seeks ‘copy of tally tapes from electronic and pay counting electronic machines for the May 6 General Election'). It seems the request is seeking the actual tally records generated by the electronic voter machines, however, the original tally sheets are printed and sealed in an envelope and kept secure. This PIA request seeks these items. I have never had any request this before, the requestor is a candidate who lost their race. I have not seen anywhere in Ch. 552 or the Election Code where these records are not subject to public disclosure. Am I missing a statute somewhere?

I have searched and consulted with other municipal lawyers and no one is sure. Possibly because like myself before today, I have never seen a request for these kinds of records.

James

The Parker Law Firm, P.L.L.C.
1000 Gattis School Road, Suite 650
Round Rock, Texas 78664
Tel. (512) 827-2449
www.jamesparkerlawfirm.net

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Monday, August 3, 2020 3:55 PM
To: [redacted]
Subject: Re: Poll Tape posting & discrepancy reported in Montgomery County (EI Response)

Hello,

Just to clarify, there are two different requirements being discussed in your questions in your previous email.

Election Code 61.007(c) requires the presiding judge to post written notice of the total number of voters who have voted in the precinct at two-hour intervals between 9:30 AM until 5:30 PM. That posting does not include any results, but rather is simply the total number of voters who voted at that location.

On the other hand, Election Code 65.015 provides that the presiding judge may make periodic announcements of vote totals during the counting process at the polling place after the polls have closed and the last voter has voted. The presiding judge is not required to make these announcements, and the local canvassing authority for that election has the authority to require or prohibit the announcements. Those announcements can be verbal or written, but they should be made at the entrance to the polling place. Keep in mind that this procedure is designed for situations where the counting of ballots is performed at the polling place in each precinct rather than at a central counting station.

That being said, I will address your questions in order:

1. The announcement that occurs under Election Code 65.015 is the presiding judge's periodic announcement of the results after the polls have closed. This announcement is not required unless the local canvassing authority requires the judge to make that announcement, and may be made verbally or in written form.

2. The posting on the polling place door under Election Code 61.007(c) is just a posting of the total number of voters who participated and does not include any results or vote totals. 61.007(c) requires those postings to occur on two hour intervals between 9:30 AM and 5:30 PM. While the total number of voters will likely change as additional voters appear to vote between 5:30 PM and the closing of polls at 7 PM, that information can be reviewed on the combination form and/or poll list and validated against the printed results tapes from the electronic voting systems, which also show the total number of voters who cast a ballot with that system.

3. I am not aware of any executive decision regarding that type of requirement. Could you be a little more specific about what rule change you are referring to?

4. I'm not entirely sure what you mean by this, would you be able to clarify what you're looking for?

5. You can find a list of polling places by county here on our website: https://earlyvoting.texas-election.com/Elections/getElectionDetails.do

Most election records are publicly available through a public information request, and you can use records like the combination forms, poll lists, and results tapes to validate the numbers you are looking for.

Poll watchers may also be appointed by candidates, political parties with candidates on the ballot, or the campaign treasurer of a PAC that supports or opposes a specific ballot measure, and those poll watchers can review those records as they are created in the polling place.

AMERICAN OVERSIGHT

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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From: PhotoFInish [redacted]>
Sent: Wednesday, July 15, 2020 2:00 PM
To: Elections Internet <Elections@sos.texas.gov>
Cc: ProtectOurVotes <info@protectourvotes.com>; Jenny Cohn [redacted]>; Bennie Smith [redacted]>
Subject: Poll Tape posting & discrepancy reported in Montgomery County

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Hello!

Hope you're all well & recovering from election day :) I first wanted to call out two great people I spoke to last night - Lena Proft & Chuck Pinney - thank you, both! I know y'all we're so busy & it really meant a lot to know y'all care so much about elections & wanted to genuinely help answer my questions.

The q's we didn't get resolved on the phone, & I said I'd follow up with in email, are below:

- What is the definition of "Announcement" when referring to what is posted on Precinct front doors/ windows?
- Why do some precincts only have to report totals until 5:30pm? & then nothing shared with the public after that? (Could a line be added to their reporting sheets for totals after polls close @ 7pm?)
- When did Texas make the executive decision to not report poll tapes? We cant find any legislative decisions for this matter & that seems strange, right?
- Do you have a list of all precinct level reporting to share with the public?
- Do you have a list of all combined poll locations?

If there are any other questions we have after following up with our Texas volunteers, we'll be sure to update the above list & send your way-- Who will our point person be moving forward?

Please let me know as we'd love to arrange a call as soon as possible to hash out the questions above & get these issues sorted so we can all move forward with peace of mind.

AMERICAN OVERSIGHT

As Lena & Chuck know, the main reason for my call to them was regarding my concern for the lack of poll tapes being posted at the precinct levels in Texas - my concerns were highlighted last night & I wanted to bring this to your attention ASAP!

We had a volunteer on site to collect poll tape info or vote totals at Precinct 91 in Magnolia, Montgomery County.

@ 5:30pm she was given these totals by a poll worker who had them posted on the front door of the precinct: 222 rep, 97 dem
@ 7pm she was given these totals verbally by poll workers at the precinct: 273 rep, 71 dem

Obviously you will share my concern as the number of dem votes went down from 5:30pm to 7pm. Since there is no way to confirm these totals without poll tape, you can see where the process is completely broken & the transparency is lost.

There is nowhere for us to check these precinct totals online tho - all we have is the photo & verbal totals told to our volunteer by the poll workers.

I look forward to hearing back from y'all. Thank you in advance for your help - I know y'all work hard & want elections to be fair & safe, just like we do! Appreciate what you do.

All my best,

Laurie Adrianopoli

AMERICAN OVERSIGHT

From: Mike Slaton
To: Dallas - Michael J. Scarpello; Christina Adkins
Cc: [redacted]
Subject: RE: Printing EV Tapes from 850"s
Date: Thursday, March 10, 2022 11:56:42 AM

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Michael

I haven't received an email from You or a Phone Call? When do you need to come to Central Count to see these tapes printed from the 850's?
Please call or email.

Best regards,

Mike Slaton
Slaton Financial Services
Office: 214-343-0642
www.slatonfs.com

12989 Jupiter Rd. #101
Dallas, TX. 75238

From: Mike Slaton
Sent: Wednesday, March 9, 2022 9:22 PM
To: Michael Scarpello (Michael.Scarpello@dallascounty.org) <michael.scarpello@dallascounty.org>; ChristinaAdkins;CAdkins@sos.texas.gov <cadkins@sos.texas.gov>
Subject: Printing EV Tapes from 850"s

Hello Mike,

Attached are three files showing that the 850s can print early voting results directly from the 850s. There is no need to go through the central accumulator to do this printing, as we had discussed earlier today.

Also attached is the pricing schedule showing that Dallas County purchased the printers required for printing straight from the 850s.

Tomorrow, I would like the early voting results tapes for the failed DS200s printed directly from the 850s, not the central accumulator.

AMERICAN OVERSIGHT

Also, I would like for Dallas County to formally report the machine failure of the 22-23 DS200s to the Secretary of State per the following:

Texas Elec. Code Sec. 129.056. PLAN FOR MACHINE FAILURE.
The general custodian of election records shall create a contingency plan for addressing direct recording electronic voting machine failure.
This plan must include the timely notification of the secretary of state.

Texas Administrative Code 81.64. Notice of Voting System Malfunction Required
(a) A vendor (or the political subdivision, if no private vendor supports their system) must give notice to the Secretary of State within 24 hours of a malfunction of its voting system software or equipment in an election held in this state. The notice may be verbal or in writing.
(b) Following the notice, the Secretary of State shall determine whether further information on the malfunction is required. At the request of the Secretary of State, a vendor (or the political subdivision, if no private vendor supports their system) must submit a report to the Secretary of State's office detailing the reprogramming (or any other actions) necessary to redress a voting system malfunction in an election held using the vendor's system. The report shall address whether permanent changes are necessary to prevent similar malfunctions in the future.
(c) The report shall be submitted within 30 days after the date of the request by the Secretary of State.
(d) Failure to submit a report within the required period shall be grounds to decertify the system.
(e) The authority holding the election in which the voting system malfunction occurred may submit the report in lieu of a report from the system's vendor.
(f) A copy of this report will be attached to the system's most recent certification on file in the Secretary of State's Office.
(g) The Secretary of State's Office will distribute a copy of this report to all counties using the voting system in question.

Thank you, Mike, and look forward to bringing this project to a close tomorrow.

Mike Slaton
Presiding Judge Republican Party

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AMERICAN OVERSIGHT

From: Jennifer Hajdu
To: Christina Adkins
Cc: Mike Slaton; Dallas - Michael J. Scarpello
Subject: Re: Printing EV Tapes from 850"s
Date: Thursday, March 10, 2022 2:04:35 PM
Attachments: image001.png

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Thank you, Christina. We plan to complete our canvass today.

Jennifer

Jennifer Stoddard Hajdu
Dallas County Republican Party Chairman
Dallas County Republican Party
11617 N. Central Expressway, Suite 240
Dallas, TX 75243



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On Thu, Mar 10, 2022 at 1:04 PM Christina Adkins <CAdkins@sos.texas.gov> wrote:

> Mike,
>
> As we discussed on the phone, a printed copy of the early voting reports from DS850 central scanners is not required under the Texas Election Code for you to move forward with your canvass. I would recommend that you move forward with the information provided to you by the county election official.
>
> Additionally, moving forward with the canvass does not affect your current request for printed reports from the DS850. If necessary, these reports can be printed and provided to you after the

AMERICAN OVERSIGHT

canvass.

Please let me know if you have any additional questions or concerns,

Thank you,

Christina Worrell Adkins

Legal Director – Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)

elections@sos.texas.gov | www.sos.texas.gov

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From: Mike Slaton [redacted]>
Sent: Thursday, March 10, 2022 11:56 AM
To: Dallas - Michael J. Scarpello <michael.scarpello@dallascounty.org>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: [redacted]>

AMERICAN OVERSIGHT

Subject: RE: Printing EV Tapes from 850"s

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Michael

I haven't received an email from You or a Phone Call? When do you need to come to Central Count to see these tapes printed from the 850's?

Please call or email.

Best regards,

Mike Slaton

Slaton Financial Services

Office: 214-343-0642

www.slatonfs.com

12989 Jupiter Rd. #101

Dallas, TX. 75238

From: Mike Slaton
Sent: Wednesday, March 9, 2022 9:22 PM
To: Michael Scarpello (Michael.Scarpello@dallascounty.org) <michael.scarpello@dallascounty.org>; ChristinaAdkins;CAdkins@sos.texas.gov <cadkins@sos.texas.gov>
Subject: Printing EV Tapes from 850"s

AMERICAN OVERSIGHT

Hello Mike,

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Also attached is the pricing schedule showing that Dallas County purchased the printers required for printing straight from the 850s.

Tomorrow, I would like the early voting results tapes for the failed DS200s printed directly from the 850s, not the central accumulator.

Also, I would like for Dallas County to formally report the machine failure of the 22-23 DS200s to the Secretary of State per the following:

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(b) Following the notice, the Secretary of State shall determine whether further information on the malfunction is required. At the request of the Secretary of State, a vendor (or the political subdivision, if no private vendor supports their system) must submit a report to the Secretary of State's office detailing the reprogramming (or any other actions) necessary to redress a voting system malfunction in an election held using the vendor's system. The report shall address whether permanent changes are necessary to prevent similar malfunctions in the future.
(c) The report shall be submitted within 30 days after the date of the request by the Secretary of State.
(d) Failure to submit a report within the required period shall be grounds to decertify the system.
(e) The authority holding the election in which the voting system malfunction occurred may submit the report in lieu of a report from the system's vendor.
(f) A copy of this report will be attached to the system's most recent certification on file in the Secretary of State's Office.
(g) The Secretary of State's Office will distribute a copy of this report to all counties using the voting system in question.

AMERICAN OVERSIGHT

Thank you, Mike, and look forward to bringing this project to a close tomorrow.

Mike Slaton

Presiding Judge Republican Party

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AMERICAN OVERSIGHT

From: Charles Pinney
To: pcclerk@parmercounty.net
Subject: RE: question in regard to tally sheets (EI Response)
Date: Thursday, October 24, 2019 9:52:55 AM
Attachments: image001.png

Hello,

If your ballots are automatically counted using an optical scanner, then you do not need to use tally sheets. The tally sheets are required for hand-counting procedures, but since you are not hand-counting your ballots there is no way to tally those votes using the sheets. When using the optical scanner, you will just need to print at least three copies of the results tape from the scanner.

If you do conduct any hand-counting of your provisional ballots, then you would need to use tally sheets as part of that process.

You can also refer to our Electronic Voting Systems Procedures Advisory for more detailed information on the procedures and requirements relating to the results tape and other electronic voting systems procedures: https://www.sos.state.tx.us/elections/laws/advisory2018-34.shtml

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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From: Susie Spring <pcclerk@parmercounty.net>
Sent: Tuesday, October 22, 2019 3:54 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: question in regard to tally sheets

AMERICAN OVERSIGHT

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We are using a central counting station and all ballots are counted by an optical scanner. We do not count ballots by hand. We print out results from the optical scanner and have multiple copies of results. Do we still need to use the tally sheets since we do not count by hand on Election Night?

Of course if we have Provisional ballots that the EVBB decide should be counted and we only have a few, they may to decide to count by hand and then we would use the tally sheets.

Thanks

Susie Spring
County Clerk
Parmer County
P.O. Box 356
Farwell, TX 79325
806-481-3691
pcclerk@parmercounty.net

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AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Thursday, April 20, 2023 12:05 PM
To: Robin Lenio
Subject: Re: Question(s) about Central Counting Station - Local Election (not May 2023) (EI Response)

Hello,

Do you count your ballots and generate your results by reading media from your DRE equipment into a central computer? If so, then you would need to establish a central counting station to do so.

The other option would be to generate your results by printing results tapes from your DRE equipment, and using those results tapes as your precinct returns for those polling places. In that situation, the general custodian would take those results tapes (along with the early voting results and ballot by mail results) and add them up to produce the unofficial results on election night. That process would not require you to establish a central counting station, because in that situation you are generating your precinct returns at your individual polling places rather than counting and tabulating those results at a central location.

Please let me know if you have any questions about this.

Thanks,

Chuck Pinney
Senior Staff Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
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From: Robin Lenio <rlenio@seabrooktx.gov>
Sent: Wednesday, April 19, 2023 10:32 AM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: RE: Question(s) about Central Counting Station - Local Election (not May 2023) (EI Response)

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Thank you for your quick response, Mr. Pinney.

At this time, we are using DRE voting equipment, but have purchased HART's Verity Voting System Equipment to be used beginning with our next officer's election in May 2025.

AMERICAN OVERSIGHT

Thank you,

Robin Lenio
City Secretary

SEABROOK

A "Reply to All" of this e-mail could lead to violations of the Texas Open Meetings Act. Please reply only to the sender.

This e-mail may contain information and documents being sent to members of the City Council for review. If so, this matter will be discussed at a future City Council meeting. Please remember that City Council members may not engage in deliberations on any City matter by email correspondence. If you have comments or questions, please only reply to the City Attorney, City Secretary or the City Manager for the City.

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Wednesday, April 19, 2023 8:49 AM
To: Robin Lenio <rlenio@seabrooktx.gov>
Subject: Re: Question(s) about Central Counting Station - Local Election (not May 2023) (EI Response)

Hello,

Whether you have a central counting station will generally depend on the method you use for counting your ballots. If you hand-count your ballots, you would not have a central counting station. If you read your ballots into a scanner, and read the media from that scanner into a central computer, then you are required to have a central counting station. There are other possible counting methods that could be used, so if you want to provide more information about your method of counting, then we can provide more specific advice on whether a central counting station is required.

With regard to the livestream requirement under Election Code 127.1232, that requirement would not apply to a local entity conducting an election on their own, even if the local entity is wholly or partly located in a county with a population of 100,000 or more. That requirement would apply to a county election in a county with a population of 100,000 or more, or a local entity's election if they are contracting with a county with a population of 100,000 or more and the county will be acting as the general custodian of election records under that contract. If you are conducting your election on your own and the county is not serving as your general custodian of election records, then the livestream requirement would not apply.

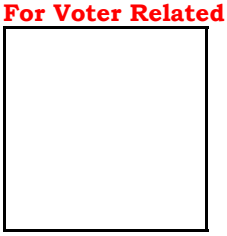
Please let us know if you have any questions about this.

Thanks,

Chuck Pinney
Senior Staff Attorney – Elections Division
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Robin Lenio <rlenio@seabrooktx.gov>
Sent: Tuesday, April 18, 2023 12:19 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Question(s) about Central Counting Station - Local Election (not May 2023)

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Hello,

We are not having an election in May 2023, but we are preparing for FY23-24 budget, and I want to verify some information regarding ballot security.

We are a small city and typically DO NOT join with the County for our elections. We hold our own elections and have only one (1) polling location for both EV and ED because all of our Councilmembers hold At Large Positions.

Is our one polling location also considered as our Central Counting Station?

If the one polling location is also the Central Counting Station, then we are required to have a video recording system pursuant to Section 127.1232(b) of the Texas Election Code, correct? We are in Harris County.

Section 127.1232(b) of the Texas Election Code requires the general custodian of election records in a county with a population over 100,000 to establish a video recording system that captures all areas containing voted ballots from the time that the ballots are delivered to the central counting station (CCS), early voting ballot board (EVBB), or signature verification committee (SVC) until the local canvass of election results. If the voted ballots will be located in a building that will also be used as a polling place, the cameras must be positioned in such a way that they do not capture any activity in the portion of that building that is used as a polling place.

Thank you,

Robin Lenio
City Secretary
Ofc: 281-291-5663

SEABROOK

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AMERICAN OVERSIGHT

From: Charles Pinney
To: Darrell Kubesch
Subject: Re: Questions about electronic voting (EI Response)
Date: Wednesday, July 14, 2021 8:18:36 AM

Hello,

Colorado County is not currently enrolled in the Countywide Polling Place Program.

Enrollment in the Countywide Polling Place Program is not automatic, but rather involves an application process by the county and requires approval by our office before the county may implement that program. That application process is outlined in Section 43.007 of the Texas Election Code and in this advisory on our website: https://www.sos.state.tx.us/elections/laws/advisory2021-01.shtml

The TEAM system is the statewide voter registration database, and has other elections administration functions like the entry of unofficial results for purposes of election night reporting. The county election officer will log into the TEAM system using their secured credentials and will manually enter those unofficial results into the system, then will electronically transmit those results to our office through that system.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
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From: Darrell Kubesch <darrell.kubesch@co.colorado.tx.us>
Sent: Friday, July 9, 2021 7:15 AM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: Re: Questions about electronic voting (EI Response)

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Thank you Charles for your help on these questions. Just a few follow up questions.
(1) is Colorado County considered a "County Wide Polling Place?"
(2) can Colorado County "OPT OUT" of the County Wide Polling Place?
(3) what method does the TEAM system consist of. How does the vote count get from Colorado County to Austin? Cellphone, internet, computer, car ect.

Darrell Kubesch
Commissioner Pct. 2
Colorado County Texas
979-732-1980 cell
darrell.kubesch@co.colorado.tx.us

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Thursday, July 8, 2021 4:35:56 PM
To: Darrell Kubesch <darrell.kubesch@co.colorado.tx.us>
Subject: Re: Questions about electronic voting (EI Response)

Hello,

I will answer your questions in order:

1. Texas Election Code 61.012 requires an entity conducting an election in Texas to provide at least one accessible voting machine per election day polling place and per early voting location. Election Code 61.013 allows for limited exemptions to this requirement in elections where there is no federal office on the ballot and where the population size of the county in which the political subdivision is located is less than 20,000.

   The exact number of machines that will be required for a specific county will depend on the type of voting machine that is being used, the number of polling places and early voting locations that are being used by the county, and whether the county is using the voting system equipment solely to meet the accessibility requirement or if they are using the voting system equipment as the county's primary method of voting.

   Please note that if you are in a county that uses the countywide polling place program, you are required to use electronic voting systems as your primary method of voting under Election Code 43.007(d)(4).

2. Texas Election Code 61.012 requires an accessible voting system to meet the accessibility requirements of three federal statutes: 29 U.S.C. 794 (Section 504 of the federal Rehabilitation Act), 42 U.S.C. 12131 et. seq. (Title II of the federal Americans with Disabilities Act), and 42 U.S.C. 15481(a)(3). 42 U.S.C. 15481 has since been recodified, and the current citation for those voting system accessibility requirements would be 52 U.S.C. 21081. That section regulates elections with a federal office on the ballot.

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3. Texas Election Code 52.008 requires the authority responsible for procuring the election supplies to have a supply of sample ballots printed. Election Code 52.008 also requires those ballots to be distributed for use in the election, though it does not specify the exact manner in which they should be distributed. Our office recommends that, at minimum, the sample ballot should be posted on your website and should be made available in the county election officer's office. The authority who is responsible for procuring the election supplies will determine whether those sample ballots will be distributed in any additional manner.

   Please note that specific types of elections like bond elections have additional specific requirements relating to the posting and publication of the sample ballots.

4. I cannot speak to the bill author's intent to add that section to the Election Code, but the overall effect of Election Code 129.054 is to prevent electronic voting systems from connecting to any external network, including the internet. Preventing the voting system from connecting to the internet is an important component of the overall security of the system, as it prevents unauthorized access or manipulation of the equipment by preventing those systems from connecting to an external network that could be accessed by bad actors.

5. Counties are generally not required to have electronic tabulators. Counties have two basic options for how paper ballots may be counted, specifically hand-counting and counting by electronic tabulating equipment.

   If a county chooses to hand-count their ballots, then the counting process will occur in the individual precincts on election day according to the counting rules outlined in Chapter 65 of the Election Code.

   If the county chooses to count their ballots using automatic tabulating equipment, then those ballots may be counted either by having voters deposit their ballot directly into a precinct scanner or by having voters deposit their ballot into a ballot box and having those ballots counted by a central scanner at a central counting station.

   Texas law also currently allows counties to use DRE devices where the voter casts their ballot on the device and the device stores a record of that vote directly on the device itself. The Texas Legislature recently passed SB 598, which will eliminate the use of those DRE devices in elections held after September 1, 2026. However, until that date those devices may still be used in Texas elections.

   Please note that in a county that uses the countywide polling place program, the county must either use a DRE voting system or must use a paper-based voting system along with precinct scanners in the polling place. A county may not participate in the countywide polling place program if they hand-count their ballots that are cast in the polling place.

6. The specific procedures will depend somewhat on the exact voting system and whether the results will be generated from precinct scanners at the precinct or whether they will be tabulated at the central counting station. While there are several specific procedures

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involved in this part of the process, I will outline the process generally for both precinct-based and central counting station methods.

If the results are generated at the precinct from precinct scanners, then when the polls are closed at the end of the day, the presiding judge will print copies of the results tape from the precinct scanner, which will serve as the precinct returns for that precinct. Those results will then be accumulated according to the hand-counting procedures outlined in Chapter 65 of the Election Code.

If the results are accumulated at the central counting station, then the media from the scanners will be removed from the devices and will be inserted into the voting system's central workstation to read those cast vote records from the media and accumulate the results for that election.

7. Election results are provided by the counties to our office through the TEAM system. The county will enter those results into the TEAM system, and those results will then be uploaded to our Election Night Returns page.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Darrell Kubesch <darrell.kubesch@co.colorado.tx.us>
Sent: Wednesday, June 30, 2021 10:23 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Questions about electronic voting

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(1)would you be able to provide the state law that requires all counties to use electronic voting machines. How many are required in the county including for the disabled?

(2)would you be able to provide the federal law that requires all counties to use electronic voting machines? The 10th amendment of the United States Constitution says that congress cannot commandeer the legislative process of the state.

(3)are counties required to have sample ballots? If not where would this be posted (bulletin board, internet etc?)

(4)section 129.054 Network Connections and Wireless Technology (a) a voting system may not be connected to any external communications network, including the internet. What is the answer to why this is in the election code?

(5) are counties required to have electronic tabulators?

(6)how are the tabulations totals retrieved from the tabulators?

(7)how does the Secretary of State receive the county vote count?

Darrell Kubesch
Commissioner Pct. 2
Colorado County Texas
979-732-1980 cell
darrell.kubesch@co.colorado.tx.us

EXTERNAL email: Exercise caution when opening. Do not click on links or open attachments without verifying the sender's intent.

From: Charles Pinney
To: Darrell Kubesch
Subject: Re: Questions about electronic voting (EI Response)
Date: Thursday, July 8, 2021 4:35:59 PM

Hello,

I will answer your questions in order:

1. Texas Election Code 61.012 requires an entity conducting an election in Texas to provide at least one accessible voting machine per election day polling place and per early voting location. Election Code 61.013 allows for limited exemptions to this requirement in elections where there is no federal office on the ballot and where the population size of the county in which the political subdivision is located is less than 20,000.

   The exact number of machines that will be required for a specific county will depend on the type of voting machine that is being used, the number of polling places and early voting locations that are being used by the county, and whether the county is using the voting system equipment solely to meet the accessibility requirement or if they are using the voting system equipment as the county's primary method of voting.

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from connecting to the internet is an important component of the overall security of the system, as it prevents unauthorized access or manipulation of the equipment by preventing those systems from connecting to an external network that could be accessed by bad actors.

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   If the results are accumulated at the central counting station, then the media from the scanners will be removed from the devices and will be inserted into the voting system's central workstation to read those cast vote records from the media and accumulate the results for that election.

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7. Election results are provided by the counties to our office through the TEAM system. The county will enter those results into the TEAM system, and those results will then be uploaded to our Election Night Returns page.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
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From: Darrell Kubesch <darrell.kubesch@co.colorado.tx.us>
Sent: Wednesday, June 30, 2021 10:23 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Questions about electronic voting

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Darrell Kubesch
Commissioner Pct. 2
Colorado County Texas
979-732-1980 cell
darrell.kubesch@co.colorado.tx.us

AMERICAN OVERSIGHT

From: Charles Pinney
To: Darrell Kubesch
Subject: Re: Questions about electronic voting (EI Response)
Date: Wednesday, July 14, 2021 2:52:36 PM

Hello,

Election Code 129.054 prevents a voting system from being connected to an external network like the internet at any point in time. Election Code 122.003 defines a voting system as the system that is used for the casting and processing of votes via a mechanical or electronic apparatus. The TEAM system is a voter registration and elections administration system that is not involved in the casting or processing of results, and therefore is not subject to the requirements of Election Code 129.054.

Election Code 18.061 requires our office to maintain the voter registration system as a secure statewide electronic database, which ultimately requires that database to be accessible to each of the counties via the internet. Our office secures access to that system in a number of ways, including by limiting the credentials that can be issued for that system and by requiring individuals who are given access to that system to complete cybersecurity training with our office.

As far as the submission process for election night returns goes, there is no direct interaction between the voting system and the TEAM system. The results are tabulated from the voting system, which is completely isolated from any external network. The county election officer will then take the numbers that are reported by the system (often from a paper printout generated by the system), will manually type them into the data entry fields, and report them as unofficial results through the TEAM system.

At no point should the voting system itself ever interact directly with the TEAM system or any external network.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
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From: Darrell Kubesch <darrell.kubesch@co.colorado.tx.us>
Sent: Wednesday, July 14, 2021 11:29 AM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: Re: Questions about electronic voting (EI Response)

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Would colorado county and every other county be in violation of election code 129.054?

Darrell Kubesch
Commissioner Pct. 2
979-732-1980 cell
darrell.kubesch@co.colorado.tx.us

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Wednesday, July 14, 2021 8:18:33 AM
To: Darrell Kubesch <darrell.kubesch@co.colorado.tx.us>
Subject: Re: Questions about electronic voting (EI Response)

Hello,

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Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
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Sent: Friday, July 9, 2021 7:15 AM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: Re: Questions about electronic voting (EI Response)

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Commissioner Pct. 2
Colorado County Texas
979-732-1980 cell
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Please note that if you are in a county that uses the countywide polling place program, you are required to use electronic voting systems as your primary method of voting under Election Code 43.007(d)(4).

2. Texas Election Code 61.012 requires an accessible voting system to meet the accessibility requirements of three federal statutes: 29 U.S.C. 794 (Section 504 of the federal Rehabilitation Act), 42 U.S.C. 12131 et. seq. (Title II of the federal Americans with Disabilities Act), and 42 U.S.C. 15481(a)(3). 42 U.S.C. 15481 has since been recodified, and the current citation for those voting system accessibility requirements would be 52 U.S.C. 21081. That section regulates elections with a federal office on the ballot.

3. Texas Election Code 52.008 requires the authority responsible for procuring the election supplies to have a supply of sample ballots printed. Election Code 52.008 also requires those ballots to be distributed for use in the election, though it does not specify the exact manner in which they should be distributed. Our office recommends that, at minimum, the sample ballot should be posted on your website and should be made available in the county election officer's office. The authority who is responsible for procuring the election supplies will determine whether those sample ballots will be distributed in any additional manner.

   Please note that specific types of elections like bond elections have additional specific requirements relating to the posting and publication of the sample ballots.

4. I cannot speak to the bill author's intent to add that section to the Election Code, but the overall effect of Election Code 129.054 is to prevent electronic voting systems from connecting to any external network, including the internet. Preventing the voting system from connecting to the internet is an important component of the overall security of the system, as it prevents unauthorized access or manipulation of the equipment by preventing those systems from connecting to an external network that could be accessed by bad actors.

5. Counties are generally not required to have electronic tabulators. Counties have two basic options for how paper ballots may be counted, specifically hand-counting and counting by electronic tabulating equipment.

   If a county chooses to hand-count their ballots, then the counting process will occur in the individual precincts on election day according to the counting rules outlined in Chapter 65 of the Election Code.

   If the county chooses to count their ballots using automatic tabulating equipment, then those ballots may be counted either by having voters deposit their ballot directly into a precinct scanner or by having voters deposit their ballot into a ballot box and having those ballots

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counted by a central scanner at a central counting station.

Texas law also currently allows counties to use DRE devices where the voter casts their ballot on the device and the device stores a record of that vote directly on the device itself. The Texas Legislature recently passed SB 598, which will eliminate the use of those DRE devices in elections held after September 1, 2026. However, until that date those devices may still be used in Texas elections.

Please note that in a county that uses the countywide polling place program, the county must either use a DRE voting system or must use a paper-based voting system along with precinct scanners in the polling place. A county may not participate in the countywide polling place program if they hand-count their ballots that are cast in the polling place.

6. The specific procedures will depend somewhat on the exact voting system and whether the results will be generated from precinct scanners at the precinct or whether they will be tabulated at the central counting station. While there are several specific procedures involved in this part of the process, I will outline the process generally for both precinct-based and central counting station methods.

   If the results are generated at the precinct from precinct scanners, then when the polls are closed at the end of the day, the presiding judge will print copies of the results tape from the precinct scanner, which will serve as the precinct returns for that precinct. Those results will then be accumulated according to the hand-counting procedures outlined in Chapter 65 of the Election Code.

   If the results are accumulated at the central counting station, then the media from the scanners will be removed from the devices and will be inserted into the voting system's central workstation to read those cast vote records from the media and accumulate the results for that election.

7. Election results are provided by the counties to our office through the TEAM system. The county will enter those results into the TEAM system, and those results will then be uploaded to our Election Night Returns page.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Darrell Kubesch <darrell.kubesch@co.colorado.tx.us>
Sent: Wednesday, June 30, 2021 10:23 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Questions about electronic voting

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Thank you for accepting and responding to a few election questions.

(1)would you be able to provide the state law that requires all counties to use electronic voting machines. How many are required in the county including for the disabled?

(2)would you be able to provide the federal law that requires all counties to use electronic voting machines? The 10th amendment of the United States Constitution says that congress cannot commandeer the legislative process of the state.

(3)are counties required to have sample ballots? If not where would this be posted (bulletin board, internet etc?)

(4)section 129.054 Network Connections and Wireless Technology (a) a voting system may not be connected to any external communications network, including the internet. What is the answer to why this is in the election code?

(5) are counties required to have electronic tabulators?

(6)how are the tabulations totals retrieved from the tabulators?

(7)how does the Secretary of State receive the county vote count?

Darrell Kubesch
Commissioner Pct. 2
Colorado County Texas
979-732-1980 cell
darrell.kubesch@co.colorado.tx.us

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From: Charles Pinney
To: Belinda
Subject: Re: Rally sites ... are these legal? (EI Response)
Date: Wednesday, February 9, 2022 1:07:38 PM

Hello,

Yes, I do understand those concerns.

It is important to keep in mind that under these procedures, the media drives containing the official results and the equipment used to tabulate those results do not interact with an internet connection at any point in the process. The unofficial results are the only results that are transmitted over an internet connection, and the county is required to validate that the totals generated from the transmitted unofficial results are identical to the totals generated from the media drives containing the official results. If there was any unauthorized manipulation of those unofficial results while they are electronically transmitted, then that manipulation would be immediately identified when the county validates those unofficial results against the official results because if there was any manipulation then those totals would not match.

In other words, the official results would remain completely separate from any device that connects to an external network like the internet, and the unofficial results are validated against those official results to verify that no unauthorized manipulation of those results occurred in transmission.

With regard to voting systems in general, the security protections for those systems are thoroughly reviewed by the NIST-certified testing labs that review those systems during the EAC certification process, and are reviewed again by the technical examiners that are appointed by our office and the Attorney General's Office during the state certification process. The examiner reports for those systems are available on our website on the voting system page. You can find those reports, sorted by vendor and by system, here on our website: https://www.sos.texas.gov/elections/laws/certinfobyvendor.shtml

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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legal rights are involved.

From: Belinda <[redacted]>
Sent: Monday, February 7, 2022 9:50 AM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: Re: Rally sites ... are these legal? (EI Response)

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Thank you for your response, Charles.

Can you understand our concern about the internet connections along the way?

From the Tenex ePollbooks to the Hart Verity Relay machines, these are wide open internet connections that can easily be hacked.

Can you tell me how these devices are secured from hacking?

Is that for another department?

Thank you.

Belinda Darling
Fort Worth, TX
817-724-2182

Sent with ProtonMail Secure Email.

------- Original Message -------
On Monday, February 7th, 2022 at 9:48 AM, Charles Pinney <CPinney@sos.texas.gov> wrote:

> Hello,
>
> Election Code 127.1231(b) authorizes the use of a system for the secure transmission of unofficial results via modem from regional tabulating centers to the central counting station. That section authorizes our office to prescribe procedures for the use of that type of system.
>
> We outline those procedures in more detail in Section 7 of our Electronic Voting Systems Procedures Advisory, which can be found here on our website: https://www.sos.texas.gov/elections/laws/advisory2019-23.shtml#section7
>
> In that advisory, we outline the following procedures:

Transmitting Unofficial Results for ENR Purposes:

- Pursuant to Section 127.1231(b), the Secretary of State's Office may prescribe procedures for the use of a system to transmit results to the central counting station on election day. That system must provide for a secure transmission of data.
- This type of system may be only used to transmit unofficial results to the central counting station for ENR purposes on election night.
- A secondary copy of the results generated by each device may be placed on a duplicate media and connected to a transmission device that is not directly connected to the voting system. That transmission device can then transmit those unofficial results via a secure connection to another device set up for receiving those transmissions. Those unofficial results can be taken from the receiving device to be aggregated on a system that is not connected to the system that performs the official tabulation, and those unofficial results can be used for purposes of ENR.
    - Unofficial early voting results will be transferred via external media from the official tabulation system to the system generating the unofficial results on election night.
- The official tabulation will be generated at the central counting station using the standard procedures without the use of any external networking system. These procedures do not modify the process for collecting, delivering, or tabulating the official results of the election.
- After the unofficial results and the official tabulation have both been completed, the entity must perform an audit to verify that the unofficial results used for ENR and the official tabulation are identical.

In other words, under this procedure, the county may use a system like Verity Transmit (which includes the Verity Relay device) to transmit the unofficial results from regional tabulating centers to the central counting station, but the media containing the official results will not be connected to any networked device and will be manually transported to the central counting station. The county is then required to perform a validation to verify that the information contained on the official results media matches the unofficial results.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)

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elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Belinda [redacted]>
Sent: Monday, January 31, 2022 5:06 PM
To: Elections Internet <Elections@sos.texas.gov>
Cc: [redacted]
Subject: Fw: Rally sites ... are these legal?

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I have obtained more information about the uncertified Hart Relay devices that are being used by Tarrant County.

The Hart Relay device and software was never approved by the State of Texas because it is against the law to have any part of your "voting system" operating over the internet. The product in question is Hart Relay. The approval docs go into great detail noting every product approved for use in Texas for Hart. Hart Relay is not one of these approved devices.

Below is the TX SOS web site. Notice lack of anything certified called Hart Verity Relay.

https://www.sos.texas.gov/elections/laws/hart.shtml

So what Troy is saying below is that all the Hart equipment is the same. Which is clearly not the case. The different pieces of equipment used in the election office are:

- Hart Verity Controller
- Hart Verity Duo
- Hart Verity Touch
- Hart Verity Scan
- Hart Verity Relay

- Belinda Darling

.

Original Message
On Friday, January 28th, 2022 at 3:44 PM, Belinda

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[redacted] wrote:

I talked to Andre about this.

Here is a video explaining "rally sites":
Voting Compromised by the Internet:
https://youtu.be/7tetA5SuhYA

The video states that Tarrant County is the ONLY state that is using these sites.
They break the chain of custody!

Please review this and let me know asap.

Belinda Darling
817-724-2182

Sent with ProtonMail Secure Email.

AMERICAN OVERSIGHT

From: Charles Pinney
To: [redacted]
Subject: Re: Rally sites ... are these legal? (EI Response)
Date: Monday, February 7, 2022 9:48:03 AM

Hello,

Election Code 127.1231(b) authorizes the use of a system for the secure transmission of unofficial results via modem from regional tabulating centers to the central counting station. That section authorizes our office to prescribe procedures for the use of that type of system.

We outline those procedures in more detail in Section 7 of our Electronic Voting Systems Procedures Advisory, which can be found here on our website: https://www.sos.texas.gov/elections/laws/advisory2019-23.shtml#section7

In that advisory, we outline the following procedures:

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- After the unofficial results and the official tabulation have both been completed, the entity must perform an audit to verify that the unofficial results used for ENR and the official tabulation are identical.

In other words, under this procedure, the county may use a system like Verity Transmit (which includes the Verity Relay device) to transmit the unofficial results from regional tabulating centers to the central counting station, but the media containing the official results will not be connected to any networked device and will be manually transported to the central counting station. The county is then required to perform a validation to verify that the information contained on the official

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results media matches the unofficial results.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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From: Belinda [redacted]>
Sent: Monday, January 31, 2022 5:06 PM
To: Elections Internet <Elections@sos.texas.gov>
Cc: [redacted]
Subject: Fw: Rally sites ... are these legal?

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- Hart Verity Controller
- Hart Verity Duo

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- Hart Verity Touch
- Hart Verity Scan
- Hart Verity Relay

- Belinda Darling

.

- - - - - - - - Original Message - - - - - - - -
On Friday, January 28th, 2022 at 3:44 PM, Belinda [redacted]> wrote:

> I talked to Andre about this.
>
> Here is a video explaining "rally sites":
> Voting Compromised by the Internet:
> https://youtu.be/7tetA5SuhYA
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> The video states that Tarrant County is the ONLY state that is using these sites.
> They break the chain of custody!
>
> Please review this and let me know asap.
>
> Belinda Darling
> 817-724-2182
>
> Sent with ProtonMail Secure Email.

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Monday, April 4, 2022 11:17 AM
To: Richelle Culifer
Subject: Re: Reconciliation Form (EI Response)

Hello,

That is likely where the confusion lies.

If you are generating your results on election night by reading media into a central workstation, then that process of reading in your media would need to take place while the central counting station is convened. There is generally no authority for the general custodian of election records to read the media into a central workstation on their own.

In other words, you would generally need to convene your central counting station to perform those tabulation activities on election night. Once you have finished reading in your media on election night, your presiding judge of central count would then complete the election night reconciliation form.

If you have any late-arriving mail ballots, any provisional ballots, or any mail ballots that have completed the corrective action process after election day, then your central counting station would generally reconvene to count those ballots after election day. During that meeting of the central counting station, your presiding judge would complete the final reconciliation form for your election as a whole.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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From: Richelle Culifer <R.Culifer@swisher-tx.org>
Sent: Monday, April 4, 2022 10:44 AM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: RE: Reconciliation Form

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Results are generated by uploading the USB drives into a central workstation (standalone computer).

Richelle Culifer
Elections Administrator
Swisher County
806-995-2363

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Monday, April 04, 2022 10:33 AM
To: Richelle Culifer <R.Culifer@swisher-tx.org>
Subject: Re: Reconciliation Form

Hello,

The answer to your question will likely depend on how you generate your results on election night.

Do you generate your results by accumulating your totals from the printed results tapes from your precinct scanners, or do you generate your results by reading those USB drives into a central workstation?

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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From: Richelle Culifer <R.Culifer@swisher-tx.org>
Sent: Wednesday, March 30, 2022 10:58 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Reconciliation Form

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I have some questions on the Reconciliation Forms. Swisher County had tabulators at each polling place for the March 1, 2022, Primary elections. The Central Counting Station only met to count the Absentee ballots and print the results from the Early Voting tabulator during the morning of March 1st.

Does the Central Counting Station have to come back at night after the polling place workers bring in the USB stick just to fill out the Reconciliation Forms?

Since the CCS met again for the March 1st election to count and process the late ballots, they went ahead and filled out the Reconciliation Report. For the next election, if they do not have any ballots to process after May 7th, do they have to come in just to complete the Reconciliation Report?

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Thank you.

Richelle Culifer
Elections Administrator
Swisher County
806-995-2363

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Friday, June 2, 2023 9:38 AM
To: Fred Stormer
Subject: Re: Records Request Question (EI Response)

Hello,

The answer will generally depend on the exact type of records we are talking about, and may depend on the location in which they are stored.

The original email I received from Ms. Johnson indicated that the request was for the results tapes produced by the precinct scanners at the polling location, and for a copy of the results report produced by the central tabulation computer.

Election records are generally considered public under Election Code 1.012(c) unless there is a more specific rule that provides that the records are not public. In some situations, the Election Code may provide that a specific type of record is not public until after a specific date.

For example, Election Code 66.057 provides that the precinct election records for a specific location do not become public until the general custodian of election records completes their unofficial tabulation of results on election night. For purposes of an entity using an electronic voting system such as a precinct scanner, those results tapes produced from the precinct scanner at a polling place would form part of the precinct election records for that location, and would generally be available after the general custodian completes their unofficial tabulation of results on election night. If the entity is using a central counting station to generate their election results, then the unofficial tabulation would be completed by the presiding judge of the central counting station under Election Code 127.131 and 127.1311.

Election Code 66.058 deals primarily with the retention requirements for voted ballots. Election Code 66.058(a) does require a 22-month retention period for all precinct election records, but the rest of Election Code 66.058 generally deals with the requirements for retaining and storing voted ballots. Under Election Code 66.058(b), those voted ballots must be stored in the original locked container in which they were delivered to the general custodian for 60 days after election day. After the 60th day, they can be transferred to another secure container for the remainder of the 22 month preservation period.

The Class A misdemeanor in Election Code 66.058(e) is specific to an unauthorized entry into the ballot box or secure container containing the voted ballots. Election Code 66.058(b-1), (c), (d), and (e) provide as follows:

> (b-1) Except as permitted by this code, a ballot box or other secure container containing voted ballots may not be opened during the preservation period.
> (c) If during the preservation period an authorized entry is made into a ballot box or other secure container containing voted ballots, when the purpose for the entry is fulfilled, the box or container shall be relocked or resecured, and the box and key or secure container returned to the custodian.
> (d) A custodian of a ballot box or secure container containing voted ballots commits an offense if, during the preservation period prescribed by Subsection (a), the custodian:
> (1) makes an unauthorized entry into the box or container; or
> (2) fails to prevent another person from handling the box or container in an unauthorized manner or from making an unauthorized entry into the box or container.
> (e) An offense under Subsection (d) is a Class A misdemeanor.

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In other words, the secure container containing the voted ballots may not be opened during the preservation period unless there is specific legal authority to do so. If the general custodian makes an unauthorized entry into the ballot box during the 22-month preservation period, then they have committed a Class A misdemeanor. However, this restriction is specific to the secure container containing the voted ballots. However, please be aware that a recent attorney general opinion (KP-0411) has indicated that the container containing the voted ballots may be accessed during the 22-month preservation period to respond to a public information request.

If the results tapes and results reports we are talking about are locked in the secure container containing the voted ballots (which would generally not be the case), then access to those records would be subject to the same restrictions outlined above. If they are stored in a separate container, then they would generally be considered public after the general custodian has completed their unofficial tabulation under Election Code 66.057 and 1.012(c).

If you're not sure whether the records we're talking about can be produced, then you also have the option of following the procedures under the Public Information Act for requesting an opinion from the Office of the Attorney General about whether those records are required to be produced or whether they may be withheld from disclosure.

These questions can often be somewhat fact-specific, especially when it comes to voting system records. If you have any additional questions or would like to discuss this further, I'd be happy to set up a time for a call on this.

Thanks,

Chuck Pinney
Senior Staff Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:
VOTETEXAS.GOV
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From: Fred Stormer [redacted]>
Sent: Thursday, June 1, 2023 5:53 PM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: FW: Records Request Question (EI Response)

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Good afternoon Mr. Pinney,

The Underwood Law Firm represents Claude ISD, and per you email of May 31 to Ms. Amanda Johnson, they requested some assistance in responding to a Texas Public Information Act request for election records. Please see the email thread below. After reviewing chapter 66 of the Election Code, I have some questions about who and when these records can be accessed. Although the information requested appears to be public per Section 66.057, I've not located the statute in the Code that allows the custodian to access the sealed envelopes and retrieve the information in

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response to a TPIA request. And, section 66.058(d) states the custodian commits a class A misdemeanor if the custodian makes an unauthorized entry.

Any guidance/reference to the statute that authorizes access to the requested report is appreciated. Thanks.

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Fred Stormer
O 500 S. Taylor, Suite 1200, Amarillo, TX 79101
M PO Box 9158, Amarillo, TX 79105
D 806.379.0306 O 806.376.5613

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From: Greg Brown <greg.brown@claudeisd.net>
Sent: Wednesday, May 31, 2023 2:55 PM
To: Fred Stormer [redacted]
Subject: Fwd: Records Request Question (EI Response)

---------- Forwarded message ---------
From: **Amanda Johnson** <amanda.johnson@claudeisd.net>
Date: Wed, May 31, 2023 at 2:35 PM
Subject: Fwd: Records Request Question (EI Response)
To: Greg Brown <greg.brown@claudeisd.net>



---------- Forwarded message ---------
From: **Charles Pinney** <CPinney@sos.texas.gov>
Date: Wed, May 31, 2023 at 8:29 AM
Subject: Re: Records Request Question (EI Response)
To: Amanda Johnson <amanda.johnson@claudeisd.net>
Cc: City of Claude <cityofclaude@claudetx.org>, Armstrong Elections <armstrongelection@co.armstrong.tx.us>

AMERICAN OVERSIGHT

Hello,

Our office is somewhat limited on the guidance we can provide in responding to public information requests, and we would generally defer to your district's attorney or public information officer in responding to those requests. However, generally speaking, the reports regarding the election results, including the tapes produced by your precinct scanners, would be considered public information at this time.

I would recommend reaching out to your public information officer for additional guidance on the requirements of the Public Information Act.

Please let us know if you have any questions about this.

Thanks,

Chuck Pinney
Senior Staff Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Amanda Johnson <amanda.johnson@claudeisd.net>
Sent: Friday, May 26, 2023 11:32 AM
To: Charles Pinney <CPinney@sos.texas.gov>
Cc: City of Claude <cityofclaude@claudetx.org>; Armstrong Elections <armstrongelection@co.armstrong.tx.us>
Subject: Records Request Question

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Afternoon, Mr. Pinney,

I received an open records request from Tawnee Blodgett for a couple of things on our recent City-School Election. I'm conflicted on one of the requests and was needing some guidance from your office.

She stated here what she is wanting specifically >>

"At the end of the night when you close the election on the DS200 it will run the report on the DS200. 4 copies should be printed out for the envelopes to keep for the election, 1 Election Judge, 1 Election Admin, 1 Major and 1 Superintendent. Those are the colored envelopes. I would like one of the copies printed out, the DS200 will give the option for detailed. I have the option to inspect it or have a copy.

It is the report that comes from the election computer after the flash drive from the DS200 are entered that night of election. When the totals are run on county's election computer that evening of the election it will let you know how many voted and the undervotes. The undervotes are when a voter votes but only for 1 race. On the city's election there where 2 city council members and the mayor. If they only vote for city council members and not the mayor, that is

AMERICAN OVERSIGHT

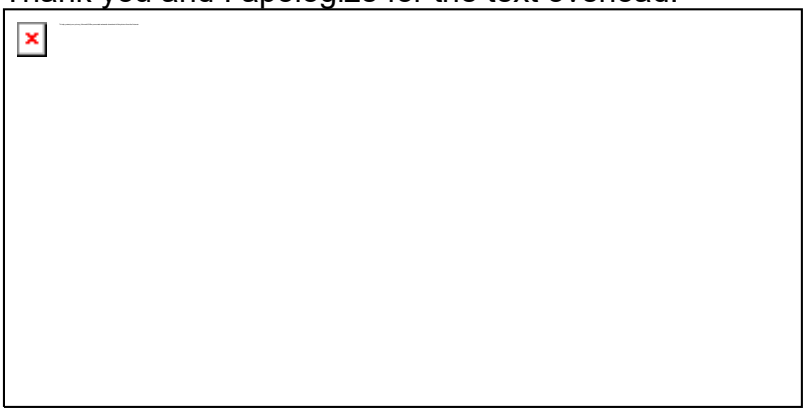
considered an undervote. The election computer gives you options on the report that can be ran. Those are the reports that should be ran the night of election due to the state will ask for undervotes as well. Let me know if you would like me to show you how they are run on the election computer. Please let me know if you have any questions.

Thank you, "

Tawnee Blodgett

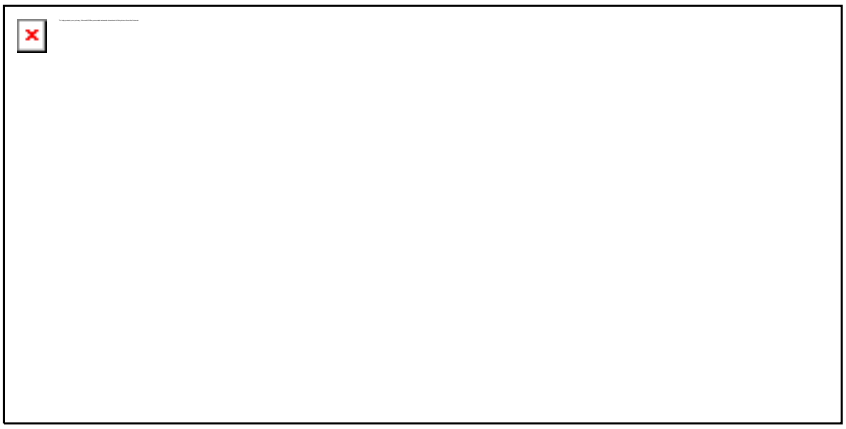
I am aware of the reports she is asking for from the DS200 machines, but I am confused if I can offer her these receipt reports from the DS200 since they are already in our sealed envelopes? Can those be opened again and the contents shared? How should I handle this request?

Thank you and I apologize for the text overload!



--

We live in abundance...



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From: Charles Pinney
Sent: Wednesday, October 21, 2020 10:39 AM
To: [redacted]
Subject: Re: Request for Polling Tapes Information (EI Response)

Hello,

The answer will depend a little on what you mean by "polling tapes" in this context.

Election Code 61.007(c) requires the presiding judge to post written notice of the total number of voters who have voted in the precinct at two-hour intervals between 9:30 AM until 5:30 PM. That posting does not include any results, but rather is simply the total number of voters who voted at that location.

Election Code 65.015 provides that the presiding judge may make periodic announcements of vote totals during the counting process at the polling place after the polls have closed and the last voter has voted. The presiding judge is not required to make these announcements, and the local canvassing authority for that election has the authority to require or prohibit the announcements. Those announcements can be verbal or written, but they should be made at the entrance to the polling place. Keep in mind that this procedure is designed for situations where the counting of ballots is performed at the polling place in each precinct rather than at a central counting station.

If you are referring to the results tapes generated by the voting system, then there is no requirement that those results tapes be posted at the polling place itself.

Most election records are publicly available through a public information request, though the timing that the record is available will generally depend on the type of record being requested.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Susan Schneider [redacted]>
Sent: Friday, October 9, 2020 2:45 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Request for Polling Tapes Information

AMERICAN OVERSIGHT

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I am representing Citizens Oversight in San Diego, CA. I would like to have a response to the following questions related to polling tapes for the November 2020 election:

1. Does each precinct in Texas post polling tapes at its location?

2. If so, what time is the polling tape posted?

3. How long is it posted?

4. Are the polling tapes available or accessible to the public at any other locations?

Please contact me if there are any questions and respond at your earliest convenience.

Regards,

Susan Schneider
858-413-6688

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Friday, October 30, 2020 10:14 AM
To: Susan Schneider
Subject: Re: Request for Polling Tapes Information (EI Response)

Hello,

The precinct election records are subject to a 22-month preservation period under Texas Election Code 66.058. While the ballot box containing voted ballots cannot be accessed without specific authorization during that preservation period, other election records are generally available for public inspection after they have been returned to the general custodian of election records. If you would like to request these documents or any other election related documents, I would recommend submitting a public information request for the general custodian of election records for the county whose records you are requesting, and they will determine whether there are any applicable exceptions to that request.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Susan Schneider [redacted]>
Sent: Wednesday, October 21, 2020 3:07 PM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: Re: Request for Polling Tapes Information (EI Response)

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Thank you, Charles, for the information and explanation.

I am interested in the polling tapes of the vote totals on election day. To be more specific, I would like to know how long the "original" (not certified) polling tapes are available through a public record request?

Regards,
Susan Schneider

AMERICAN OVERSIGHT

858-413-6688

On Wednesday, October 21, 2020, 08:38:43 AM PDT, Charles Pinney <cpinney@sos.texas.gov> wrote:

Hello,

The answer will depend a little on what you mean by "polling tapes" in this context.

Election Code 61.007(c) requires the presiding judge to post written notice of the total number of voters who have voted in the precinct at two-hour intervals between 9:30 AM until 5:30 PM. That posting does not include any results, but rather is simply the total number of voters who voted at that location.

Election Code 65.015 provides that the presiding judge may make periodic announcements of vote totals during the counting process at the polling place after the polls have closed and the last voter has voted. The presiding judge is not required to make these announcements, and the local canvassing authority for that election has the authority to require or prohibit the announcements. Those announcements can be verbal or written, but they should be made at the entrance to the polling place. Keep in mind that this procedure is designed for situations where the counting of ballots is performed at the polling place in each precinct rather than at a central counting station.

If you are referring to the results tapes generated by the voting system, then there is no requirement that those results tapes be posted at the polling place itself.

Most election records are publicly available through a public information request, though the timing that the record is available will generally depend on the type of record being requested.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
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elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Susan Schneider [redacted]>
Sent: Friday, October 9, 2020 2:45 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Request for Polling Tapes Information

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I am representing Citizens Oversight in San Diego, CA. I would like to have a response to the following questions related to polling tapes for the November 2020 election:

1. Does each precinct in Texas post polling tapes at its location?

2. If so, what time is the polling tape posted?

3. How long is it posted?

4. Are the polling tapes available or accessible to the public at any other locations?

Please contact me if there are any questions and respond at your earliest convenience.

Regards,

Susan Schneider
858-413-6688

AMERICAN OVERSIGHT

From: Laura Pressley
To: Christina Adkins; desi.roberts@bellcounty.texas.gov
Cc: Debra Bean
Subject: Re: Results in Bell County Reported by Precint - Need Help
Date: Monday, May 15, 2023 7:42:04 AM

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Christina and Desi,

Can you please help Ms. Bean? See the requests below. When the Election Code uses "shall," it means.....

Texas Election Code Sec. 1.003. CONSTRUCTION OF CODE.
(a) The ***Code Construction*** Act (Chapter 311, Government Code) applies to the construction of each provision in this code, except as otherwise expressly provided by this code.
(a-1) Election officials and other public officials shall strictly construe the provisions of this code to effect the intent of the legislature under Section 1.0015.
(b) When a provision of this code provides that it supersedes another specifically referenced provision of this code to the extent of any conflict, no conflict is created by the failure of the superseding provision, or of related provisions, to repeat the substance of the referenced provision; rather, a conflict exists only if the substance of the superseding and any related provisions is irreconcilable with the substance of the referenced provision. If the substance of the superseding provision, together with any related provisions, and the substance of the referenced provision can each be applied to the same subject or set of circumstances, both provisions shall be given effect.

Texas Gov't Code Sec. 311.016. "MAY," "SHALL," "MUST," ETC.
The following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute:
(1) "May" creates discretionary authority or grants permission or a power.
(2) "Shall" imposes a duty....
(3) "Must" creates or recognizes a condition precedent....

Regards,
Laura

------- Original Message -------
On Friday, May 12th, 2023 at 7:23 PM, Laura Pressley <[redacted]> wrote:

Hello Christina and Desi,

AMERICAN OVERSIGHT

Can you both are doing well. Can you both please help Florence ISD figure out how to report their Bell County results by precinct?

It was my understanding that the Bell County DS200's that were on loan were programmed to print *precinct level* results tapes. Yet on May 6th, the results tapes for ED and EV were printed as results summaries.

Can we please help them comply with the Election Code Sections below so they report and canvass results of our race by precinct according?

Sec. 87.1231. EARLY VOTING VOTES REPORTED BY PRECINCT.
Not later than the time of the local canvass, the early voting clerk shall deliver to the local canvassing authority a report of the total number of early voting votes for each candidate or measure by election precinct. The report may reflect the total for votes by mail and the total for votes by personal appearance.

Sec. 127.128. BALLOTS TABULATED BY PRECINCT.
The automatically counted ballots shall be separately tabulated according to election precinct.

Sec. 127.1301. CENTRALLY COUNTED OPTICAL SCAN BALLOTS.
(a) In an election using centrally counted optical scan ballots, the undervotes and overvotes on those ballots shall be tallied, tabulated, and reported by race and by election precinct in the form and manner prescribed by the secretary of state.

Sec. 67.004. PROCEDURE FOR LOCAL CANVASS.
(a) At the time set for convening the canvassing authority for the local canvass, the presiding officer of the canvassing authority shall deliver the sealed precinct returns to the authority. The authority shall open the returns for each precinct and canvass them as provided by this section. Two members of the authority constitute a quorum for purposes of canvassing an election.
(b) The canvassing authority shall prepare a tabulation stating for each candidate and for and against each measure:
(1) the total number of votes received in each precinct; and
(2) the sum of the precinct totals tabulated under Subdivision (1).
(b-1) The tabulation in Subsection (b) must also include for each precinct the total number of voters who cast a ballot for a candidate or for or against a measure in the election. The secretary of state shall prescribe any procedures necessary to implement this subsection.
(c) The canvassing authority may prepare the tabulation as a separate document or may enter the tabulation directly in the local election register maintained for the authority. The authority shall attach or include as part of the tabulation the report of early voting votes by precinct received under Section 87.1231.
(d) The canvassing authority may compare the precinct returns with the corresponding tally list. If a discrepancy is discovered between the vote totals shown on the returns and those shown on the tally list for a precinct, the presiding judge of the precinct shall examine the returns and tally list and make the necessary corrections on the returns.
(e) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the tabulation to the custodian of the local election register unless it is entered directly in the election register. The custodian shall preserve the tabulation for the period for preserving the precinct election records.
(f) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the precinct returns, tally lists, and early voting precinct report used in the canvass to the general custodian of election records. The custodian shall preserve them for the period for preserving the precinct election records.
(g) The presiding officer of the canvassing authority shall note the completion of the canvass in the minutes or in the recording required by Section 551.021, Government Code.

Laura

AMERICAN OVERSIGHT

From: Laura Pressley
To: Debra Bean
Cc: desi.roberts@bellcounty.texas.gov; Christina Adkins
Subject: Re: Results in Bell County Reported by Precint - Need Help
Date: Tuesday, May 16, 2023 3:23:51 PM

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Dear Ms. Bean (see correction in **bold** below),

Because the Bell County Florence ISD election results for my race in Place 3 were not counted appropriately and lawfully by precinct as noted in previous emails, and due to no error by the school district, can you please provide a statement/affidavit as such?

I will be requesting a recount primarily under Tex. Elec. Code 212.034(a) and other criteria that apply, and need your statement (that the count was **not** done by precinct) for my petition for a simple Bell County ballot recount.

Thank you for your help with this.

Blessings,
Laura

------- Original Message -------
On Monday, May 15th, 2023 at 7:41 AM, Laura Pressley <[redacted]> wrote:

> Christina and Desi,
>
> Can you please help Ms. Bean? See the requests below. When the Election Code uses "shall," it means.....
>
> **Texas Election Code Sec. 1.003. CONSTRUCTION OF CODE.**
> (a) The ***Code Construction*** Act (Chapter 311, Government Code) applies to the construction of each provision in this code, except as otherwise expressly provided by this code.
> (a-1) Election officials and other public officials shall strictly construe the provisions of this code to effect the intent of the legislature under Section 1.0015.
> (b) When a provision of this code provides that it supersedes another specifically referenced provision of this code to the extent of any conflict, no conflict is created by the failure of the superseding provision, or of related provisions, to repeat the substance of the referenced

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provision; rather, a conflict exists only if the substance of the superseding and any related provisions is irreconcilable with the substance of the referenced provision. If the substance of the superseding provision, together with any related provisions, and the substance of the referenced provision can each be applied to the same subject or set of circumstances, both provisions shall be given effect.

Texas Gov't Code Sec. 311.016. "MAY," "SHALL," "MUST," ETC. The following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute:
(1) "May" creates discretionary authority or grants permission or a power.
(2) "Shall" imposes a duty....
(3) "Must" creates or recognizes a condition precedent....

Regards,
Laura

------- Original Message -------
On Friday, May 12th, 2023 at 7:23 PM, Laura Pressley <[redacted]> wrote:

> Hello Christina and Desi,
>
> Can you both are doing well. Can you both please help Florence ISD figure out how to report their Bell County results by precinct?
>
> It was my understanding that the Bell County DS200's that were on loan were programmed to print *precinct level* results tapes. Yet on May 6th, the results tapes for ED and EV were printed as results summaries.
>
> Can we please help them comply with the Election Code Sections below so they report and canvass results of our race by precinct according?
>
> **Sec. 87.1231. EARLY VOTING VOTES REPORTED BY PRECINCT.**
> Not later than the time of the local canvass, the early voting clerk shall deliver to the local canvassing authority a report of the total number of early voting votes for each candidate or measure by election precinct. The report may reflect the total for votes by mail and the total for votes by personal appearance.
>
> **Sec. 127.128. BALLOTS TABULATED BY PRECINCT.**
> The automatically counted ballots shall be separately tabulated according to election precinct.
>
> **Sec. 127.1301. CENTRALLY COUNTED OPTICAL SCAN BALLOTS.**
> (a) In an election using centrally counted optical scan ballots, the undervotes and overvotes on those ballots shall be tallied, tabulated,

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and reported by race and by election precinct in the form and manner prescribed by the secretary of state.

Sec. 67.004. PROCEDURE FOR LOCAL CANVASS.

(a) At the time set for convening the canvassing authority for the local canvass, the presiding officer of the canvassing authority shall deliver the sealed precinct returns to the authority. The authority shall open the returns for each precinct and canvass them as provided by this section. Two members of the authority constitute a quorum for purposes of canvassing an election.

(b) The canvassing authority shall prepare a tabulation stating for each candidate and for and against each measure:

(1) the total number of votes received in each precinct; and

(2) the sum of the precinct totals tabulated under Subdivision (1).

(b-1) The tabulation in Subsection (b) must also include for each precinct the total number of voters who cast a ballot for a candidate or for or against a measure in the election. The secretary of state shall prescribe any procedures necessary to implement this subsection.

(c) The canvassing authority may prepare the tabulation as a separate document or may enter the tabulation directly in the local election register maintained for the authority. The authority shall attach or include as part of the tabulation the report of early voting votes by precinct received under Section 87.1231.

(d) The canvassing authority may compare the precinct returns with the corresponding tally list. If a discrepancy is discovered between the vote totals shown on the returns and those shown on the tally list for a precinct, the presiding judge of the precinct shall examine the returns and tally list and make the necessary corrections on the returns.

(e) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the tabulation to the custodian of the local election register unless it is entered directly in the election register. The custodian shall preserve the tabulation for the period for preserving the precinct election records.

(f) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the precinct returns, tally lists, and early voting precinct report used in the canvass to the general custodian of election records. The custodian shall preserve them for the period for preserving the precinct election records.

(g) The presiding officer of the canvassing authority shall note the completion of the canvass in the minutes or in the recording required by Section 551.021, Government Code.

Laura

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Tuesday, July 28, 2020 8:52 AM
To: Richelle Culifer
Subject: Re: Results Tapes (EI Response)

Hello,

In that situation, in the polling place you would just need to at least print out the minimum number of results tapes required by law, which for your type of system would be two.

If you need to duplicate those tapes for your other entities' records, then you can do so at your central counting station.

This same answer would be true for your new equipment.

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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From: Richelle Culifer <R.Culifer@swisher-tx.org>
Sent: Thursday, July 16, 2020 4:46 PM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: Results Tapes

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Swisher County has Countywide Vote Centers. When the election workers print out results tapes during the General Election in November it takes approximately 15 minutes to print out one tape. We have 4 entities (2 cities & 2 schools) who postponed their election until November, so we will need 6 results tapes. Do all 6 have to be printed out at the

AMERICAN OVERSIGHT

polling place by the election workers or can some of the results tapes be printed out after they bring the voting equipment back to the election's office? (We have the iVotronic voting machines.)

Also, we are going to purchase new ES&S equipment with the scanners. Would the answer above apply to the new equipment also?

Thank you.

Richelle Culifer
Elections Administrator
Swisher County
806-995-2363

AMERICAN OVERSIGHT

From: Charles Pinney
To: Lucy Aldrich
Subject: RE: Traditiona Polling Place vs. Central Counting Station (EI Response)
Date: Monday, January 13, 2020 12:02:31 PM
Attachments: image001.png

Hello,

The default procedure under the Election Code is a traditional polling place setup with hand counted paper ballots. Most references in Title 6 of the Election Code are written with a traditional polling place setup in mind.

Chapter 127 of the Election Code outlines the procedures for a central counting station. If your results are going to be created by accumulating media that is then tabulated on a single computer, then you will need to establish a central counting station to accumulate and tabulate that media under the procedures outlined in Chapter 127.

If you are using a DS200 then you can use either a traditional setup or a central counting station. If you are using a traditional setup, then you will use the procedures outlined in Chapter 65 of the Election Code, except that your DS200's results tapes will replace your tally sheets. You will still need to prepare precinct returns at the polling place after printing the results tapes and adjudicating any write-in votes on the DS200.

Our election judges and clerks handbook has more information on the traditional polling place process with precinct ballot counters in Chapter 4, Section B, and more information on the central counting station process with precinct ballot counters in Chapter 4, Section D. You can find the handbook here on our website:
https://www.sos.state.tx.us/elections/forms/election_judges_handbook.pdf

You can find more information about electronic voting systems in general here on our website:
https://www.sos.state.tx.us/elections/laws/advisory2019-23.shtml#section6

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

AMERICAN OVERSIGHT



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Lucy Aldrich <laldrich@killeentexas.gov>
Sent: Friday, January 10, 2020 11:10 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Traditiona Polling Place vs. Central Counting Station

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Good morning –

Records left from my predecessor indicate that Killeen uses a traditional polling place setup at the close of the polls on election day as opposed to a central counting station. I am unable to find anything in the Election Code that provides the option of a traditional polling place set up. What I am able to find is that a central counting station is required if using electronic voting systems such as the DS200 (used by Killeen).

If there is information in the election code that provides the different options, could you please let me know.

Thank you,

Lucy Aldrich
City Secretary
City of Killeen
254.501-7717
laldrich@killeentexas.gov

AMERICAN OVERSIGHT

From: Heidi Martinez
Sent: Friday, February 14, 2020 4:10 PM
To: [redacted]
Cc: Elections Internet
Subject: Regarding Primary Elections (EI Response)

Sensitivity: Personal

Thank you for your inquiry.

Based on the facts presented below, both parties will need to agree on who will be responsible for picking up the e-poll book(s) from the county clerk's office. If ballots are counted at the polling place, the judges from both parties must sign the results tape and the precinct returns. (See. Section 65.014 of the Election Code).

Similarly, both parties will need to agree on who will be responsible for delivering the election records, including the precinct returns, to the general custodian of election records.

All references are to the Texas Election Code (unless otherwise cited) available here: **http://www.statutes.legis.state.tx.us/Index.aspx**

We hope this information will be helpful to you.

Heidi Martinez
Staff Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.state.tx.us/elections

For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Vickie Brekel <[redacted]
Sent: Wednesday, February 12, 2020 5:38 PM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Regarding Primary Elections

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Hello Hiedi,

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Once again I need your assistance.

In the Primary election in my county, the Democratic Party and the Republican party share the polling locations.

We do not contract with the County Clerk's office for anything. Republicans get their election judges and we get ours.

We do not have a joint Primary, we simply share polling locations and voting electronic voting accessories, ballot scanners, etc.
Which party is responsible for picking up the the e-poll book from the county clerk's office and which party is responsible for
returning the election results to the clerk's office after the polls close?

The Republicans and Democrats come to the County Clerks office (also CCS) to meet our workers to return unused elections
supplies and unused ballots and to distribute paperwork to voter registrar and to county clerk.

Thanks in advance for your help,

Vickie Brekel
HCDP Chair
409-679-4110

AMERICAN OVERSIGHT

From: Laura Pressley
To: Christina Adkins; desi.roberts@bellcounty.texas.gov
Cc: Debra Bean
Subject: Results in Bell County Reported by Precint - Need Help
Date: Friday, May 12, 2023 7:24:18 PM

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Hello Christina and Desi,

Can you both are doing well. Can you both please help Florence ISD figure out how to report their Bell County results by precinct?

It was my understanding that the Bell County DS200's that were on loan were programmed to print *precinct level* results tapes. Yet on May 6th, the results tapes for ED and EV were printed as results summaries.

Can we please help them comply with the Election Code Sections below so they report and canvass results of our race by precinct according?

Sec. 87.1231. EARLY VOTING VOTES REPORTED BY PRECINCT.
Not later than the time of the local canvass, the early voting clerk shall deliver to the local canvassing authority a report of the total number of early voting votes for each candidate or measure by election precinct. The report may reflect the total for votes by mail and the total for votes by personal appearance.

Sec. 127.128. BALLOTS TABULATED BY PRECINCT.
The automatically counted ballots shall be separately tabulated according to election precinct.

Sec. 127.1301. CENTRALLY COUNTED OPTICAL SCAN BALLOTS.
(a) In an election using centrally counted optical scan ballots, the undervotes and overvotes on those ballots shall be tallied, tabulated, and reported by race and by election precinct in the form and manner prescribed by the secretary of state.

Sec. 67.004. PROCEDURE FOR LOCAL CANVASS.
(a) At the time set for convening the canvassing authority for the local canvass, the presiding officer of the canvassing authority shall deliver the sealed precinct returns to the authority. The authority shall open the returns for each precinct and canvass them as provided by this section. Two members of the authority constitute a quorum for purposes of canvassing an election.
(b) The canvassing authority shall prepare a tabulation stating for each candidate and for and against each measure:
(1) the total number of votes received in each precinct; and
(2) the sum of the precinct totals tabulated under Subdivision (1).
(b-1) The tabulation in Subsection (b) must also include for each precinct the total number of voters who cast a ballot for a candidate or for or against a measure in the election. The secretary of state shall prescribe any procedures necessary to implement this subsection.
(c) The canvassing authority may prepare the tabulation as a separate document or may enter the tabulation directly in the local election register maintained for the authority. The authority shall attach or include as part of the tabulation the report of early voting votes by precinct received under Section 87.1231.
(d) The canvassing authority may compare the precinct returns with the corresponding tally list. If a discrepancy is discovered between the vote totals shown on the returns and those shown on the tally list for a precinct, the presiding judge of the precinct shall examine the returns and tally list and make the necessary corrections on the returns.
(e) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the tabulation to the custodian of the local election register unless it is entered directly in the election register. The custodian shall

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preserve the tabulation for the period for preserving the precinct election records.
(f) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the precinct returns, tally lists, and early voting precinct report used in the canvass to the general custodian of election records. The custodian shall preserve them for the period for preserving the precinct election records.
(g) The presiding officer of the canvassing authority shall note the completion of the canvass in the minutes or in the recording required by Section 551.021, Government Code.

Laura

AMERICAN OVERSIGHT

From: Kristen Bickham [redacted]
Sent: Wednesday, September 23, 2020 12:27 PM
To: Christina Adkins
Subject: Social distancing / # of watchers in Central Counting during tabulations
Attachments: Processing and Counting Early Voting By Mail Ballots.pdf; 201103_Central Counting Station Plan.pdf

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Hello Christina,

Please see the attached control plan, especially the Covid notice on the top of the first page.

Will watchers be restricted to the 6 ft rule in Central Count, especially when they're viewing tabulation activities on the Central Accumulator and inspecting records, because Advisory 2020-19, page 10, appears to allow watchers to get close enough to view these activities, even if they are less than 6 ft?

Also, limiting watchers appears to be inconsistent with 33.056(a) and (b). Can you provide guidance on this? Can the county rotate watchers in and out (in the attached Control Plan, see top of page 1), given that Chapter 33 has no provision for limiting the # of watchers? And Advisory 202-19 does not support it either.

The room is large enough to handle a lot of people.

Thank you, Christina,

Kristen

Kristen J. Bickham
214.405.5345

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FYI

From: Daniel Bradley <Daniel.Bradley@dallascounty.org>
Sent: Tuesday, September 8, 2020 3:50 PM
To: Wes Bowen <[redacted]>
Cc: Rodney Anderson [redacted]; Ryan McDermott [redacted]; Danielle Grant <[redacted]>; Toni Pippins-Poole <Toni.Pippins-Poole@dallascounty.org>
Subject: Central Count Activities

Good afternoon,

The Central Count Station Plan for the 2020 General and Joint Election is attached, but I wanted to highlight some upcoming activities for the Central Count Station Appointees including Central Count Presiding Judge and .Central Count Alternate Judge.

COVID-19 NOTICE:
To promote the health and safety of DCED guests and employees, visitors and employees are required to were masks and adhere to 6ft Social Distancing to the fullest extent possible. To accommodate appropriate distancing, capacity will be limited to the Central Count Station Appointees, staff required for counting, Party representatives and the first six Public Attendees/Poll Watchers. If more than six Poll Watchers are present at the same time, the Presiding Judge will devise a rotation schedule to allow all Watchers to gain access.

Public Logic and Accuracy Testing:
The early voting and election day Logic and Accuracy testing of the voting equipment and automatic tabulation equipment to be used for the 2020 General and Joint Election will begin at 10:00 am September 15, 2020 at the Dallas County Elections Department at 1520 Round Table Dr. Dallas, Texas 75247 with equipment testing beginning at 10:00 am on Monday, September 21, 2020 through completion.

Processing Mail Ballots and the Last Night of Early Voting:
We will begin the upload of Early Voting results and perform the Second Tab Test Friday, October 30th after the polls close. Historically, we would also wait until then to receive Mail Ballots, as well. In response to increased Mail Balloting and COVID 19 related questions from multiple counties, the Secretary of State's office issued Advisory 2020-20 and held a Webinar addressing, among other concerns, meeting the deadline to have all received Mail Ballots counted by the end of Election Night. One of the items addressed was the fact that the preparation and processing of Mail Ballots (as long as they are not tabulated until the close of Early Voting) could happen any time after they are accepted by Signature Verification. They also clarified that whether the preparation was performed by the Ballot Board or the Central Count Station was a point of procedure decided by each County. That being said we will begin accepting any Mail Ballots the Signature Verification Committee has ready as soon as they are ready to prepare for tabulation, but will not actually tabulate them until after the EV polls close. This may include the dates between October 15th through November 9th.

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Election Day:
Mail Ballots received on or before Election Day will be counted and all EV and Mail results will be copied to the ENR server.
After the Polls close, Election Day results are uploaded to ENR server at Regional Sites for the publication of Unofficial Results.
Election Day USB media are received from Regional Sites, checked in, and the Primary USB drives are uploaded to the air-gapped, Certified Server.

Audit Logs:
Sec. 81.62(g) provides that a poll watcher may request a printed copy of an audit log produced by a central accumulator:
1. Before any votes are tabulated,
2. After early voting results are tabulated, and
3. Immediately following the completion of the vote tabulation

Daniel Bradley
Central Count Station
214 819-6370

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Texas Secretary of State
Ruth R. Hughs

COVID-19 - As recommended precautions continue to increase for COVID-19, the James E. Rudder Building will be closed to visitors and customers beginning Wednesday, March 18, 2020. The Office of the Secretary of State is committed to continuing to provide services to ensure business and public filings remain available 24/7 through our online business service, SOSDirect or use the new SOSUpload. Thank you in advance for your patience during this difficult time. Information on Testing Sites is now available.

Note - Navigational menus along with other non-content related elements have been removed for your convenience. Thank you for visiting us online.

Election Advisory No. 2020-20

To: County Clerks/Elections Administrators and County Chairs

From: Keith Ingram, Director of Elections

Date: July 2, 2020

RE: Processing and Counting Early Voting By Mail Ballots

Introduction

The purpose of this advisory is to assist election officials in preparing for processing and counting early voting by mail ballots. A number of counties have reported receiving an increased number of applications for a ballot by mail. This will likely result in a larger number of mail ballots that must be reviewed by the Early Voting Ballot Board ("EVBB"). The ballots will then be counted by the EVBB or at the central counting station, whichever is applicable in that county.

The Secretary of State's office strongly recommends that counties plan for an increase in mail ballots by convening their EVBB as early as possible, and as permitted by the Texas Election Code, to ensure ballots are processed and counted, and the results are tabulated, in a timely manner.

Qualifying Mail Ballots by the Early Voting Ballot Board

Counties with a population of 100,000 or more

For counties with a population of 100,000 or more, or entities having joint elections with such a county, the early voting ballot board may convene to begin processing and qualifying mail ballots by the 12th day before election day. (Section 87.0241). The early voting clerk shall continuously post notice for 24 hours preceding each delivery of voting materials made before the polls open on election day. (Section

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87.0222(b)). At least 24 hours before each delivery, the early voting clerk shall notify the county chair of each political party having a nominee on the ballot of the time the delivery is to be made. (Section 87.0222(c)).

Counties with a population of less than 100,000

For counties with a population of less than 100,000, the early voting ballot board may convene to begin processing and qualifying mail ballots after the polls close on the last day of in-person early voting. (Sections 87.024-87.0241). 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. (Section 87.0222(b)). At least 24 hours before each delivery, the early voting clerk shall notify the county chair of each political party having a nominee on the ballot of the time the delivery is to be made. (Section 87.0222(c)).

Activities included in Qualifying and Processing

When the early voting ballot board meets to qualify ballots, they shall determine whether to accept the voter's ballot. A ballot may only be accepted if (1) the carrier envelope has been properly executed; (2) neither the voter's signature on the ballot application nor the signature on the carrier envelope is determined to have been executed by a person other than the voter, unless signed by a witness; (3) the voter's ballot application states a legal ground for early voting by mail; (4) the voter is registered to vote; (5) the ballot was mailed to the applicable address; and (6) if required, the statement of residence was included and properly completed. (Section 87.041). For more details about the qualifying process, please see our Early Voting Ballot Board Handbook.

For ballots that are accepted, the early voting ballot board will enter the voter's name on the poll list and separate the ballot from the carrier envelope. The separated ballots will be counted by the ballot board or the central counting station, whichever is applicable for the county.

Scanning of Mail Ballots

For those counties that tabulate mail ballots with a scanner, if the county's certified scanning device is capable of scanning the ballots without tabulating the results, the county may begin scanning the ballots during the time that a county may process or qualify mail ballots. This should be done only by authorized early voting ballot board or central counting station personnel. Poll watchers may be present during these activities. **NOTE**: Results may not be released until after the polls close on election day.

For questions as to whether your scanner is capable of scanning ballots without producing a tabulation, please contact your voting system vendor or our office for more details.

Counting of Mail Ballots

Ballots voted by mail may be counted by either the early voting ballot board or the central counting station, as determined by the county election officer.

Counties with a population of 100,000 or more

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For counties with a population of 100,000 or more, or entities that are having joint elections with such a county, the county may begin **counting** mail ballots after the polls close on the last day of in-person early voting. (Section 87.0241). Results may not be released until the polls close on election day.

Counties with a population of less than 100,000

For counties with a population of less than 100,000 mail ballots **may not be counted** until the polls open on election day. (Section 87.0241). Results may not be released until the polls close on election day.

Mail Ballot Results

All mail ballots received by 7:00 p.m. on election day must be qualified by the early voting ballot board and, if accepted, counted on election day. Early voting clerks should arrange to check their mail at 7:00 p.m. to ensure that any ballots received are appropriately processed on election night. **These ballots will be included in any results that are released on election night.**

Later Arriving Mail Ballots

There are certain ballots that may arrive after election day, but can still be qualified and counted. Late ballots fall into three categories:

- Ballots Received by 5:00 p.m. on the next business day after election day with a postmark of 7:00 p.m. on election day or before, if sent by a civilian or military voter using an ABBM and voting within the United States. **If there is no postmark, then it cannot be counted.** (Section 86.007(a)).
- Ballots Received by the 5th day after election day from an overseas civilian voter (ABBM or FPCA) or a military voter (using an ABBM and voting from overseas) with a postmark of 7:00 p.m. on election day or before. **If there is no postmark, then it cannot be counted.** (Section 86.007(d)).
- Ballots Received by the 6th day after election day from a military voter using an FPCA. **No postmark is necessary.** Voter can be domestic or overseas. (Section 101.057).

All of these ballots must be qualified by the early voting ballot board and subsequently counted by the early voting ballot board or central counting station, whichever is applicable. **The results from these accepted mail ballots must be added to the canvassed vote totals.**

An increase in mail ballots may result in a larger number of ballots counted after election day. A large number of outstanding mail ballots may affect the ability to determine outcomes for close races on election night. Please be sure to communicate with your voters, candidates, and workers that results are not final until they are canvassed after election night, as canvassed results include eligible late arriving mail ballots and provisional votes.

KI:CA

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Dallas County Elections Coronavirus (COVID-19) Updates and Information

In compliance with CDC recommendations, Texas Election Advisory 2020-19 and to promote the health and safety of DCED guests and employees, guests and employees are required to were masks and adhere to 6ft Social Distancing to the fullest extent possible. To accommodate appropriate distancing, capacity will be limited to the Central Count Station Appointees, staff required for counting, and the first six Public Attendees/Poll Watchers. If the number of watchers from each Party or candidate exceeds six, rotation procedure will be coordinated by CCS Presiding Judge.

CENTRAL COUNTING STATION

Central Counting (CCS) Manager - The Manager is in charge of the overall supervision of the central counting station and shall have a written plan for operation of the central counting station. The Manager, as well as the presiding judge, may appoint clerks to perform duties at the central counting station. The Manager oversees programming and is the general custodian of election records.

Tabulation Supervisor – The Tabulation Supervisor is responsible for overseeing the counting of ballots and preparing the necessary reports such as the canvass, and the over and undervote reports. The tabulation supervisor may appoint one or more assistant tabulation supervisors. The Tabulation Supervisor will directly supervise full and part time staff acting as assistant tabulation supervisor and counting station clerks. If the tabulation supervisor is not the programmer, the tabulation supervisor must approve the program used to count the ballots prior to election day. The tabulation supervisor is responsible for the security of the program. The tabulation supervisor is to ensure that no other person other than assistant tabulation supervisors operate the tabulation equipment.

Assistant Tabulation Supervisor. The assistant shall assist the tabulation supervisor in the operation of the automatic tabulating equipment and tabulation procedures as directed by the tabulation supervisor.

Presiding Judge – The presiding judge has the same authority as an election day judge with respect to maintaining order and administering oaths. This authority also includes resolving any questions about voter intent on a ballot. If the central counting station manager determines that ballots will be duplicated or manually counted, then the clerks will duplicate or hand count the ballots, but the presiding judge will resolve any questions concerning voter intent. The presiding judge may also confer and advise the manager and tabulation supervisor on the operation of the central counting station. The presiding judge is the custodian of the testing materials prepared for the test until the materials are delivered to the general custodian of election records following the third test. If personnel are granted temporary absence from the central counting station while the polls are still open and the counting of ballots has begun, the presiding judge shall supervise those absences.

Alternate Judge – The alternate judge serves in the capacity of the presiding judge, if the presiding judge is absent. Otherwise, the alternate judge performs the duties assigned by the presiding judge.

Clerks – The clerks perform the duties assigned by the tabulation supervisor and/or the presiding judge.

Central Counting (CCS) Manager – Toni Pippins-Poole, Dallas County Elections Administrator
Tabulation Supervisor – Danielle Grant, Central Count Station Manager
Assistant Tabulation - ES&S Site Support Personnel, Daniel Bradley and the Regional Site Managers
Presiding Judge – Rosa Orenstein, Democratic Party designee
Alternate Judge – Wes Bowen, Republican Party designee
Counting Station Clerks – Part time/temporary Central Count employees

The Oath for Early Voting Ballot Board and Central Counting Station Personnel (AW 8-3a Sec. 87.006, 127.0015) should be administered verbally to all members of the early voting ballot board and all personnel at the central counting station prior to the performance of any duties by the board or the central counting station.

Poll watchers are entitled to be present during the time the CCS has convened for the "purpose of processing or preparing to process election results and until the election officers complete their duties at the station." (Sec. 33.055) The poll watcher must deliver their certificate of appointment to the Presiding Judge of the CCS and the Presiding Judge must countersign their certificate. A watcher is entitled to sit or stand conveniently near the election officers conducting the observed activity. (Sec. 33.056) A watcher may not [illegible] the election

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TX SOS 24-0322-000171

process.

1. **Regional Site (Central Accumulation Station) transmitting DS200 USB Drives**: The results, along with other critical items, from each Vote Center are delivered on two USB drives sealed in a Return Pouch. The first copy, the Primary USB, is sealed for delivery to Central Count and upload to the Closed Network. The second copy, the Backup USB, is uploaded to the EMS (Election Management Software) client for unofficial Election Night Reporting. The Primary and Backup USB drives are documented on a Chain of Custody Form, sealed in a container and delivered to Central Count. As results are uploaded into EMS during election night, we are communicating with all active regional sites on verifying which Vote Centers have and have not been received. At regular intervals, we print these results for members of the public located at our office and we place these results onto our website for viewing. Results are uploaded to the Secretary of State's website. A status report is printed and it is verified that all Vote Centers had been counted and we show 100%. A precinct report is placed on the website showing the number of ballots counted for each precinct. A cumulative report is printed/placed on website indicating all votes from all precincts are included in the cumulative report.

2. **On election night, Central Counting Station receives all election records including but not limited to:** the Regional Site bins (Expense Sheets, DS200 Ballot and Seals w/results tapes, Return Pouches, container with uploaded Backup USB Drives and Primary USB Drives with chain of custody receipt, Vote Center voted ballots and provisional ballot transfer cases from each of the regional sites after they have completed transmitting all their site's designated Vote Centers. The CCS Manager will hand over the Provisional ballot transfer cases to the Voter Registrar to process. Contact information for the CCS Manager, the Tabulation Supervisor, and an alternate Clerk is provided to the Secretary of State in the event results require confirmation.

   If a Regional Site (Central Accumulation Station) has a problem with a Vote Center, they will send down all paper work, voted ballots, DS200 USBs, etc. for Central Count to process on election night accordingly. (Sec. 127.156)
   This information should be logged on the Central Counting Station audit form.

3. **AUDIT OF RESULTS:** Central Count will do an audit of all ballots. Since the results are being transmitted to the central counting station, the central count station is responsible for comparing the results transmitted with the results tape printed at the precinct and delivered to the central counting station.

   a) Each Official Ballot and Seal Certificate, DS200 receipt tapes will be audited to the EMS (ES&S- Election Management Software) results;
   b) Write-In Candidates (if applicable) will be confirmed and counted

4. **Write-in votes:** A write-in vote is counted if the election judge can determine the intent of the voter. If the voter misspells the write-in candidate's name but the judge can determine the intent, the vote is counted. If the voter only writes in part of the name as it appears on the list but the judge can determine the intent of the voter, the vote is counted. Failure to write in the name exactly as it appears on the list does not invalidate the vote as long as the judge can determine the intent of the voter. If the voter writes in the name of a declared write-in candidate but fails to mark the box, oval or arrow, the vote should be counted. (Section
   65.009 of the Code and Advisory No. 2014-20) If the voter uses a sticker with the write-in candidate's name preprinted on the sticker, the vote cannot be counted. Only declared write- in candidates whose names appear on the list of declared write-in candidates are entitled to have their votes counted. (Section 146.022 of the Code.) For more information see CCS "Write-In Tally Instructions" process.

5. **Early voting in person:** For each day of Early Voting, the Ballot Board will review and confirm that EV Roster Forms, Daily Reports (DS200 Public Count), and Voter Registration Logs match. After Early Voting is completed, the DS200 USBs are delivered to the Central Count Station by the EV Presiding Election Officers. The assigned USBs are confirmed returned, the number of votes on the USBs is confirmed to match the number of Early Voters, and the results are uploaded to EMS to be included in the Election Night Reports

   New Procedure: The over flow of voted Early Voting ballots will be transported to and stored securely at Central Count between 7:00am and 9:00am or 7pm and 9pm in accordance with 85.032 of the Texas Election Code and Election Advisory No. 2017-17.

6. **Early Voting Mail Ballots/Provisional Ballots:** The Ballot Board and Signature

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Verification Committees will process each mail ballot (Sec.87.041) and place them into transfer cases to be delivered to Central Counting Station (CCS) (Sec.87.101). CCS will do the following:

- Sign Ballot Board (BB) forms accepting the transfer cases after verifying the seal number on the transfer case matches the seal number written on the paperwork
- Apply and fill out a Label on each transfer case that states the Box #/ date/ number of ballots the BB says are in the transfer case
- Break the seal on the transfer case and place the seal back into the box
- Run the ballots on the 850 machine and verify the total number of ballots being processed is what the Ballot Board states. Write this number on the label as the Number of ballots counted by CCS.
- Place the ballots back into the transfer case and re-seal the box with a new seal and write this seal number on the Seal Roster
- Save the 850 results to a USB and fill out the label with the Node#/ Time / Date / # of ballots saved / what type Provisional or Mail/ Box #
- Each 850 USB will be uploaded into EMS for election night results

The Central Counting Station will convene to process early voting ballots voted by mail as they are delivered by the Signature Verification Committee beginning October 14, 2020, and reconvene daily through November 16, 2020, as needed, until all accepted ballots are counted and Canvass Reports are provided to the Convening Authority and/or the Secretary of State.

7. **Duplicating Ballots:** (Sec. 127.126 and Advisory No. 2014-18) The CCS manager shall have each irregularly marked ballot duplicated to indicate the intent of the voter if the voter's intent is clearly ascertainable. CCS will do the following:

- A ballot is printed for that exact precinct-ballot style
- A "Dup #" label is placed on the original ballot
- The new ballot serial number is transposed on the original ballot; the original ballot serial number and the "Dup #" are transposed on the new ballot
- It is then duplicated to indicate the intent of the voter
- The original ballot is placed into a plastic bag labeled with that transfer case number and is preserved with the other voted ballots in the same transfer case
- The new ballot is counted on the 850 machine and is then included with the other ballots in that transfer case for the rest of the preservation period

Central Counting Station Procedures on Testing

1. **CCS preliminary Testing –** As soon as programing is complete on the DS200 Optical Scan Ballot, we perform intense testing by proofing the races; testing the ovals; making sure there are no errors when inserting ballot into a DS200 machine; verifying the election titles, location names; verify and vote by the audio ballot; confirm correct screens are appearing on the ExpressVote; proof every ballot and the positions of the ovals; proof the statistics of each ballot; proof the polling locations; proof the candidate names; and much more.

2. **Public Logic and Accuracy Test on DS200 Machines (Sec. 129.023) –** Each of the DS200 machines assigned to a polling location are tested at the warehouse.
   a. A pre-determined results report for every precinct is created
   b. Test Ballots from the same ballot paper as election day are printed for each precinct
   c. Each precinct ballot is marked in a pre-determined vote guideline
   d. These test ballots along with the DS200 USB are given to the warehouse for testing
   e. These ballots are run on the actual machine that will be sent out to that site on election day, each machine has a hardware diagnostic test run (Sec.129.022), test

AMERICAN OVERSIGHT

ballots are run and results checked, time and date are checked (guidelines for this process are located on the warehouse L&A procedures outline)

f. After the test has been completed successfully, the DS200 USB is made secure in that machine and the test ballots are sent back to Central Counting Station

3. **Mock Test on DS200–** Central Count receives back the test USBs used in the warehouse L&A. These are used in a Mock Election Night transmission test. Central Count compares test votes to pre-determined results.

DS200 Machines

a. Mock (Backup L & A) DS200 USBs are used during equipment testing for each VC#
b. Test ballots are run on each of the VC# Backup L & A USBs with the pre-determined results
c. DS200 results tapes are verified that they match the pre-determined results

Results into EMS

a. A zero report is printed from EMS
b. The VC# DS200 USBs are then uploaded into EMS in the Election Day field
c. An EMS results report is printed
d. The results from a pre-determined votes report and the EMS report are compared to determine if the test was successful and accurate.
e. If successful, EMS is zeroed out and a zero report is printed.

4. **Public Logic and Accuracy Test on ExpressVote Machines (Sec. 129.023) –** Each of the ExpressVote machines that are assigned to a polling location is tested at the warehouse.
   a. Each machine has a hardware diagnostic test run (Sec. 129.022), time and date are checked. (guidelines for this process are located on the warehouse L&A procedures outline)
   b. After the test has been completed successfully, the ExpressVote machines are made secure in the carrying case and locked in the ESC; now they are ready for delivery.

5. **Public Logic and Accuracy (DS200, 850) & Testing of Tabulation Equipment –** (Public L&A test Sec. 129.023 & 1st test of the Tabulating Equipment Sec. 127.093(b)) is completed prior to Early Voting starting. Precincts are selected randomly from the election and are tested on DS200 and 850 Machines. A pre-determined results report is created. This test is completed in Central Counting Station.
   a. A zero tape from each DS200 Machine is printed after opening.
   b. The pre-determined votes are voted on the Activation Card ballot and are run through the Election Day and Early Voting DS200 machines.
   c. After voting is complete, the DS200 Machines are closed and results are printed.
   d. A zero report is run on the 850; then the Optical Scan test ballots and a sample of a Provisional Ballot are then run on the 850 machine; results saved onto a disk.
   e. In EMS (Election Management System) a zero report is printed.
   f. The EV DS200 USBs are then uploaded into EMS EV In-Person field.
   g. The 850 USB is then uploaded into EMS EV Mail field.
   h. The ED DS200 USBs are then uploaded into EMS Election Day field.
   i. The Provisional 850 USB is uploaded into EMS ED_EV Prov field.
   j. An EMS results report is printed.
   k. The results from a pre-determined votes report, DS200 printed reports, the 850 results report and the EMS report are all compared to determine if the test was successful and accurate.
   l. If successful, EMS is zeroed out and a zero report is printed.
   m. The presiding judge shall certify in writing that the test was successful and the date/hour the test was completed. (Sec.127.097(c))
   n. The presiding judge is the custodian of the test materials; they are sealed in a container until delivered to the custodian of election records. (Sec. 127.100,129.024)

AMERICAN OVERSIGHT

6. **Regional Site Transmission Test (Sec. 127.152)**– Prior to Election Day we test each of the regional site transmission lines and send data to EMS to test the accuracy of each site's transmission.
    a. The DS200 USBs from the Mock Test are given to each of the regional sites according to VC# site assignment.
    b. All sites will connect to the Central Count server and upload each of the USBs.
    c. EMS will receive this data and confirm that we have received every Vote Center; then print out a results report.
    d. The results from a pre-determined votes report and the EMS results report are compared to determine if the test was successful and accurate.
    e. If successful, EMS is zeroed out and a zero report is printed.

7. **Testing Tabulating Equipment –** 2nd test (Testing Tabulating Equipment Sec. 127.093(c)) is completed immediately before the tabulation of ballots. The files from the 1st test will be used to test the accuracy of EMS reporting. A pre-determined results report is created. This test is completed in Central Counting Station.
    a. In EMS, a zero report is printed.
    b. The Media used on the 2nd test will be uploaded into the correct fields.
    c. An EMS results report will then be printed.
    d. The results from a pre-determined votes report and the EMS report are compared to determine if the test was successful and accurate.
    e. If successful, EMS is zeroed out and a zero report is printed.
    f. The official counting process can begin.
    g. The presiding judge shall certify in writing that the 2nd test was successful and the date/hour the test was completed. (Sec.127.098(b))

8. **Testing Tabulating Equipment –** 3RD test (Testing Tabulating Equipment Sec. 127.093(d)) is completed AFTER Election Day. The same files from 2nd test will be used to test the accuracy of EMS reporting. A pre-determined results report is created. This test is completed in Central Counting Station.
    a. Election Night results are zeroed out of EMS and a zero report is printed.
    b. The Media used on the 3rd test will be uploaded into the correct fields.
    c. An EMS results report will then be printed.
    d. The results from a pre-determined votes report and the EMS report are compared to determine if the test was successful and accurate.
    e. If successful, EMS is zeroed out and a zero report is printed.
    f. The election night results are then imported back into EMS for canvassing.
    g. The presiding judge shall certify in writing that the 3rd test was successful and the date/hour the test was completed. (Sec.127.098(b))

9. **Partial count of electronic voting system ballots by general custodian**. (Sec. 127.201a-f)
    a. To ensure the accuracy of the tabulation of electronic voting system results, the general custodian of election records shall conduct a manual count of specified races in at least one percent of the election precincts or in three precincts, whichever is greater, in which the electronic voting system was used. The custodian shall select the precincts at random and shall begin the count not later than 72 hours after the polls close. The count shall be completed not later than the 21st day after election day.

Audit Logs for an Election Management System's Central Accumulator

Under Sec. 81.62, a central accumulator is defined as the part of an Election Management System that tabulates and/or consolidates the vote totals for multiple precincts/devices. Previously, all central accumulators were required to have a continuous feed audit log printer. As a result of the petition-initiated rule change, this requirement for the continuous feed audit log printer was repealed effective November 7, 2017.

All central accumulators certified for use in Texas election maintain internal audit logs. This is a requirement under both the state and federal certification process and will remain in place. Any audit log produced by a central accumulator is an election record and must be retained for the proper preservation period.

AMERICAN OVERSIGHT

In addition to eliminating the requirement for the continuous feed printer, the changes to Sec. 81.62 require a full audit log to be printed after the tabulation of results is completed on election night, and provide a procedure for poll watchers to gain access to these audit logs during the tabulation process.

Sec. 81.62(g) provides that a poll watcher may request a printed copy of an audit log produced by a central accumulator:

1. Before any votes are tabulated,
2. After early voting results are tabulated, and
3. Immediately following the completion of the vote tabulation.

Once a request for a report has been made, the central counting station manager or tabulation supervisor is required to print a copy of the audit log at the required time and make a copy of it available to any and all poll watchers that have requested a copy of the audit log. You do not need to print an official audit log separately for multiple requestors. Once a copy is printed, it can be copied and provided to the different requestors.

Retention of election material by General Custodian of Elections

Records created as part of an election must be retained for twenty-two months. In addition to the instructions provided in Section 66.058 of the Code, electronic records shall be secured in a locked container sealed with one or more uniquely identified tamper-resistant or tamper-evident seals and logged. This includes, but is not limited to:

1. Logic and Accuracy Test and results
2. Printed audits (Real-time audit log)
3. Forms
4. Zero tapes
5. Results tapes
6. Electronic Records

    A. Ballot definitions
    B. Cast vote records (ballot images), as applicable
    C. Audit logs
    D. Election results

AMERICAN OVERSIGHT

From: Laura Pressley
To: Debra Bean
Cc: Christina Adkins
Subject: Unofficial precint level election results for Florence ISD Race
Date: Wednesday, May 10, 2023 5:46:02 PM

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Hello Ms. Bean,

Hope you are doing well. When can the District provide the unofficial precinct level results for the May 6 Florence ISD election? As a reference, the Election Code provides for unofficial precinct level results - see below. Copying the Texas Secretary of State to keep them in the loop.

Also, according to Texas Election Code Section 1.012, I'd like to come by on Friday, May 12, to review the Bell County election records (early voting and election day results tapes and list of voters). What would be a good time for you?

Sec. 66.056. UNOFFICIAL TABULATION OF PRECINCT RESULTS.
(a) As the general custodian of election records receives the precinct election records from each polling place, the custodian shall:
(1) open the envelopes and remove the precinct election returns; and
(2) prepare a tabulation stating for each candidate and for and against each measure:
(A) the total number of votes received in each precinct; and
(B) the sum of the precinct totals tabulated under Paragraph (A).
(b) The custodian shall periodically make a public announcement of the current state of the tabulation made under Subsection (a).
(c) The tabulation made under Subsection (a) is unofficial and does not affect the outcome of the election.
(d) The custodian shall preserve the unofficial tabulation for the period for preserving the precinct election records.

Blessings,
Dr. Laura Pressley
Candidate Place 3 Florence ISD Trustee

AMERICAN OVERSIGHT

From: Andre Montgomery <ATMontgomery@sos.texas.gov>
Sent: Friday, April 22, 2022 4:06 PM
To: Deborah Abrego; Elizabeth Hawkins; Tessa Rowland; Erik Buntin; Charles Pinney; Lena Proft; Heidi Martinez; Christina Adkins; Alexa Buxkemper; Melanie Best; Keith Ingram; David Velez-Perez

FYI. I got a call from a pollwatcher asking about results tapes being available at CCS. I said that if the tapes are available at CCS after the polls have closed they can be requested, but if they are not available the pollwatcher would have to submit a public information request (per the email that came up this morning, even though I'm not sure if we ever sent it out). She became pretty hostile because I think what she ultimately wanted was for us to say we've told counties not to print the tapes. I reiterated what we said in that email. She kept asking the same question trying to get a different answer and I suggested she send an email since it seems like there was miscommunication between us. She said maybe the question was "too hard" for me and I said at that point that it'd probably be best if she did send and email and disconnected. She said she had recorded the call and would be sharing it. Again, just FYI.

AMERICAN OVERSIGHT

From: Alexa Buxkemper <ABuxkemper@sos.texas.gov>
Sent: Tuesday, May 31, 2022 9:48 AM
To: Deborah Abrego; Elizabeth Hawkins; Tessa Rowland; Erik Buntin; Andre Montgomery; Charles Pinney; Lena Proft; Heidi Martinez; Christina Adkins; Melanie Best; Keith Ingram; David Velez-Perez

The results tapes should be available at all times for PIRs and post election verification or audits. The code says file a tally list in Envelope #1 and in Envelope #2. It is also a good idea that the Presiding Judge file a copy in his or her Envelope #3.

AMERICAN OVERSIGHT

From: Lena Proft <LProft@sos.texas.gov>
Sent: Wednesday, November 23, 2022 11:04 AM
To: Deborah Abrego; Elizabeth Hawkins; Tessa Rowland; Erik Buntin; Andre Montgomery; David Velez-Perez; Charles Pinney; Heidi Martinez; Christina Adkins; Alexa Buxkemper; Keith Ingram

FYI, Jefferson County has a poll watcher demanding copies of results tapes. The watcher sent the county a request last night but is pointing to 1.012(e) in saying the county has to give them to her today.

I directed both the county and the watcher to the OAG for guidance on PIR response times.

AMERICAN OVERSIGHT

From: Lena Proft <LProft@sos.texas.gov>
Sent: Monday, June 27, 2022 8:55 AM
To: Deborah Abrego; Elizabeth Hawkins; Tessa Rowland; Erik Buntin; Andre Montgomery; David Velez-Perez; Charles Pinney; Heidi Martinez; Christina Adkins; Alexa Buxkemper; Melanie Best; Keith Ingram

We have this in the Poll Watchers Guide

If present, a poll watcher should sign zero tapes before the polls open and after the polls close pursuant to Section 61.002 of the Election Code. See Tex. Sec'y of State Election Advisory No. 2019-23.

AMERICAN OVERSIGHT

From: GeneralCounsel
Sent: Tuesday, March 5, 2024 2:53 PM
To: 'Debbie Lindstrom'
Cc: GeneralCounsel
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

As a follow up to our February 6 email, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on March 26, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Tuesday, February 6, 2024 2:22 PM
To: 'Debbie Lindstrom' <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

As a follow up to our January 9 email, please see the attached zipped folder containing additional documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal or non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

The responsive information also includes certain computer information, such as file names, network file locations and addresses, usernames, passwords, and other computer programming information, that is not subject to the Public Information Act because it "has no other significance than its use as a tool for the maintenance, manipulation, or protection of public property." Open Records Decision No. 581 at 7 (1990); *accord* OR2023-07522 at 2-3 (file names, links, usernames, web addresses, and passwords); OR2022-35050 at 2 (network file locations); OR2022-32589 at 2 (usernames, passwords, and other programming information). Accordingly, this information has been redacted from the attached production.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on March 5, 2024. *See* Tex. Gov't Code § 552.221(d).

AMERICAN OVERSIGHT

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Tuesday, January 9, 2024 9:13 AM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

As a follow up to our December 11 email, please see the attached zipped folder containing additional documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal or non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on February 6, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, December 11, 2023 11:56 AM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

As a follow up to our December 4 email, please see the attached zipped folder containing additional documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain email addresses of the general public. An email address of a member of the public is confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold an email address of a member of the public without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

The responsive information also includes certain computer information, such as file names, network file locations and addresses, usernames, passwords, and other computer programming information, that is not subject to the Public

AMERICAN OVERSIGHT

Information Act because it "has no other significance than its use as a tool for the maintenance, manipulation, or protection of public property." Open Records Decision No. 581 at 7 (1990); *accord* OR2023-07522 at 2-3 (file names, links, usernames, web addresses, and passwords); OR2022-35050 at 2 (network file locations); OR2022-32589 at 2 (usernames, passwords, and other programming information). Accordingly, this information has been redacted from the attached production.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on January 9, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, December 4, 2023 10:43 AM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please find attached a courtesy copy of OR2023-40492 regarding this request for information under Chapter 552 of the Texas Government Code. The Office of the Attorney General has determined that we may, or must, withhold certain information responsive to this request pursuant to the Public Information Act.

As stated below, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on December 11, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, November 20, 2023 12:00 PM
To: 'Debbie Lindstrom' <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

AMERICAN OVERSIGHT

As a follow up to our October 23rd email, we appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on December 11, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, October 23, 2023 8:47 AM
To: 'Debbie Lindstrom' <[redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

As a follow up to our September 25 email, please see the attached zipped folder containing documents in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal and non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on November 20, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, September 25, 2023 3:37 PM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

Please see the attached letters, and zipped folder containing documents, in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain personal and non-governmental email addresses that are considered confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold

AMERICAN OVERSIGHT

certain email addresses without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

As stated in the attached letter, we require more time to continue reviewing our records and produce additional responsive information. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on October 23, 2023. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, September 18, 2023 10:16 AM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Thursday, September 14, 2023 3:51 PM
To: 'Debbie Lindstrom' [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good afternoon,

Please find the "Packing Slip" receipt attached for your payment. We are continuing to process your request in accordance with Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, September 1, 2023 1:22 PM
To: 'Debbie Lindstrom' <[redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Ms. Lindstrom,

Thank you for speaking with me today. This email acknowledges that I received your payment information today via phone and we will continue processing your request in accordance with Chapter 552 of the Texas Government Code.

As I mentioned, I will email you a copy of the payment receipt within the next few business days.

Sincerely,

Adam Bitter

Adam Bitter
General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom <[redacted]
Sent: Thursday, August 31, 2023 9:03 AM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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I am available today until 3 PM for payment information on this Public Information request.

My number is 469-387-5560

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

AMERICAN OVERSIGHT



From: Debbie Lindstrom [redacted]
Sent: 29 August 2023 05:23
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

I am open all day today. Please call at your convenience.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]



From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 25 August 2023 16:32
To: Debbie Lindstrom [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Ms. Lindstrom,

AMERICAN OVERSIGHT

This email acknowledges receipt of your acceptance of the estimated costs for your request under the Public Information Act. Someone from our Office will call you early next week for payment information. If you have a preference for the time of the call, please let us know.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, August 25, 2023 8:56 AM
To: 'Debbie Lindstrom' [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning, Ms. Lindstrom,

I can call at whatever time is convenient for you today until 4:30 p.m.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom [redacted]
Sent: Thursday, August 24, 2023 2:51 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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Good afternoon,

Thank you for your response. I accept the charge of $322.20 and prefer to pay by card over the phone.

1. I prefer email for correspondence and for the itemized statement. My email is [redacted]
2. I will accept the estimated charges of $322.20
3. Here is my phone number for someone from your office to get credit card information: 469-387-5560. I am requesting an electronic invoice for the charges.

Please let me know what time you will be calling so that I can be available to give you the credit card information or if you need anything further from me on this request.

AMERICAN OVERSIGHT

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 14 August 2023 11:28
To: Debbie Lindstrom [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom [redacted]
Sent: Friday, July 28, 2023 7:35 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Cc: Elections Internet <Elections@sos.texas.gov>
Subject: Re: Public Information Request: Early Voting Results - SOS PIR 23-0708

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Mr. Bitter and Ms. Williams,

Here is my response for clarification for PIR 23-0708 (attached).

1. With respect to Item 1, the specific date range is 2016-current.
2. I am seeking both categories of information.
3. I am seeking both final versions and draft versions.
4. I am seeking both.
5. I am seeking both categories of communications.

Thank you,

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: 24 July 2023 09:59
To: Debbie Lindstrom [redacted]>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request: Early Voting Results - SOS PIR 23-0708

You don't often get email from generalcounsel@sos.texas.gov. Learn why this is important

Good morning,

AMERICAN OVERSIGHT

Please see the attached letter in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: Debbie Lindstrom [redacted]>
Sent: Monday, July 10, 2023 10:55 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Public Information Request: Early Voting Results

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

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Please consider this email an open records request pursuant to Chapter 552 of the Texas Government Code.

1. I am requesting all documents related to the secretary preparing detailed and comprehensive written directives and instructions related to and based on Texas Election Code 31.003 and the Election Laws outside the code for printing of Early Voting Results Tapes
2. I am requesting all documents related to the secretary's procedures necessary to implement the tabulation of unofficial results such as early voting results tapes.

DEBBIE LINDSTROM

Election Division Lead

Collin County, TX

469-387-5560 | [redacted]

CITIZENS DEFENDING FREEDOM

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External Message - Please be cautious when opening links or attachments in this email

External Message - Please be cautious when opening links or attachments in this email

External Message - Please be cautious when opening links or attachments in this email

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From: Christina Adkins
To: "Beverly Foley"; [redacted]
Subject: RE: Reconciliation Improvements
Date: Tuesday, October 17, 2023 4:09:51 PM

Beverly,

I share your frustration and the lack of requirements related to reconciliation in the Texas Election Code. I also feel that way about Chain of Custody requirements.

I'll review the paperwork you included in your email. I have a strong desire to push our election officials to documenting reconciliation efforts more. And I agree that we need to consider how we can add additional checks so that it's not just an electronic to electronic check.

If you are ever in Austin and would like to meet to discuss your work in person or if you would like to discuss by phone, please let me know.

Thank you,

Christina

From: Beverly Foley [redacted]
Sent: Monday, October 9, 2023 3:43 PM
To: [redacted] Christina Adkins <CAdkins@sos.texas.gov>
Subject: RE: Reconciliation Improvements

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Hi Christina,

Elizabeth -- thank you for including me on the email.

For almost 3 years I have been working on cleaning voter rolls (I have my own model for identifying ineligible voter addresses), auditing prior elections by counting the mail in ballots (Tarrant -65K and Denton 30K so far, and helping others) by a method I designed to count for auditing, and; now I am putting a reconciliation project together so we have a way to oversee the electronic count by utilizing the Presiding Judges' paperwork from each voting location. Also, part of the reconciliation will be voter roll info from the same election and a paper hand count of the same election, after the 60 days.

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However, I am frustrated to not find in my research where the election code requires more reconciliation than it does. Below are my sections I have read for my search of "presiding judge" that mentions precinct records, etc.

I have become a "double-check" person, after counting all the ballots I have; I like having the machine total to balance back to. I would prefer somehow that we find a way to run election results and then my fast method of validating the paper ballots and candidate counts back to results tapes,etc. right after close of elections. Double Check - so many people would feel better about that.

I have learned hand count only can have issues and we know machines only can have issues. But with a count to validate machine is my ultimate goal.

Back to reconciliation. Currently, I am not finding anything in election code where the to counties do anything similar to what I do. Tarrant has a location "audit", but it is still electronics to electronics; presiding judge info not used. But I feel it is needed.

Denton County had a 60% inaccurate rate of their presiding judges' paperwork. (see attached summary) I know being unreliable you have to rely on electronics. I'm working to get PJ more accurate so we can use their numbers. In Tarrant I am putting their numbers in now to see how accurate they were for November 2022. Clint, new EA is looking forward to my findings.
(I work in both counties Tarrant and Denton, I live in the southern most part of Denton)

I also recommended changes to their Ballot Register to make it easier to understand for the Presiding Judges. Attached is Tarrant 1 pager, I sent to Denton who currently uses 2 pages for same info)

My drive link with all my worksheets

https://drive.google.com/drive/folders/1HKXXNyKMiABhTC_Zx8zovUXjps2hS4xM?usp=sharing

I tend to see areas that could use improvement and try to work with EAs on these areas. Tarrant and Denton have gotten used to me being around. I also work especially with Tarrant on RECORDS MANAGEMENT. I work with the Ballot Board Judge on how the mail ins are processed, and stored for future auditing. Denton has a good system.

Thank you for your time,
Beverly Foley
Denton Co.
214-415-7154

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MY RESEARCH IN ELECTION CODE FOR USE OF PRESIDING JUDGE RECORDS -
I have been scouring through the election code trying to find what should happen with the Presiding Judge's paperwork once turned in (searches for presiding judge). I found where it says what they should report from the precinct location on a form and how records will be stored, but not how they will ever be considered in the reconciliations the way I think they should be.

I think over time as electronics took over the paperwork is now only for a resource if needed.

In CANVASSING I found some mention of numbers from the precinct locations

except

I found a section where the "precinct returns" to be compared with tally list,

But it is only for **"vote totals" not check-ins or scans**. Since the results tape and the tally the CC uses would or should always match. Then this section probably doesn't come into play very often.

If a discrepancy is discovered
between the vote totals shown on the returns and those shown on the
tally list for a precinct, the presiding judge of the precinct shall
examine the returns and tally list and make the necessary corrections
on the returns.

Canvassing
67.004

The canvassing authority may compare the precinct returns
with the corresponding tally list. If a discrepancy is discovered
between the vote totals shown on the returns and those shown on the
tally list for a precinct, the presiding judge of the precinct shall
examine the returns and tally list and make the necessary corrections
on the returns.

My research that had Presiding Judge mentioned -

I keep seeing this and I'm sure I don't see the Presiding Judge doing this 2 people to take documents to CC

From Chapter 127 that has so much in it all central counting station chapter

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Ballot Box ---
After the box is sealed, it shall be delivered to the central counting station by two election officers. The officers shall deliver the box to the presiding judge of the central counting station or to the judge's designee.

I normally only see 1 officer go, the watchers, if there is one, usually will say they will follow the judge.

I'm believing more and more there is not ANY REASON TO FILL OUT THOSE FORMS AT THE POLLING LOCATION …….

THIS SECTION TAKES CARE OF ANY REPORTING THAT NEEDS TO BE DONE BY FRED – our CC presiding judge

All Fred does is take the totals that Frank and Jason give him from the "systems"

127.131
(f) The presiding judge (Fred) of the central counting station shall provide and attest to a written reconciliation of votes and voters at the close of tabulation for election day and again after the central counting station meets for the last time to process late-arriving ballots by mail and provisional ballots. The secretary of state shall create and promulgate rules and a form to facilitate compliance with this subsection. **The form shall be posted on a website**

****This is where I get this form off the website for my reconciliation comparisons**

Does not say what type of "reconciliation" but the only type is what Frank and Jason give him.

Records from polling places

Sec. 127.132. DISPOSITION OF BALLOTS, RETURNS, AND OTHER RECORDS. (a) The presiding judge of a central counting station shall distribute the voted ballots, election returns, and other election records from the counting station to the appropriate authorities.
(b) The voted ballots, election returns, poll list, tally lists for manually counted votes, and other election records shall be delivered to the authorities who receive the corresponding records from precinct polling places using regular paper ballots.
(c) The election records delivered to the general custodian of election records may be delivered in any container approved by the secretary of state for that purpose.

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I'm going through all sections with "presiding judge"

Is required to prepare a ballot register - I'll see what purpose it has now that electronics are used so much instead

Is old since it assumes "printed ballots" being taken to poll location

Sec. 65.013. BALLOT REGISTER. (a) Each presiding judge shall prepare a ballot register as provided by this section
(b) The register must state:
(1) the total number of ballots received for conducting voting at the polling place;
(2) the number of defectively printed ballots received;
(3) the number of ballots provided to voters as indicated by the number of voters on the poll list;
(4) the number of spoiled ballots returned by voters; and
(5) the number of unused ballots that are not accounted for as defectively printed ballots.
(c) The ballot register shall be prepared as an original and one copy, and on completing the register, the presiding judge shall sign each one to certify its accuracy.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986

Sec. 65.014. PREPARING THE PRECINCT RETURNS. (a) On completion of the vote count, **the presiding judge shall prepare the returns of the election for the precinct**.
(b) The "returns" must state:
(1) the total number of voters who voted at the polling place as indicated by the poll list; and (POLL BOOK)
(2) the total number of votes counted for each candidate and for and against each measure. (RESULTS TAPE)
(c) The returns shall be prepared as an original and three copies, and on completing the returns, the presiding judge shall sign each one to certify its accuracy.
(d) A presiding judge commits an offense if the judge knowingly fails:
(1) to include in the precinct returns the applicable

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information required by this code; or
(2) to complete the returns in time for them to be delivered by the deadline prescribed by Section 66.053(c) for delivery of the precinct election records.
(e) An offense under Subsection (d) is a Class B misdemeanor.

Sec. 65.053. DELIVERY OF PROVISIONAL BALLOTS. The presiding judge of an election precinct shall deliver in person to the general custodian of election records the box containing each envelope containing a provisional ballot that was cast in the precinct. The secretary of state shall prescribe procedures by which the early voting ballot board may have access to the provisional ballots as necessary to implement this subchapter.

CHAPTER 66. DISPOSITION OF RECORDS AND SUPPLIES AFTER ELECTION
SUBCHAPTER A. GENERAL PROVISIONS
Sec. 66.001. GENERAL CUSTODIAN OF ELECTION RECORDS. The general custodian of election records is:
(1) the county clerk of each county wholly or partly situated in the territory covered by the election, for an election ordered by the governor or by a county authority or for a primary election;
(2) the city secretary, for an election ordered by a city authority; and
(3) the secretary of the political subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer, for an election ordered by an authority of a political subdivision other than a county or city.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.
Sec.

Sec. 66.002. PRECINCT ELECTION RECORDS. In this chapter, "precinct election records" means the precinct election returns, voted ballots, and other records of an election that are assembled and distributed under this chapter.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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Sec.

Sec. 66.0021. ELECTION DAY VOTE TOTAL FOR CERTAIN ELECTIONS.
(a) This section applies only to a primary election or the general election for state and county officers.
(b) The general custodian of election records for a primary election or the general election for state and county officers shall maintain a list that states the total number of votes cast in each precinct by personal appearance on election day that is available for public inspection not later than the day after election day.
(c) Each vote total shall be maintained in a downloadable format approved by the secretary of state and posted on the Internet website of the secretary of state

Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS. (a) Four envelopes shall be furnished to each polling place for use in assembling and distributing the precinct election records.
(b) The envelopes shall be labeled and addressed as follows:
(1) "Envelope No. 1," addressed to the presiding officer of the local canvassing authority;
(2) "Envelope No. 2," addressed to the general custodian of election records;
(3) "Envelope No. 3," addressed to the presiding judge; and
(4) "Envelope No. 4," addressed to the voter registrar.

Sec. 66.004. POLLING PLACE CHECKLISTS. The secretary of state shall adopt rules and create a checklist or similar guidelines to assist the presiding judge of a polling place in processing forms and conducting procedures required by this code at the opening and closing of the polling place.
Added by Acts 2021, 87th Leg., 2nd C.S., Ch 1 (S.B. 1), Sec. 3.08, eff. December 2, 2021.

SUBCHAPTER B. ASSEMBLING RECORDS FOR DISTRIBUTION

Sec. 66.021. ASSEMBLING ELECTION RECORDS. (a) On completing the election returns for the precinct, the presiding judge shall assemble the precinct election records and place them in the

AMERICAN OVERSIGHT

appropriate envelopes and ballot boxes for distribution
(b) The judge shall seal envelopes no. 1, no. 2, and no. 4 and lock ballot boxes no. 3 and no. 4 as soon as they are ready for distribution.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1078, Sec. 15, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 37, eff. Jan. 1, 2004.

Sec. 66.022. CONTENTS OF ENVELOPE NO. 1. Envelope no. 1 must contain:
(1) the original of the election returns for the precinct; and
(2) a tally list.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 66.023. CONTENTS OF ENVELOPE NO. 2. Envelope no. 2 must contain:
(1) a copy of the precinct returns;
(2) a tally list;
(3) the original of the poll list;
(4) the signature roster;
(5) the precinct early voting list;
(6) any affidavits completed at the polling place except affidavits required to be placed in envelope no. 4; and
(7) any certificates of appointment of watchers.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.50; Acts 1991, 72nd Leg., ch. 554, Sec. 21, eff. Sept. 1, 1991.

Sec. 66.024. CONTENTS OF ENVELOPE NO. 3. Envelope no. 3 must contain:
(1) a copy of the precinct returns;
(2) a copy of the poll list; and
(3) a copy of the ballot register.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4 must contain:
(1) the precinct list of registered voters;
(2) the registration correction list;
(3) any statements of residence executed under Section 630011; and

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(4) any affidavits executed under Section 63.006 or 63.011.
Added by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 916, Sec. 24, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 797, Sec. 40, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1315, Sec. 38, eff. Jan. 1, 2004.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 19, eff. January 1, 2012.
Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. 2194), Sec. 10, eff. January 1, 2012.
Reenacted by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 5.006, eff. September 1, 2013.

Sec. 66.025. CONTENTS OF BALLOT BOX NO. 3. (a) Ballot box no. 3 must contain:
(1) the voted ballots;
(2) a copy of the precinct returns;
(3) a tally list; and
(4) a copy of the poll list.
(b) The copy of the poll list may be placed in a container other than ballot box no. 3 on approval by the secretary of state if the secretary determines that placement in the other container is more suitable for a particular election.
Acts 1985, 69th Leg, ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 18, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 500, Sec. 1, eff. Sept. 1, 1987.

Sec. 66.026. CONTENTS OF BALLOT BOX NO. 4. Ballot box no. 4 must contain:
(1) the original of the ballot register;
(2) the register of spoiled ballots;
(3) any spoiled ballots;
(4) any ballot to be voted by mail returned at the polling place;
(5) any defectively printed ballots;
(6) any envelope containing cancellation requests and canceled ballots; and
(7) any other unused ballots.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 20, eff. Sept. 1, 1993.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 1167 (S.B. 1599), Sec. 1, eff. September 1, 2023.

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Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS.
(a) On written application by the presiding officer of the local canvassing authority or the presiding judge of the election precinct, a district judge of the county in which a ballot box containing voted ballots is in custody may order the box opened to retrieve an election record that was erroneously placed in the box.
(b) If the political subdivision holding the election

------SO THE RECORDS CAN BE TAKEN OUT. Especially now after 60 days we should be able to retrieve paperwork the judge leaves in the voted ballot box.

SUBCHAPTER C. DISPOSITION OF RECORDS AND SUPPLIES
Sec. 66.051. DISTRIBUTION OF ELECTION RECORDS. (a) The presiding judge shall deliver envelope no. 1 in person to the presiding officer of the local canvassing authority. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records who shall then deliver it to the local canvassing authority before the time set for convening the local canvass.
(b) The presiding judge shall deliver envelope no. 2, ballot box no. 3, and ballot box no. 4 and its key in person to the general custodian of election records.
(c) The presiding judge shall retain envelope no. 3.
(d) The presiding judge shall deliver envelope no. 4 in person to the voter registrar. If the voter registrar is unavailable, the envelope shall be delivered to the general custodian of election records, who shall deliver it to the voter registrar on the next regular business day.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 12(b), eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 21, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1078, Sec. 17, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 39, eff. Jan. 1, 2004.

Sec. 66.052. DELIVERY BY ELECTION CLERK. A delivery of election records or supplies that is to be performed by the presiding judge may be performed by an election clerk designated by the presiding judge.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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Sec. 66.053. TIME FOR DELIVERING ELECTION RECORDS. (a) The precinct election records shall be delivered to the appropriate authorities immediately after the precinct returns are completed.
(b) If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2 a.m. of the day after election day, the presiding judge, between midnight of election day and 1 a.m. of the following day, shall notify the general custodian of election records by telephone of:
(1) the total number of voters who voted at the polling place as indicated by the poll list;
(2) the vote totals tallied for each candidate and for and against each measure at the time of notification; and
(3) the expected time of finishing the count.
(c) The precinct election records shall be delivered not later than 24 hours after the polls close in each election.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 66.054. FAILURE TO DELIVER ELECTION RETURNS AND VOTED BALLOTS. (a) An election officer responsible for delivering precinct election returns or voted ballots commits an offense if the officer:
(1) fails to make the delivery to the appropriate authority;
(2) fails to make the delivery by the deadline prescribed by Section 66.053(c); or
(3) fails to prevent another person from handling in an unauthorized manner the returns or voted ballots that the officer is responsible for delivering while they are in the officer's custody.
(b) If the officer is an election clerk, it is an exception to the application of Subsection (a)(2) that the election clerk did not receive the returns from the presiding judge in time to permit a timely delivery.
(c) An offense under this section is a Class B misdemeanor.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 67.004. PROCEDURE FOR LOCAL CANVASS. (a) At the time set for convening the canvassing authority for the local canvass, the presiding officer of the canvassing authority shall deliver the **sealed precinct returns** to the authority. The authority shall open the returns for each precinct and canvass them as provided by this section. Two members of the authority constitute a quorum for purposes of canvassing an election.
(b) The canvassing authority shall prepare a tabulation stating for each candidate and for and against each measure:

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(1) the total number of votes received in each precinct;
and
(2) the sum of the precinct totals tabulated under
Subdivision (1).
(b-1) The tabulation in Subsection (b) must also include for each precinct the total number of voters who cast a ballot for a candidate or for or against a measure in the election. The secretary of state shall prescribe any procedures necessary to implement this subsection.
(c) The canvassing authority may prepare the tabulation as a separate document or may enter the tabulation directly in the local election register maintained for the authority. The authority shall attach or include as part of the tabulation the report of early voting votes by precinct received under Section 87.1231.
(d) The canvassing authority may compare the precinct returns with the corresponding tally list. If a discrepancy is discovered between the vote totals shown on the returns and those shown on the tally list for a precinct, the presiding judge of the precinct shall examine the returns and tally list and make the necessary corrections on the returns.
(e) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the tabulation to the custodian of the local election register unless it is entered directly in the election register. The custodian shall preserve the tabulation for the period for preserving the precinct election records.
(f) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the precinct returns, tally lists, and early voting precinct report used in the canvass to the general custodian of election records. The custodian shall preserve them for the period for preserving the precinct election records.
(g) The presiding officer of the canvassing authority shall note the completion of the canvass in the minutes or in the recording required by Section 551.021, Government Code.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 114, Sec. 10, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 1.01, 2.51; Acts 1991, 72nd Leg., ch. 554, Sec. 22, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 23, eff. Sept. 1, 1993; Acts 1997, 75th Leg, ch. 1349, Sec. 32, eff. Sept. 1, 1997
Amended by:
Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.14, eff. September 1, 2005.
Acts 2017, 85th Leg., R.S., Ch. 86 (H.B. 1001), Sec. 1, eff. September 1, 2017.
Sec.

AMERICAN OVERSIGHT

Sec. 67.005. DETERMINING OFFICIAL RESULT OF ELECTION NOT CANVASSED AT STATE LEVEL. (a) Except as provided by Subsection (b), the official result of an election that is not canvassed at the state level is determined from the canvass of the precinct returns conducted by the local canvassing authority.
(b) In an election in which there is more than one local canvassing authority but no canvass at the state level, the official result is determined in the manner prescribed by the law providing for the election.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 67.006. LOCAL ELECTION REGISTER. (a) An election register shall be maintained for each local canvassing authority.
(b) For each election, the election register must contain in tabulated form the information required to appear in the tabulation of precinct results prepared by the local canvassing authority.
(c) The general custodian of election records for the elections canvassed by a local canvassing authority is the custodian of the authority's election register.
(d) On receipt of the local canvassing authority's tabulation of votes, the custodian shall make the appropriate entries in the election register.
(e) The election register shall be preserved as a permanent record.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 67.017. REPORTING PRECINCT RESULTS TO SECRETARY OF STATE.
(a) After each election for a statewide office or the office of United States representative, state senator, or state representative, a district office, a county office, or a precinct office, the county clerk shall prepare a report of the number of votes, including early voting votes cast by mail and early voting votes cast by personal appearance, received in each county election precinct for each candidate for each of those offices In a presidential election year, the report must include the number of votes received in each precinct for each set of candidates for president and vice-president of the United States.
(b) The county clerk shall deliver the report to the secretary of state not later than the 30th day after election day in an

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electronic format prescribed by the secretary of state.
(c) The report may be:
(1) an electronic copy of the precinct returns;
(2) an electronic copy of the tabulation prepared by the local canvassing authority; or
(3) in any other electronic form approved by the secretary of state.
(d) The secretary of state shall preserve a report received under this section for 10 years unless the secretary prepares a written tabulation of the information contained in the report received. In that case, the secretary shall preserve the original report for two years and the tabulation for 10 years after receipt of the original report.

Sent from Mail for Windows

From: [redacted]
Sent: Friday, October 6, 2023 10:02 PM
To: Christina Adkins; Beverly Foley
Subject: Reconciliation Improvements

Christina,
We so appreciate you making so much time for us yesterday. The information was incredibly helpful We are getting the hand count answers typed up and distributed. I am sure there will be some follow up questions but this was a huge jump in understanding implications.

As we discussed, I wanted to connect you with Beverly Foley (copied here) who has conducted many post election audits and as a result developed the enhanced reconciliation method I briefly shared with you. She will do a much better job of explaining but I do believe tying together all the pertinent pieces of election data should really help with confidence in elections and shift focus to where actual issues lie. I'll let her further explain and see how she can assist your office in making improvements to the reconciliation process.

Thanks again,
Elizabeth

Elizabeth Baron
TexasFirst Chair
256-655-6630

Sent with Proton Mail secure email.

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted]
Subject: Re: Scheduling Calculator Discussion
Date: Monday, October 23, 2023 5:49:55 PM

Excellent. How many people will be in attendance? I'm asking to make sure we have enough room for the meeting.

From: [redacted]
Sent: Monday, October 23, 2023 4:51:25 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Scheduling Calculator Discussion

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Wednesday at 1 works great. I hope [redacted]

Elizabeth

Sent from Proton Mail for iOS

On Mon, Oct 23, 2023 at 4:43 PM, Christina Adkins <CAdkins@sos.texas.gov> wrote:

> Of course. It was on my list to schedule this with you today. I had to run out of the office earlier than I expected [redacted]
>
> Would Wednesday afternoon be possible? Perhaps 1 pm? Let me know if this time works for you.
>
> Thanks,
>
> Christina

From: [redacted]
Sent: Monday, October 23, 2023 4:34:46 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Scheduling Calculator Discussion

[redacted]

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Christina,
I realize the election has started and you are probably overwhelmed but wanted to see if we could get an hour to discuss the calculator method Weds or Thurs this week since the team will be around until Thursday.

Thank you,
Elizabeth

Elizabeth Baron
256-655-6630

Sent from Proton Mail for iOS

On Mon, Oct 16, 2023 at 4:35 PM, [redacted] > wrote:

> Christina,
> I wanted to get back with you on rescheduling the discussion on the calculator method of hand counting. Beth Biesel and Clint Curtis are the ones working on this and they can be available the week of Oct 23-27. Can you let us know a date/time that might work?
>
> They would like to show you the method and get your input on which pieces of the process must go through legislation and changes that could be made to make speed acceptance..
>
> Last email for today, I promise.
>
> Thanks,
> Elizabeth
>
> Elizabeth Baron
> 256-655-6630
> [redacted]
>
> Sent with Proton Mail secure email.

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted]
Subject: Re: Scheduling Calculator Discussion
Date: Monday, October 23, 2023 4:43:57 PM

Of course. It was on my list to schedule this with you today. I had to run out of the office earlier than I expected [redacted]

Would Wednesday afternoon be possible? Perhaps 1 pm? Let me know if this time works for you.

Thanks,

Christina

From: [redacted]>
Sent: Monday, October 23, 2023 4:34:46 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Scheduling Calculator Discussion

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

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Elizabeth Baron
256-655-6630

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Last email for today, I promise.

Thanks,
Elizabeth

Elizabeth Baron
256-655-6630
[redacted]

Sent with Proton Mail secure email.

AMERICAN OVERSIGHT

From: Christina Adkins
Sent: Wednesday, September 13, 2023 12:19 PM
To: 'Michael Scarpello'
Subject: RE: Status Update - Talking Points re: Hand-Counted Primary

Trying to move it along quickly. We spent the morning working on some of the primary finance implications. We are writing that up now.

From: Michael Scarpello <Michael.Scarpello@dallascounty.org>
Sent: Wednesday, September 13, 2023 12:01 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Status Update - Talking Points re: Hand-Counted Primary

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Hey Christina, just checking in to see if you've made any progress on the talking points for the hand-counted Primary Election issue. The Republican Party is very anxious to hear about the rules and ramifications of going down this path.

Thanks,
Mike

Michael Scarpello
Dallas County Elections Administrator
1520 Round Table Drive
Dallas, TX 75247
(214)819-6335

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From: Christina Adkins
To: "TCRP Elections"
Subject: RE: Training Starts This Week - Hand Count Procedures
Date: Friday, February 2, 2024 3:10:53 PM
Attachments: Echo123 Hand Count Method 1-30-24_ (SOS Edits).docx
image003.png

Elizabeth,

I've attached your procedures document with just a few questions/comments. Overall, I think your procedures look fine. Do you have the Batch Summary Report, and Precinct and Race Results Report forms that we could look at as well? I would like to give these a quick review to make

On the Batch Summary Report, you may want to add a box that shows the number of ballots in a batch. While they may be sorted in batches of 25, there will likely be batches of less than 25 when you get to the last batches in the precinct. This may help with accounting for the total number of ballots.

Once approved, you can include the language "Approved by the Texas Secretary of State" with the month/year of approval.

Let me know if you would like to visit about this more. I am traveling next week, but will be in the office on Monday and Tuesday if you would like to come by in person to discuss. Otherwise, we can schedule a call if that would be easier.

Thanks,

Christina

From: TCRP Elections <elections.tcrp@gmail.com>
Sent: Tuesday, January 30, 2024 2:29 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Training Starts This Week - Hand Count Procedures

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Christina,
I did not hear back on the revisions I made to the hand count procedures in response to comments from your office. We are starting training this week and I was hoping to have confirmation that we have addressed all concerns before we start training on the process. We have continued to tweak

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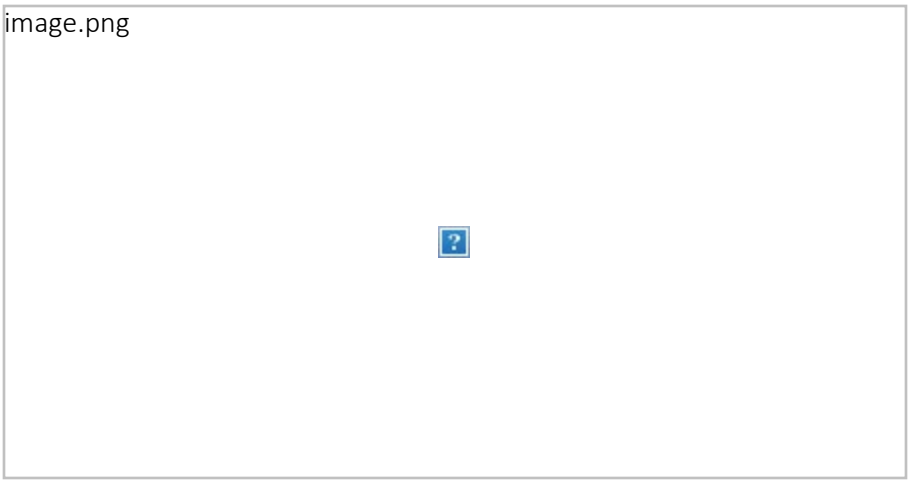
the process and are now counting in batches of 25 after looking at data from previous elections on mail ballots that shows very few precincts received more than 25 ballots.

Attached is the latest version of procedures and the tally sheet for batches of 25.

Is it possible to have an official statement that the procedure and tally format are accepted? Can there be a note on the tally sheets like the one below indicating that the tally sheet format has been approved?

Your input would be greatly appreciated,
Elizabeth

image.png



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Echo 123 Hand Counting Method

GENERAL DESCRIPTION OF METHOD

The Echo123 hand count method is so named because counters tally results by calling, echoing the vote called and making a slash across the first available number in a row of boxes numbered 1 to 50 for each candidate/proposition on the ballot and each under and over vote by race.

Ballots are counted by a Counting **Team** which consists of a **Caller** and a **Counter**. Since Chapter 65 of Texas Election Code for hand counting requires tallies to be recorded on 3 unique tally sheets, the **Caller** will both call out the vote and record the tally on 1 of the required tally sheets. The **Counter** will repeat back the vote the caller has called and then record the tally on 2 of the required tally sheets. *Note: Texas Election Code allows for teams of up to 4 (1 caller and 3 counters marking 1 tally sheet each). The Numbered Box method described below uses 2 person teams but is applicable to any sized team.*

Commented [CA1]: The is not specified by The Texas Election Code, but as a practical matter, this is the case.

Ballots are separated into batches (typically 50 ballots) by precinct and provided to counting teams. The counting teams tally the votes for one race across all the ballots in a batch, record the results on a batch summary sheet and then move on to count the next race. Once the votes for all races have been counted and recorded for all ballots in a batch, the counting team receives a new batch of ballots and begins the counting process again.

HAND COUNT PLANNING

Roles

The **Judge** is required to complete official returns and may, along with the **Alternate Judge**, be a part of a counting team depending on the location of hand counting and the volume of ballots to be counted. If the hand count is in a central location involving many counting teams the Judge and Alternate Judge will need to be available to resolve issues the counting teams are unable to resolve amongst themselves such as determining if a ballot is valid if no Judge signature is present or determining voter intent when the counting team can not come to a consensus. If the hand count is conducted at the polling location, then the volume of ballots may be low enough that the Judge and Alternate Judge of the polling location may also be part of a Counting Team.

Counting Teams consist of 2 people (a Caller and a Counter) and are responsible for recording vote tallies by batch. Each Counting Team will have their own table (Counting Station) preset with all necessary supplies. Each

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Counting Teams is assigned a unique number to be used on hand count documents to identify their work.

Batch Preparers/Batch Controller, under supervision of the Judge/Alternate Judge, remove ballots from the ballot box to sort by precinct (if this was not done after the Qualification process) and count into batches of 50. Each Batch Bag only contains ballots for one precinct. Batch Preparers place the batches into Batch Bags along with Tally Sheets and Batch Summary Sheets. The Batch Preparers are responsible for completing the labels on the Batch Bag before they are delivered to a Counting Team. The Batch Controller will keep a Master List of Batches by Precinct which logs each Batch Bag created, number of ballots contained in the batch, the associated precinct, Counting Team assigned, and any changes to the batches. Batch Preparers may serve on Counting Teams or as Runners or Floaters once all Batch Bags have been prepared. A Batch Controller should be assigned throughout the hand count to address any issues with Batch Bags and maintain the Master List of Batches by Precinct which will be delivered to the Judge and stored with other hand count materials.

Runners deliver Batch Bags to be counted to Counting Teams, provide Counting Teams with additional tally sheets when a recount of a race is needed (each Runner will have a file of Recount Tally Sheets for each race on the ballot), collect counted Batch Bags from Counting Teams and deliver them to the Judge Results Table. If managing a large number of Counting Stations, Runners can be assigned to a specific Pod (a group of approximately 4-6 Counting Teams/Stations). Pods can be identified by a specific letter, number, or color. Runners also serve as points of contact and problem solvers for their Pod when Counting Teams encounter issues not defined in the process.

Assistants to Judge/Alternate Judge act as runners and support for the Judge/Alternate Judge. They are responsible for receiving completed Batch Bags at the Judge Results Table, confirming number of ballots in batch, removing Batch Summary Sheets taped to the Batch Bag, organizing Batch Summary Sheets into stacks by precinct, returning batch Bags to Ballot Box 3, and assisting the Judge/Alternate Judge in compiling results. Approximately 2-3 assistants are needed per 2500 ballots counted.

Floaters fill in on counting teams if a counting team member needs to step away or leave. Approximately 1 Floater is assigned per 12 Counting Teams.

Video Techs are responsible for setting up video recording equipment at each Counting Station, ensuring recording is constant and resolving issues. Video Techs are assigned responsibility for 1 to 3 Pods depending on the size of Pods.

Estimate Number of Counting Teams

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Based on the number of ballots and number of races on the ballot, determine in advance how many counting teams will be needed to complete the hand count within the timeframe desired. Previous testing has determined a counting time of ~6 seconds per race with a counting team of two.

How to calculate Number of Teams:

1) (Number of Races on Ballot X 6 seconds = Average Seconds to Count 1 Ballot.
2) Average Seconds to Count 1 Ballot / 60 = Average Minutes to Count 1 Ballot.
3) Average Minutes to Count 1 Ballot x Number of Expected Ballots = Total Estimated Minutes to Count All Expected Ballots.
4) Total Estimated Minutes to Count All Expected Ballots / 60 = Total Estimated Hours to Count All Expected Ballots
5) Total Estimated Hours to Count All Estimated Ballots / Number of Hours in which you want to complete the counting = Number of Teams Needed.

LOCATION SET UP

Components of Counting Station:

- 2 counting people (**Caller** and **Counter**)
- 2 paper trays (labeled "Counted Ballots" and "Issues")
- Pack of Sticky Notes (to note issues on ballots)
- Stapler and tape
- Green *"Runner"* flag
- Red "*Judge"* review card
- Card Stand
- Sharpies for completing Tally Sheet and Batch Summary Sheet
- Chairs and Tables
- Video for high level, overall live stream of counting location

If filming counting stations individually

- Green "*Recounting*" card
- Yellow *"Check # Ballots in Batch"* card
- 2 cameras - one over the ballots and one over the entire station
- Tripod to hold the cameras
- Power cords plugs

Setting Up Counting Station:

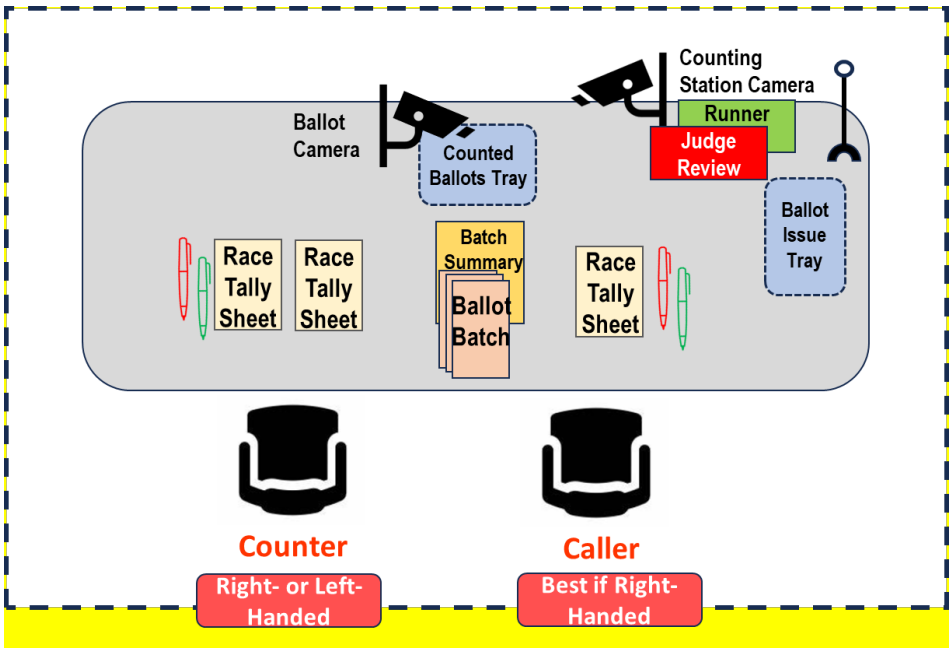
1. Place the Sharpies/pens, Sticky Notes, and stapler where convenient.

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2. Place the Counted Ballots Tray in center of table.
3. Place Issues Tray beside the **Caller**
4. Place *"Runner"* flag near the Issues Tray
5. Place "*Judge"* review card in the Issues Tray
6. Place the Card Stand next to the Issues Tray

If filming counting stations individually

7. Place the *Recounting* and the *Check # Ballots in Batch* cards face down beside the **Counter's** station.
8. Set up the tripod and cameras so the ballots and the counting station can be clearly seen on the video recording
9. Connect the cameras to a laptop for recording and public viewing if desired



BATCH BAGS:

A Runner will give each Counting Team/Station a labeled Batch Bag

The Batch Bag Label - which is affixed to the outside of the Bag includes:

give example

- election name and date
- precinct number

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- batch number
- number of ballots in batch
- Counting Team assigned
- initial lines for counting team to confirm number of ballots in batch
- signature line for person who prepared the Batch Bag

A Batch Bag contains…
- Tally Sheets (3)
- Batch Summary Sheet (2)
- Batch of Ballots (50 ballots or less if there are not 50 ballots from a given precinct).

Confirming the Batch Bag Contents:

1. Take the ballots out of the Batch Bag.
2. Count the number of ballots (recommended in stacks of 10) and confirm that all ballots in the batch are for the same precinct listed on the Batch Bag
3. If the number of ballots matches the number indicated on the Batch Bag Label and all ballots are from the same precinct, both members of the **Counting Team** initial beside the number on the Batch Bag Label

If Different Number of Ballots

a. If the number of ballots does not match the number indicated on the Batch Bag Label (and it is not a case of ballots from the wrong precinct being excluded) count the number of ballots once more.
b. If after the second count the number of ballots matches the number indicated on the Batch Bag Label, both members of the **Counting Team** initial beside the number on the Batch Bag Label.
c. If after the second count the number of ballots does not match the number indicated on the Batch Bag Label, cross out the number of ballots listed on the Batch Bag Label, write in the correct number of ballots, and both members of the **Counting Team** initial beside the new number. Place Runner Flag in the card stand and communicate the change to the **Runner** when they arrive.
d. Once the change has been communicated, the **Runner** will remove the Runner Flag from the card stand and communicate to the Batch Coordinator that changes to the Batch. The **Batch**

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Coordinator then documents the change in the Master List of Batches by Precinct.

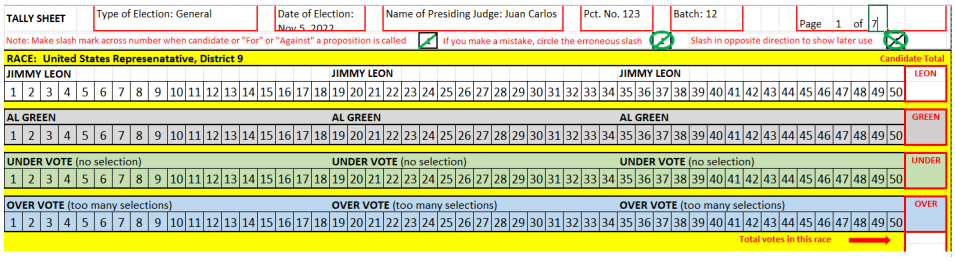
If Different Precinct

a. If the entire batch is for a different precinct than listed on the Batch Bag, cross out the precinct number listed on the Batch Bag Label, write in the correct precinct number, and both members of the **Counting Team** initial beside the new precinct number. Place the Runner Flag in the card stand and communicate the change to the **Runner** when they arrive.
b. Once the change has been communicated, the **Runner** will remove the Runner Flag from the card stand and will inform the **Batch Coordinator** of the change in precinct number associated with that batch. The Batch Coordinator will update the Master List of Batches by Precinct with the change.
c. If some, but not all, of the ballots are for a different precinct than listed on the Batch Bag, the batch will need to be returned to the Batch Bag Preparation area and the **Counting Team** given a different Batch Bag to count.
    i. Put the Runner Card in the Card Stand to call the **Runner**.
    ii. **Runners** will collect the Batch and remove the Runner Flag from the card stand, return the mixed precinct Batch Bag to the Batch Bag preparation area where they will be batched correctly.
    iii. **Runner** immediately returns to Counting Team to deliver a new Batch Bag
    iv. The mixed precinct Batch Bag will be separated and batched correctly by the **Batch Preparers**.
    v. **Batch Controller** will then update the Master List of Batches by Precinct to reflect the changes made.

4. Take the remaining materials out of the Batch Bag.
5. Place **one** Tally Sheet in front of the **Caller** and **two** Tally Sheets in front of the Counter.
6. Place the Batch Summary Sheet face up in the space between the **Counter** and the **Caller** and place the batch of ballots face down on top of the Batch Summary Sheet

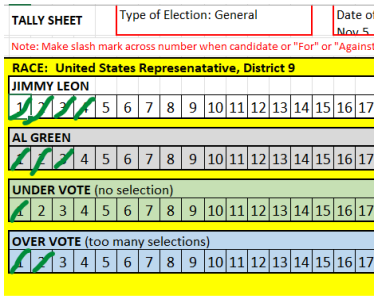
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THE TALLY SHEET:
The Tally Sheet has separate rows for each candidate/under vote/over vote/for or against (for propositions). To help counting teams differentiate the Candidate/For/Against rows alternate between white or gray and the **Under Vote row** is always **Green** and **Over Vote row** is always **Blue.**



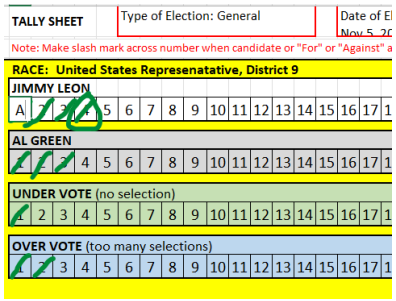
MARKING THE TALLY SHEET:
The counting team will mark according to which vote selection is called out using a colored Sharpie (this makes the markings more visible to observers and cameras).

Counters will make a slash (from upper right to lower left "**/**") across the next open numbered square next to called candidate or under or over vote.

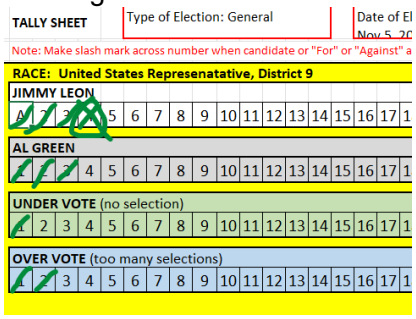


If a slash mark is made in error, circle the erroneous slash.

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When the next vote is called for this *candidate or Under or Over vote* make a slash in green in the opposite direction (from upper left to lower right "****") creating an "**X**" to indicate this is now a counted vote.



CALLING THE COUNT AND RECORDING THE VOTE:
Votes are counted by race, meaning the **Counting Team** will count the first race on every ballot in the batch and then return to the front of the batch to begin counting the second race, and so forth until all races have been counted.

Since the **Counter** will be marking 2 sets of Tally Sheets the **Counter** may want to stack the 2 sets of Tally Sheets on top of each other such that the section for the race being called covers any other races on the Tally Sheet.

With the ballots face down, the **Counting Team** will

1) Confirm that the ballot has a Judge signature
2) Turn the ballot over to confirm that there is a ballot number.
3) If there is no ballot number place a sicky note stating "No #" on the ballot.
4) If there is no signature place a sticky note stating "No Sig" on the ballot

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5) Place the ballot in the Issues Tray and the Judge Card in the Card Stand to signal that the **Judge/ Alt Judge** is needed to determine if the ballot is a valid ballot.
6) Continues to the next ballot in the batch. See ***ISSUE RESOLUTION*** section for next steps when **Judge/Alternate Judge** review is needed.

Once the ballot number and signature are confirmed

1) Before counting the first race, **Caller** and **Counter** compare all vote selections on the ballot to familiarize themselves with the style in which votes were selected (i.e., a check mark, candidate name circled, etc.) and if there is any variation from the style used across races. This helps the team catch any variations that would impact how the team interprets voter intent. The review of all selections on a ballot is only done when counting the first race. After counting the first race on the ballot, the **Counting Team** will only do a comparison selection style when questions of intent arise on a specific ballot.
2) **Caller** places their finger next to the selection mark for the race being counted and calls out the vote loud enough for poll watchers to hear and video cameras record what was called. Note: Pointing to the vote helps the **Counter** to quickly locate and confirm that what is called matches what is marked on the ballot
3) **Counting Team** marks their Tally Sheets in the first open numbered box on the row for which the vote was called out.
4) **Counter** echos what the **Caller** called out while marking their 2 Tally Sheets and calls out the number of the box they are marking.

Note: Echoing the **Caller** and calling out the number being marked each time a Tally Sheet is marked is important to ensure that the **Caller** and **Counter** have marked the same number with each vote called.

If during the course of tallying the votes the **Counting Team** notices they do not have to same tally, the **Caller** and **Counter**

1) Discuss to identify the discrepancy.
2) If the source of the discrepancy is clear (usually marked on wrong candidate/Under/Over row), correct the Tally Sheets immediately and continue counting the ballots for the race being counted.
3) If the source of the discrepancy is not clear, the previously counted ballots in that batch will need to be recounted for that race. (See **RECOUNTING A RACE – Recounting Part of a Batch for a Race**)

Commented [CA2]: Please see Section 65.005(b). The law is very specific that if there is a discrepancy, the ballots must be recounted. What discrepancies would result in not doing a recount?

Once a vote selection has been called and recorded on the Tally Sheets

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1) **Caller** places the ballot face up in the Counted Ballots Tray so that the cameras can easily record the selection on the ballot.
2) **Counting Team** continues to the next ballot in the batch, until all ballots in the batch have been counted for the race that is being counted.

RECORDING WRITE-IN VOTES (note there are no approved write candidates for the March 5th 2024 Primary in Travis County):
Tally Sheets provided to the **Counting Teams** will include rows with the name of each approved write-in candidate. Votes for a write-in candidate are called and recorded in the same manner as candidates printed on the ballot. If there is not a row on the Tally Sheet for the write-in that indicates the person is not an approved write-in candidate. Votes for non-approved write-in candidates are considered under votes and to be recorded in the "Under Vote" row on the Tally Sheet. Note: A write-in vote may not be counted if a sticker containing a candidate's name is affixed to the ballot by the voter(65.008 (b))

DETERMINING VOTER INTENT:
The **Counting Team** may encounter ballots where the intent of the voter is not clear. In these cases, the Counting Team will follow the guidelines in Texas Election Code 65.009.

COUNTING IRREGULARLY MARKED BALLOT.
(a) Failure to mark a ballot in strict conformity with this code does not invalidate the ballot.
(b) Marking the ballot by marking through the names of candidates for whom or the statements beside the propositions for which the voter does not desire to vote does not invalidate the ballot.
(c) A vote on an office or measure shall be counted if the voter 's intent is clearly ascertainable unless other law prohibits counting the vote.
(d) The intent of the voter in marking a ballot may be determined by:
(1) a distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
(2) an oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
(3) a line drawn through:
(A) the names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
(B) the name of each political party except one in a manner that clearly indicates a preference for the political party not marked; or
(C) a voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
(4) any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition.

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If the **Counting Team** cannot agree upon the intent, The **Judge/Alt Judge** will be needed to determine intent. The **Counting Team** will

1) Place A sticky note labeled "Intent" is placed on the ballot beside the race in question
2) Place ballot in question in the Issues Tray
3) Place Judge Card in the Card Stand to signal that the **Judge/ Alternate Judge** is needed to determine voter intent.
4) Continue to count the next ballot in the batch.

Note: **Counting Teams** may continue to count races while waiting on a **Judge/Alternate Judge** response but may not move on to counting a new batch until issues are resolved and all votes tallied for the current batch.
See ***ISSUE RESOLUTION*** section for next steps when Judge/Alternate Judge review is needed.

ISSUE RESOLUTION:

When a **Counting Team** places the Judge Card on the Card Stand

- the **Judge** or **Alternate Judge** will come to their counting station to resolve the issue indicated on the sticky note on the ballot in the Issues Tray.
- The **Judge/Alternate Judge** will review the ballot and make the appropriate determination. If the **Counting Team** is in the middle of counting a race the **Judge/Alternate Judge** may choose to write their determination on the sticky note on the ballot.
- For cases of an unnumbered ballot or missing Judge signature, the **Judge/Alternate Judge** will
  - Write "OK" on the sticky note meaning the ballot is acceptable or
  - Write the rationale for why the ballot is not acceptable on the back of the ballot per TEC 65.009. Can it be on front too?
- For cases of voter intent, the **Judge/Alternate Judge** will
  - Write on the sticky note the determined voter intent such as writing the last name of the candidate determined to be the voter's intended selection.

The **Judge/Alternate Judge** may determine it is best to wait until the **Counting Team** can come to a stopping point to discuss.
Note: If a **Counting Team** must stop in the middle of counting a race, it is critical to make sure to mark the last called vote and put the counted ballot in the Counted Tray so as not to confuse where to begin counting again. It

Commented [CA3]: The law specifies that it's the presiding judge that makes voter intent calls. If the presiding judge is not there, and the alternate judge has assumed the duties of the presiding judge, then they can make voter intent calls.

Commented [CA4]: The law is very clear that is has to be the back of the ballot.

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may be helpful to place a blank sticky note on top of the next ballot to be counted.

Once the **Counting Team** has been given the determination, they will

1. Remove the Review Card from the Card Stand.
2. If the **Counting Team** paused in the middle of counting a race, the ballot with the now resolved issue is left in the Issue Tray and the team continues counting the race that was paused.
3. When all of the ballots in the race that was paused have been counted and placed in the Counted Tray the **Counting Team** will add the vote(s) from any valid resolved issue ballot to the Tally Sheet for any race in which the ballot's votes were not included
4. If the Judge/Alternate Judge determined the ballot was invalid (example: missing signature or ballot number) the votes on the ballot are not counted and the ballot is returned to the Batch Bag.
5. Valid resolved issue ballot(s) is added back to the batch and counting of the next race begins.

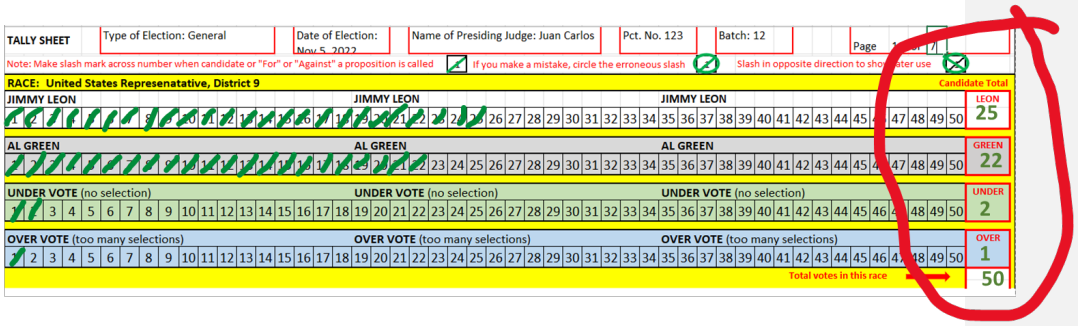
*Example: The **Counting Team** could not determine voter intent while counting the second race on the ballot. The ballot was placed in the Issue Tray. The team then continued to count the rest of the ballots for the second race as well as the third and part of the fourth race before the **Judge** was able to make the intent determination. Therefore, the **Counting Team** will finish counting all the ballots in the batch for the fourth race and then record the votes from the now resolved issue ballot on the Tally Sheet for the second, third and fourth races on the ballot.*

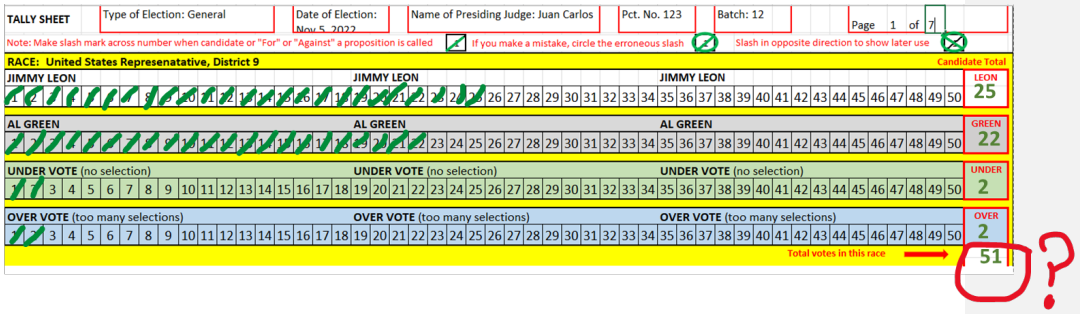
Commented [CA5]: This can be separated, but ultimately needs to be retained in the same container as the voted ballots for retention and recount purposes. (Ballot box 3) Sec. 65.012)

COMPLETING A RACE COUNT:

When all ballots in the batch have been called for the race being counted, The **Caller** and **Counter** will confirm the count of votes for each candidate and any under or over votes with each other and then enter the total number of votes received for each candidate/measure and any under or over votes in the *Candidate Total* Column on all 3 Tally Sheets. Next, these vote totals must be added together to determine the total votes in the batch for the race that was counted (including under and over votes). The total of these tallies should equal the number of ballots in the batch (generally 50).

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Completing the Total column on the Tally Sheet is a reconciliation step and will indicate if there was an error in marking the Tally Sheet. Note: **Counting Teams** will not fill in the Total column on the Tally Sheet if they have a ballot in the Issue Tray that has not been resolved by the **Judge/Alternate Judge**. The **Counting Team** may continue to count the votes for races and mark them on the Tally Sheet but will wait to fill in the Total column as the total will change once a determination has been made and the vote(s) from the ballot(s) in question in the Issue Tray are included on the Tally Sheet.

If the totals in the Total column on the Tally Sheet equal the number of ballots in the batch, then the totals reconcile and are recorded on the Batch Summary Sheets. Batch Summary Sheets are completed in duplicate, an original (#1) and a copy (#2). Once counting of a batch is completed, Batch Summary Sheet #1 is taped to the top of the Batch Bag which will be used for compiling results.
Batch Summary Sheet #2 is placed in the Batch Bag along with counted ballots and Tally Sheets

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Sample Batch Summary Sheet

Batch Summary	Election: March 5, 2024 Republican Primary - BBM Hand Count						
Presiding Judge: Ramona Koehl	Ballot Type: Absentee		Prepared by:_____				
Pct. #		Batch #		Team #			
President		**Justice S.C. Place 2**		**Precinct Chair 273**		**Prop 7**	
Ron Desantis		Jimmy Blacklock		Daivd Doman		Yes	
Chris Christie		Under		Steven Crountway		No	
Asa Hutchinson		**Justice S.C. Place 4**		Under		Under	
Donald J. Trump		Brian Walker		Over		Over	
David Stuckenberg		John Devine		**Precinct Chair 281**		**Prop 8**	
Ryan L. Binkley		Under		Stephen Liebel		Yes	
Vivek Ramaswamy		**Justice S.C. Place 6**		Jeff Flauding		No	
Nikki Haley		Jane Bland		Under		Under	
Uncommitted		Under		Over		Over	
Under		**Presiding Judge C A**		**Precinct Chair 330**		**Prop 9**	
Over		Sharon Keller		Ed Hauser		Yes	
US Senator		David J. Schenck		Randy Rosengarten		No	
Ted Cruz		Under		Under		Under	

If the sum of the candidate and under/over votes totals does not equal the number of ballots in the batch, the totals are not recorded on the Batch Summary Sheets until the count can be confirmed by recounting the race.

,

RECOUNTING A RACE:

Recounting the Full Batch for a Race

If tally discrepancies for a race are discovered after all ballots in a batch have been counted then the entire batch of ballots will be recounted for the race in question.

Since Tally Sheets will have been marked up while conducting the initial count of a race, **Runners** will provide **Counting Teams** with new tally sheets to conduct a recount of a race. These tally sheets will contain only the race to be recounted and will be labeled Recount Tally Sheet. Once the recount is complete, **Counting Teams** will return to the original set of Tally Sheets to count and record votes for the next race on the ballot.

If a race must be recounted for a full batch,

1) Place the Runner Flag in the card stand to notify **Runners** that Recount Tally Sheets are needed.
2) Place the Recounting Card under the camera for 5 seconds to indicate that the race will be counted again. Then remove the Recounting Card and set it aside.
3) Write “Recounted” on original tally sheet for the race to be recounted.

[Insert image]

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4) Once Recount Tally Sheets are received from the **Runner**, remove the Runner Flag from card stand and return the Ballots face up (judge signatures were confirmed during the initial count so there is no need to place face down and check for signatures) to the original start position between the **Caller** and the **Counter.**
5) Begin counting the votes for the race in question following the normal procedure.
6) After votes have been tallied and race results have been recorded on Recount Tally Sheet, staple the Recount Tally Sheets to original set of tally sheets.
7) Complete Batch Summary Sheet #1 for the race

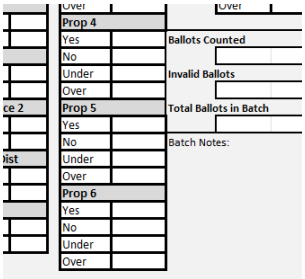
Recounting Part of a Batch for a Race
If a **Counting Team** discovers their totals for a race do not match before tallying all the ballots in the batch (i.e., some ballots were tallied, and some had yet to be tallied) then only the counted ballots need to be recounted. The **Counting Team** will

1) Set aside the uncounted ballots.
2) Remove the counted ballots from the Counted Ballots Tray.
3) Sort the counted ballots by vote in the race being counted (all votes for Smith stacked together, all under votes stacked together, etc.).
4) Count the number of ballots in each vote stack.
5) Correct the Tally Sheet/s adding slashes and/or circling erroneous marks. Once the corrections have been made, the counted ballots are placed back in the Counted Ballots Tray
6) Return the previously set aside uncounted ballots to the space between the **Caller** and the **Counter** and resume tallying votes for the race on rest of the ballots in the batch.

COMPLETING A BATCH:
After all the races on all ballots in a batch are counted and recorded on Batch Summary Sheet #1,

the **Counting Team** will

– Remove & count the number of any invalid ballots that were placed in the Batch Bag after a Judge review. Record this number on Batch Summary Sheet #1. Then return invalid ballots to Batch Bag.



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- Copy the contents of Batch Summary #1 onto Batch Summary Sheet 2. These may be carbon copy forms so that it is only required to be filled out once.
- Sign both Batch Summary Sheets (#1 & #2)
- Place the Counted Ballots in the Batch Bag
- Place completed Tally Sheets in the Batch Bag.
- Attach Batch Summary Sheet #1 to the outside of the Batch Bag with tape.
- Place Batch Summary Sheet #2 in the Batch Bag
- Place Runner Flag on card stand.

Runners will
- Pick up counted Batch Bags and provide new Batch Bags to the **Counting Team**.
- Deliver counted Batch Bags to the Judge's Results Table

Judge/Alternate Judge Assistants will
- Receive and log counted Batch Bags
- Remove Batch Summery Sheets attached to the outside of the Batch bags and stack them by precinct
- Store Batch Bags in Ballot Box 3

COMPILING RESULTS:
Judge Assistants will be entering the results from the **Batch Summary Judges Assistants** will enter results from the same completed batches at the same time to compare for discrepancies. The **Judge** and **Alternate Judge** will compare the Batch Summary Sheets to the compiled results to verify that all counts were entered correctly.

Once, results have been compiled, **Judge Assistants** will seal the counted batches in secure bags noting on the Master Batch by Precinct List the secure bag number where in each batch is placed. The secure bags of counted batches will then be placed in Ballot Boxes and the Ballot Box Number noted on the Master Batch by Precinct List.

The **Judge** and **Alternate Judge** will
- Prepare, sign, and certify Precinct & Race Results Report
- Secure and seal Ballot Boxes.
- Document the seal number for each Ballot Box

Commented [CA6]: Are these documents being sealed in batch bag?

Commented [CA7]: Is this being done from the batch summary sheets?

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– Delivers result and Ballot Boxes to proper authorities.

Hand Counter Rules:

- **Hand Counters** should not leave their Counting Station unattended when ballots are at their station.
- **Hand Counters** are encouraged to avoid leaving the Counting Station while a batch is being counted unless it is an emergency.
- If a Hand Counter needs to leave during counting of a Batch, The **Counting Team** will notify a **Runner** that a replacement is needed. The **Counting Team** will compare tallies to ensure there are no discrepancies and the **Hand Counter** needing to leave will sign their Tally Sheet(s) indicating the 1) time of departure and 2) that all counts were correct as of that time. The **Hand Counter** needing to leave may depart once a replacement arrives.
- Hand Counting requires concentration so conversation while counting a Batch is discouraged. Please save chit chat for between Batches.
- If a break is needed, they should be taken between counting of Batches. Once a Batch is completed and given to a **Runner**, the **Counting Team** can let the Runner know not to bring the next Batch Bag until they return from the break.
- Counting shifts are 4 hours. The estimated time required to count all ballots includes time for up to 20 minutes of break time. Please be timely with returning from a break or it may cause the hand count to extend longer than necessary.
- Please leave large purses or bags at home. Only small bags and drink bottles will be allowed at the Counting Stations. These will be kept on the floor in plain view. Drink bottles are not to be placed on the Counting Station table when ballots are present. A separate area will be designated for storing bags if you want to bring snacks.

AMERICAN OVERSIGHT

From: Christina Adkins
To: "TCRP Elections"
Subject: RE: Training Starts This Week - Hand Count Procedures
Date: Friday, February 2, 2024 5:11:40 PM
Attachments: image001.png

Great. Would 3:00 – 4:00 pm on Tuesday work for you all?

From: TCRP Elections <elections.tcrp@gmail.com>
Sent: Friday, February 2, 2024 4:01 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Training Starts This Week - Hand Count Procedures

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Thank you for the response. I would like to come review everything on Monday or Tuesday. Attached is a file with the Batch Summary Sheet. Note it has a section at the bottom for ballots counted, invalid ballots and total ballots in batch. I still need to create the Precinct and Race Results format but I started on the 100 tab to give you an idea of what direction I was taking.

I'll follow up later but wanted to send you the batch summary sheet quickly.

Elizabeth

On Fri, Feb 2, 2024 at 3:10 PM Christina Adkins <CAdkins@sos.texas.gov> wrote:

> Elizabeth,
>
> I've attached your procedures document with just a few questions/comments. Overall, I think your procedures look fine. Do you have the Batch Summary Report, and Precinct and Race Results Report forms that we could look at as well? I would like to give these a quick review to make
>
> On the Batch Summary Report, you may want to add a box that shows the number of ballots in a batch. While they may be sorted in batches of 25, there will likely be batches of less than 25 when you get to the last batches in the precinct. This may help with accounting for the total number of ballots.
>
> Once approved, you can include the language "Approved by the Texas Secretary of State" with the month/year of approval.
>
> Let me know if you would like to visit about this more. I am traveling next week, but will be in the office on Monday and Tuesday if you would like to come by in person to discuss. Otherwise, we can schedule a call if that would be easier.

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Thanks,

Christina

From: TCRP Elections <elections.tcrp@gmail.com>
Sent: Tuesday, January 30, 2024 2:29 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Training Starts This Week - Hand Count Procedures

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Christina,
I did not hear back on the revisions I made to the hand count procedures in response to comments from your office. We are starting training this week and I was hoping to have confirmation that we have addressed all concerns before we start training on the process. We have continued to tweak the process and are now counting in batches of 25 after looking at data from previous elections on mail ballots that shows very few precincts received more than 25 ballots.

Attached is the latest version of procedures and the tally sheet for batches of 25.

Is it possible to have an official statement that the procedure and tally format are accepted? Can there be a note on the tally sheets like the one below indicating that the tally sheet format has been approved?

Your input would be greatly appreciated,
Elizabeth

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image.png

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From: Christina Adkins
To: "TCRP Elections"
Cc: [redacted]
Subject: RE: Travis County Contract Negotiations
Date: Tuesday, December 5, 2023 10:04:39 AM
Attachments: image001.png

Erin,

Here are my responses to each point below.

1. I agree with ES&S that this is a best practice that is feasible and allowable in some circumstances under Texas law. It is our recommendation to always generate a report from a precinct scanner prior to reading the electronic media into the central accumulation computer, when the law allows it. The challenge that you will run into by requesting this for early voting is Texas Administrative Code Rule 81.36. This rule prohibits entities from generating any reports that contain results information prior to election day. While there is no statute that prohibits you from printing reports with this information, there is an Administrative Code rule that prohibits it. We are looking to update this rule prior to the November 2024 election that would specifically authorize this activity and provide security procedures to ensure that vote totals aren't revealed prior to the close of the polls on election day. This administrative code rule is from 2002. Since that time, parts of the rule have been codified by the Texas Legislature which is why some of the rule appears to be outdated and conflicts with current law. This particular issue was not addressed. The legislature didn't codify this section of the rule. While public release of this information is strictly reported under Section 61.007, the legislature has not addressed whether the generation of reports is permissible prior to election day.

2. The response from the clerk's office is accurate in that proving the CVRs would allow you to determine vote totals by location. However, you may want to consult further with the clerk's office on whether reports can be generated with the same information from the voting system. I have heard that some counties have been able to generate reports with information by location. You may want to consult with ES&S to see if this is feasible for the specific configuration used by Travis County.

3. A strict reading of the law would required a joint ballot board in a joint primary. However, having a bifurcated ballot board (two separate ballot boards) could be allowable by contract as long as the responsibilities are clearly outlined. One other thing to consider is the live stream requirement that exists for voted ballots during this time period. The transportation, storage and counting activities by ballot board should be live streamed per Section 127.1232 of the Texas Election Code.

4. In an election, you can't have two rosters – you cannot ask a voter to provide two separate sign-in signatures. The label option is allowable under Texas law. However, not every poll book vendor has a system that provides a label option. To the best of my knowledge, Tenex (the system used by Travis County) does not have that capability.

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Let me know if you would like to discuss this further. My schedule is relatively clear today until about 3 pm.

Thanks,

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: TCRP Elections <elections.tcrp@gmail.com>
Sent: Monday, December 4, 2023 4:58 PM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: [redacted]
Subject: Travis County Contract Negotiations

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Christina,

Hi. As you know, the TCRP executive committee is considering a hand count for the upcoming primary. We have asked for the 4 items listed below to be considered if we did have a joint contract. Your opinion on each would be appreciated by both TCRP and TCED. Thank you for all your help so far and for your overall interest and work on integrity in our elections!

Erin Pardeiro
TCRP Primary deputy
CDF Election Lead Travis County
512-423-1412

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1.TCRP is asking the process for the thumb drives with the election information on it be the same for both election day and early vote. **Per** conversation with ES&S this is best practice. The results are printed out on election day at the site and then the thumb drive is put into the central count computer once it's back at Central count. For early vote, we can't print them out at the voting location, so they go into the CC computers Saturday and the DS 200's on Tuesday at close of ED. ES&S said that the process should be that they go into the DS 200s at CC before they're put into the central count computers. It would be best practice to ensure no risk of corruption of thumb drive before printing of results. This would instill confidence by being the same process for both election periods. The ask would be that the thumb drives are put into the DS 200s at central count before they are put into the central count computer. This is best practice according to the vendor. We want best practice for Travis County.

We do not have a response on this at this time to this request

2. Results by Voter Center:

TCRP requested reporting by vote center so that results may be matched to the results tapes printed from each Vote Center and judge reconciliation form. TCRP requested the Clerk's Office to determine the viability of this request.

Clerk's response: The Clerk's Office has determined that providing the Cast Vote Record (CVR) would be the most appropriate solution to this request. The CVR is an electronic record of each vote cast and can be sorted by Vote Center. This report is accessible from the central tabulator in the Elections Office. The Clerk's Office can provide this report by electronic means to TCRP after votes have been tabulated on Election Day.

3. Hand counting: TCRP would like to consider hand counting for the Primary Election and asked the County Clerk's opinion on feasibility. TCRP presented four hand counting options for discussion:

- Early Vote Period (In Person and Ballot by Mail) and Election Day ballots,
- Election Day ballots only,
- Early Vote (In Person and Ballot by Mail) ballots only, or
- Ballot by Mail only

After discussing each option, the Clerk's Office indicated that hand-counting Ballots by Mail is the only feasible option from a logistical and operational perspective. However, this option is pending legal review from the Texas Secretary of State, and the Travis County Attorney's Office with respect to contracting language governing joint Early Voting and Election Day and a bifurcated Ballot by Mail process as outlined in the Texas Election Code

If this option is deemed legally feasible, the Clerk's Office would require that Ballots by Mail be transferred to a separate TCRP Early Voting Ballot Board for processing and tabulation. This process would occur off-site from the Elections Office and would require manual review for ID and Signature Verification. The Clerk's Office would provide required documents on hand to complete ballot signature and ID comparison, all other supplemental documents required for review must be requested from Travis County Voter Registration. Should a bifurcated process not be legally

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allowable, hand-counting Ballots by Mail would be logistically and legally feasible if agreed to by both parties

4. Paper voter rosters:
TCRP requested paper voter rosters in addition to epollbooks for voter check-in. The proposed form would collect the name and precinct number of each voter. Alternatively, TCRP proposed the epollbook system print a label with the requested information to be affixed to a paper voter roster.

Clerk's response: The Texas Secretary of State's Office indicated they would like to see a mockup of the proposed form before it is deployed. However, SOS form 7-59 or "Combination Form", is prescribed to capture the signature of the voter at check-in. Nevertheless, both options would duplicate the signature process at check-in and would require SOS approval if it is utilized along with an epollbook signature capture. Legal concerns notwithstanding, this option could be deployed if the parties agree. Currently, our office does not have the inventory of label printers to satisfy the alternative request, and the printers deployed to voter centers are already allocated for other election specific processes.

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted]; erin pardeiro
Subject: Re: Updated Alternative Tally Method Write Up
Date: Saturday, January 13, 2024 11:50:38 AM

Elizabeth,

I'll get my team reviewing this ASAP. How about Thursday afternoon? Would 2:00 pm work?

Thanks,

Christina

From: [redacted]
Sent: Saturday, January 13, 2024 11:41:55 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; erin pardeiro <[redacted]
Subject: Updated Alternative Tally Method Write Up

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Christina,
Attached is a new version of the alternative hand count method. I've been searching for an short/easy/descriptive name and have settled on Echo123 (since a counter echos what is called and calls out the number of the box they are marking). We will see if it sticks.

The update incorporates your comments about the issue resolution process and including the names of the approve write-in candidates on the tally sheet. It also includes more detail as we have worked through the process more. It still needs formatting work but think the content is ready for your input.

I highlighted any significant change in green and left your comments in yellow to assist with your review.

I would like to schedule some time next week with you cover any remaining concerns on the method and cover some questions on reporting results. I'd like to make the format of the batch summary sheets I need to create link directly to the format in which precinct level results and race level results must be reported. I didn't find a form on the SOS website that applies to the hand count of mail in ballots.

My schedule is pretty open Weds-Fri. Please let me know if you have availability.

Regards,
Elizabeth

Sent with Proton Mail secure email.

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted] erin pardeiro
Subject: RE: Updated Alternative Tally Method Write Up
Date: Thursday, January 18, 2024 1:04:24 PM

Are you all coming by today? I didn't see an email from you confirming this visit.

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Saturday, January 13, 2024 11:51 AM
To: [redacted]; erin pardeiro <[redacted]>
Subject: Re: Updated Alternative Tally Method Write Up

Elizabeth,

I'll get my team reviewing this ASAP. How about Thursday afternoon? Would 2:00 pm work?

Thanks,

Christina

From: [redacted]
Sent: Saturday, January 13, 2024 11:41:55 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; erin pardeiro <[redacted]>
Subject: Updated Alternative Tally Method Write Up

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Christina,
Attached is a new version of the alternative hand count method. I've been searching for an short/easy/descriptive name and have settled on Echo123 (since a counter echos what is called and calls out the number of the box they are marking). We will see if it sticks.

The update incorporates your comments about the issue resolution process and including the names of the approve write-in candidates on the tally sheet. It also includes more detail as we have worked through the process more. It still needs formatting work but think the content is ready for your input.

I highlighted any significant change in green and left your comments in yellow to assist with your review.

I would like to schedule some time next week with you cover any remaining concerns on the method and cover some questions on reporting results. I'd like to make the format of the batch summary sheets I need to create link directly to the format in which precinct level results and race level results must be reported. I didn't find a form on the SOS website that applies to the hand count of mail in ballots.

AMERICAN OVERSIGHT

My schedule is pretty open Weds-Fri. Please let me know if you have availability.

Regards,
Elizabeth

Sent with Proton Mail secure email.

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted]; erin pardeiro
Subject: RE: Urgent Travis Hand Count Questions
Date: Tuesday, November 14, 2023 10:04:20 AM

Elizabeth,

My answers are in red below.

Let me know if you want to discuss further.

Christina

From: [redacted]
Sent: Tuesday, November 14, 2023 9:22 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; erin pardeiro [redacted]
Subject: Urgent Travis Hand Count Questions

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Christina,
We have the Executive Committee meeting tonight where hand counting/election contract will be discussed. It would be helpful if we could get some clarification on the following questions before this evening.

1. Is it possible to opt to do precinct level voting using voting machines? I realize there may be issues with having enough machines for each precinct.
   Yes. A party could opt to do precinct based voting with electronic voting system equipment. And I agree, one of the biggest issues you will face with this decision is having enough equipment for each precinct.

2. In considering hand counting early voting and mail in ballots via EVBB we are assuming we just need 4 key components. Are there any other financial or other obligations we are missing?

   a. Ballot boxes in early voting locations
   b. EVBB Location
   c. People to count
   d. Transportation and chain of custody agreement with elections dept. (we assume election department provides transport of ballots to and from EVBB at some cost)

AMERICAN OVERSIGHT

(Section 87.021 says that EVC shall deliver to ballot board. As this is a statutory obligation, there is likely no charge for the delivery. But the presiding judge will be responsible for delivering back to the general custodian. This process may result in delivery costs.)

I would add that you need to think about storage of ballot boxes between elections. Since you may have to procure a substantial number of ballot boxes and they can take up quite a bit of space to store, this is something you may want to think about now.

3. Is there any restriction on the Judge of EVBB having multiple alt judges or assistants to help run the counting?

   By law, you can only have one presiding judge/alternate judge, but you can have an unlimited number of clerks, provided you have the funding to pay the clerk's wages. If the presiding judge is not available or not present during certain points of the EVBB meeting, then the alternate judge would take over the duties of the presiding judge (handling poll watcher admissions/questions and adjudicating voter intent questions).

4. Can we opt to just count mail-in ballots at EVBB and have all other ballots processed as usual?

   Yes.

I can be reached at 256-655-6630 if it is easier just to answer via phone.

Thanks,
Elizabeth

Sent with Proton Mail secure email.

On Wednesday, November 8th, 2023 at 5:45 PM, [redacted] > wrote:

> Christina,
> We have a meeting next Tuesday with the Travis Republican Executive Committee to present findings to date on feasibility of hand count. Do you have time this Thurs or Mon to meet with Erin Pardeiro and me to clear up questions and confirm
> We have complete understanding. I will also have a revised tally sheet to discuss. I'm hoping to get you the
> Revised tally sheet and a write up of how it would work before we meet.
> Thank you,
> Elizabeth
>
> Sent from Proton Mail for iOS

AMERICAN OVERSIGHT

From: Christina Adkins
To: [redacted]; erin pardeiro
Subject: RE: Urgent Travis Hand Count Questions
Date: Tuesday, November 14, 2023 3:27:59 PM

My answers are below.

From: [redacted]
Sent: Tuesday, November 14, 2023 11:13 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; erin pardeiro [redacted]
Subject: RE: Urgent Travis Hand Count Questions

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Thank you for quick response.

Another 2 questions
1) it looks like we go to precinct level voting we can have some election polling locations use tabulators and some do hand counting based on 123.007. Is that correct? The provisions to look at are Sections 124.004 and 123.009. In the past, we have advised against this because there is the potential for an equal protection argument as voters are being treated differently and the technology is not being distributed "proportionately and equitably." However, the law does not expressly prohibit it. On this one, I would say be very cautious about this approach.

2) is there any official opinion either from SOS or AG that on if a party decided to do precinct level voting the other part may retain countywide? I know it is in the code that it says both must do precinct level. Just wondering if an opinion has been produced or requested around this topic. In order to use the countywide polling place program, both parties have to agree to the use of countywide polling places and have to agree to the same locations. This is expressly stated in Section 43.007. To my knowledge, there are no OAG opinions that speak to this matter.

Sent from Proton Mail for iOS

On Tue, Nov 14, 2023 at 10:04 AM, Christina Adkins <CAdkins@sos.texas.gov> wrote:

Elizabeth,

AMERICAN OVERSIGHT

My answers are in red below.

Let me know if you want to discuss further.

Christina

From: [redacted]
Sent: Tuesday, November 14, 2023 9:22 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; erin pardeiro
[redacted]
Subject: Urgent Travis Hand Count Questions

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   c. People to count
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Sent with Proton Mail secure email.

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> Christina,
> We have a meeting next Tuesday with the Travis Republican Executive Committee to present findings to date on feasibility of hand count. Do you have time this Thurs or Mon to meet with Erin Pardeiro and me to clear up questions and confirm
> We have complete understanding. I will also have a revised tally sheet to discuss. I'm hoping to get you the
> Revised tally sheet and a write up of how it would work before we meet.
> Thank you,
> Elizabeth
>
> Sent from Proton Mail for iOS

AMERICAN OVERSIGHT

From: GeneralCounsel
Sent: Friday, March 1, 2024 11:03 AM
To: [redacted]
Cc: GeneralCounsel
Subject: RE: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165
Attachments: 3.1.24 VS Approval Letters.zip

Good morning,

As a follow up to our February 16 email, please see the attached zipped folder containing an initial production of documents responsive to your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA").

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on March 22, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel
Sent: Friday, February 16, 2024 11:10 AM
To: [redacted]
Subject: RE: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

Good morning,

Thank you for your payment.

This email acknowledges receipt of payment for your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office on February 15, 2024 (the "Request").

We will begin processing your Request in accordance with the PIA. Our Office will be closed on Monday, February 19, 2024 in observance of Presidents Day. You will receive a response from our Office on or before the 10th business day March 1, 2024.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: [redacted]
Sent: Thursday, February 15, 2024 1:42 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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Dear Jennifer,

Thank you...payment has been made.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
313-720-5471
"Occupy till I come" - *Luke 19:13*
"As for those who persist in sin...rebuke them" - *1Timothy 5:20*
"Be not afraid nor dismayed...for the battle is not yours, but God's." - *2Chron 2:15*

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If you are not the intended recipient, please notify me, delete this email and do not use or distribute this email.

On Thursday, February 15, 2024 10:28 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

> Good morning,
>
> Thank you for your email. The payment link was just sent to you. This email will contain a secure link to a payment portal, where you can enter in your credit card information and pay online. Please let me know if you do not see the email from payments@sos.texas.gov in your inbox or spam folder.
>
> If you choose to proceed with payment using a credit card, please note that an additional 2.7% convenience fee is assessed on all credit card charges. It will show up as a separate charge with TX SOS as the name and a Maryland address.
>
> We will provide you any responsive information—to the extent such information is not excepted from disclosure under state or federal law—on a rolling basis upon receipt of your payment.
>
> Kind regards,

AMERICAN OVERSIGHT

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: [redacted]
Sent: Wednesday, February 14, 2024 3:12 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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Dear Jennifer,

These quotes are acceptable.
Please send cc payment information for payment.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

313-720-5471
"Occupy till I come" - *Luke 19:13*
"As for those who persist in sin...rebuke them" - *1Timothy 5:20*
"Be not afraid nor dismayed...for the battle is not yours, but God's." - *2Chron 2:15*

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If you are not the intended recipient, please notify me, delete this email and do not use or distribute this email.

On Wednesday, February 14, 2024 9:48 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: GeneralCounsel

Sent: Friday, February 2, 2024 10:24 AM

To: [redacted]

Subject: RE: Voting System Contract Approval Requests - SoS Open Records

Good morning,

AMERICAN OVERSIGHT

This email acknowledges receipt of your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office of the Texas Secretary of State (the "Office") via email on January 31, 2024 (the "Request").

We will process your Request in accordance with the PIA. You will receive a response from our Office on the 10th business day, February 14, 2024.

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: [redacted]

Sent: Wednesday, January 31, 2024 4:47 PM

To: GeneralCounsel <GeneralCounsel@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>

Subject: Voting System Contract Approval Requests - SoS Open Records

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are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, pleas
this email as an attachment to Informationsecurity@sos.texas.gov.

Dear Mr. Bitter and Christina,

Hope you are both doing well. Please consider this an open records request pursuant to Tex. Gov't Code Chapter 552.

Please provide the following documents related to voting system and voting equipment contract approvals pursuant to Tex. Elec.Code Sections 123.0311, 123.035 for the following years and counties:
- Harris (2019 - 2024)
- Bexar (2019 - 2024)
- Dallas (2019 - 2024)
- Tarrant (2019 - 2024)
- Travis (2019 - 2024)
- Fort Bend (2019 - 2024)
- Montgomery (2019 - 2024)
- Hays (2019 - 2024)
- Williamson (2019 - 2024)
- Bell (2019 - 2024)

For the counties and time frames noted above, please include information:
- Each of the county's requests for an SoS letter and SoS order for the secretary to determine if the version of the voting system and equipment being acquired under the contract between the county and ES&S or Hart InterCivic complies with the applicable requirements.
- Each of the county's voting system contracts (between the county and ES&S or Hart InterCivic) submitted to the SoS for review and determination if it complies with requirements.
- Each of the SoS letters stating that the voting system and voting system equipment being acquired by the County under the submitted contract satisfy the applicable requirements for approval.
- Each of the SoS written orders issued under Section 122.038 and 122.070 approving the voting system and voting system equipment for use in elections and, if applicable, of the written order issued under Section 122.095 granting conditional approval of the system or equipment.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

313-720-5471
"Occupy till I come" - Luke 19:13

AMERICAN OVERSIGHT

"As for those who persist in sin...rebuke them" - 1Timothy 5:20
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AMERICAN OVERSIGHT

From: Christina Adkins
Sent: Thursday, October 28, 2021 10:51 AM
To: Harris - Beth Stevens (beth.stevens@vote.hctx.net)
Subject: FW: Harris equipment status, numbers
Attachments: Harris County - Approval Letter.pdf; Hart Verity 2.5 Certification Order.pdf

From: Charles Pinney
Sent: Thursday, October 28, 2021 10:50 AM
To: Peter Lichtenheld [redacted]>
Cc: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>; Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Harris equipment status, numbers

Hello,

Please see the attached Approval Letter and Certification Order for Harris County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney

Attorney -- Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

1.800.252.VOTE (8683)

elections@sos.texas.gov | www.sos.texas.gov/elections

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Peter Lichtenheld [redacted]
Sent: Monday, October 18, 2021 11:49 PM

AMERICAN OVERSIGHT

To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>
Subject: Harris equipment status, numbers

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Christina and Chuck,

This is to update you on the current quantities of equipment and current Verity version in use for this election in Harris County, TX. Please see attached and send appropriate approvals.

HART intercivic
Peter Lichtenheld, CERA
Senior Vice President of Customer Success
Hart InterCivic
512.252.6578 (o) | 512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
https://www.hartintercivic.com/

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AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

John B. Scott
Secretary of State

October 28, 2021

Isabel Longoria
Elections Administrator
Harris County
P.O. Box 1148
Houston, Texas 77251

Dear Ms. Longoria,

We are in receipt of a copy of the proposed contract between Harris County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.5, which includes Verity Touch Writer Duo, Verity Scan, and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.5 SYSTEM

PRELIMINARY STATEMENT

On January 4-8, 2021, Hart Intercivic Inc. ("Hart" or the "Vendor") presented the Verity Voting 2.5 system for examination and certification. The examination was conducted in Austin, Texas at the Office of the Secretary of State (the "Office"). Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Ms. Lesley French, an employee of the Texas Attorney General.

At the time of the examination, the Office of the Secretary of State was closed to the public due to health and safety concerns relating to the novel coronavirus (COVID-19). As a result, certain procedures were implemented for the examination of the Verity Voting 2.5 system. For example, the examination was held in a manner that allowed some of the examiners to participate in person and other examiners to attend remotely via live video conference. The examiners who were not physically present in the exam room on a specific day were able to view the other examiners' interactions with the equipment and ask questions to the in-person examiners and the vendor. Each examiner had the opportunity to examine the equipment in person for at least one day during the exam week.

On January 4-5, 2021, Mr. Pinney was present to witness the extraction of the trusted build and the installation of the Verity 2.5 software and firmware that the Secretary of State's office received directly from the Independent Testing Authority. The other examiners observed this process remotely by watching the live video conference.

On January 6, 2021, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device by Mr. Pinney and Mr. Hurley. The results were accumulated and later verified for accuracy by staff of the Secretary of State's office. Mr. Pinney and Mr. Hurley also examined the accessibility components of the Verity Voting 2.5 system.

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On January 7, 2021, Mr. Watson and Mr. Mechler conducted an in-person examination of the system. Ms. French conducted an in-person examination of the system on January 8.

Examiner reports regarding the Verity Voting 2.5 system are attached hereto and incorporated herein by this reference.

On March 4, 2021, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing, by telephone, for interested persons to express views for or against the certification of the Verity Voting 2.5 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.5

The Verity Voting 2.5 system is an updated version of the Verity Voting 2.4 system, which the Office certified in June 2020 for use in Texas elections. The updated version includes enhancements to the existing hardware and software components of the Verity voting system.

Verity Voting 2.5 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.5 was certified by the Election Assistance Commission (EAC) on September 9, 2020.

The components of Verity Voting 2.5 are as follows:

Component	Version	Description
Verity Data	2.5.0	Election management software
Verity Build	2.5.0	Election management software
Verity Count	2.5.0	Election management software
Verity Central	2.5.1	Central scanner
Verity User Management	2.5.0	Election management software
Verity Election Management	2.5.0	Election management software
Verity Desktop	2.5.0	Election management software
Verity Scan	2.5.1	Precinct scanner
Verity Touch Writer with Access	2.5.1	Ballot marking device
Verity Controller	2.5.1	Voting machine ballot activation device
Verity Touch	2.5.1	Direct-recording electronic voting machine
Verity Touch with Access	2.5.1	Direct-recording electronic voting machine
Verity Touch Writer Duo	2.5.1	Ballot marking device

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Verity Touch Writer Duo Standalone	2.5.1	Ballot marking device

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.5 system for use in Texas elections).

The Verity Voting 2.5 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.5 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting; and
10. Are capable of providing records from which the operation of the voting system may be audited.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.5 system for use in Texas elections.

Signed under my hand and seal of office, this 1st day of APRIL 2021.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Sent: Wednesday, March 24, 2021 10:47 AM
To: Christina Adkins
Subject: FW: Upgrades
Attachments: Bexar County - Approval Letter.pdf; Collin County - Approval Letter.pdf; Fort Bend County - Approval Letter.pdf; Travis County - Approval Letter.pdf; Williamson County - Approval Letter.pdf; EVS 6100 Certification Order.pdf

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Christina,

We also purchased a DS850 scanner in addition to the DS450 we already had. Do we need to receive approval for that?

TRAVIS	ES&S	SOFTWARE	EVS	6.0.2
	ES&S	BALLOT MARKER	EXPRESSVOTE	
	ES&S	SCANNER	DS200	
	ES&S	SCANNER	DS450	

Thanks,
Bridgette

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Thursday, June 25, 2020 1:50 PM
To: Moody, Chris <[redacted]>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Subject: [CAUTION EXTERNAL] Re: Upgrades

CAUTION: This email is from OUTSIDE Travis County. Links or attachments may be dangerous. Click the Phish Alert button above if you think this email is malicious.

Hello,

Please see the attached Approval Letters for Bexar, Collin, Fort Bend, Travis, and Williamson Counties. The Certification Order for EVS 6100 is also attached.

The upgrade to EVS 6100 for Travis County was previously approved along with the equipment purchase they made at the start of this month, so I have just attached a copy of the approval letter we provided for that acquisition.

Please let me know if you have any questions or any issues with the attachments.

AMERICAN OVERSIGHT

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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Chris,

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Christina or Charles,

The following counties are upgrading from EVS 6020 to EVS 6100.

Williamson County
Travis County
Fort Bend County
Collin County
Bexar County

Is there anything ES&S or the counties need to do to notify you of this upgrade? Let us know if there is and we'll make sure and give that same direction to any other counties that decide to upgrade in the future. These are going to be the only counties for this year.

Thank you,

Chris Moody,

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This e-mail transmission and any documents, files or previous e-mail messages attached to it may contain information that is confidential, protected by the attorney/client or other privileges, and may constitute non-public information. It is intended to be conveyed only to the designated recipient(s) named above.

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AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 25, 2020

Jacque Callanen
Bexar County
1103 S. Frio, Suite 100
San Antonio, Texas 78207

Dear Ms. Callanen:

We are in receipt of a copy of the proposed contract between Bexar County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the ExpressTouch curbside DRE, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

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Ruth R. Hughes
Secretary of State

June 25, 2020

Bruce R. Sherbet
Collin County
2010 Redbud Blvd., Suite 102
McKinney, Texas 75069

Dear Mr. Sherbet:

We are in receipt of a copy of the proposed contract between Collin County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

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Ruth R. Hughes
Secretary of State

June 25, 2020

John W. Oldham
Fort Bend County
4520 Reading Road, Suite A-400
Rosenberg, Texas 77471

Dear Mr. Oldham:

We are in receipt of a copy of the proposed contract between Fort Bend County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the ExpressTouch curbside DRE, the DS200 precinct scanner, and the DS450 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

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(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 5, 2020

Dana DeBeauvoir
Travis County
PO Box 149325
Austin, Texas 78714

Dear Ms. DeBeauvoir:

We are in receipt of a copy of the proposed contract between Travis County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

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Ruth R. Hughes
Secretary of State

June 25, 2020

Christopher J. Davis
Williamson County
301 S.E. Inner Loop, Suite 104
Georgetown, Texas 78626

Dear Mr. Davis:

We are in receipt of a copy of the proposed contract between Williamson County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

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Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF ELECTION SYSTEMS & SOFTWARE EVS 6.1.0.0 SYSTEM

PRELIMINARY STATEMENT

On January 15-16, 2020, Election Systems & Software ("ES&S" or the "Vendor") presented the EVS 6.1.0.0 system for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Mr. Ryan Vassar, an employee of the Texas Attorney General.

On January 15, 2020, Mr. Mechler, Mr. Pinney, and Dr. Sneeringer witnessed the installation of the EVS 6.1.0.0 software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. Mr. Pinney and Ms. Lena Proft, a staff attorney with the Office, examined the accessibility components of the ExpressVote, the ExpressVote XL, and the ExpressTouch.

On January 16, 2020, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device. The results were accumulated and later verified for accuracy by staff of the Secretary of State.

Examiner reports regarding the EVS 6.1.0.0 system are attached hereto and incorporated herein by this reference.

On April 20, 2020, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing, by telephone, for interested persons to express views for or against the certification of the EVS 6.1.0.0 system.

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BRIEF DESCRIPTION OF EVS 6.1.0.0

The EVS 6.1.0.0 system is an updated version of the EVS 6.0.4.0 system, which the Office certified in September 2019 for use in Texas elections. EVS 6.1.0.0 includes software enhancements to the existing election management system and updates to other previously certified hardware components, including the ExpressVote and ExpressVote XL ballot marking devices, the ExpressTouch curbside DRE, the DS200 precinct scanner, and the DS450 and DS850 central scanners.

EVS 6.1.0.0 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). EVS 6.1.0.0 was certified by the Election Assistance Commission (EAC) on September 24, 2019.

The components of EVS 6.1.0.0 are as follows:

Component	Version	Description
ExpressTouch	1.0.3.0	Direct-recording electronic voting machine (only for curbside voting)
DS200 (HW 1.2)	2.30.0.0	Precinct scanner
DS200 (HW 1.3)	2.30.0.0	Precinct scanner
DS450	3.4.0.0	Central Scanner
DS850	3.4.0.0	Central scanner
ExpressVote (HW 1.0)	4.0.0.0	Ballot marking device
ExpressVote (HW 2.1)	4.0.0.0	Ballot marking device
ExpressVote XL (HW 1.0)	1.0.3.0	Ballot marking device
ElectionWare	6.0.0.0	Election management software
ExpressLink	2.0.0.0	Election management software
Event Log Service	2.0.0.0	Election management software
ExpressVote Activation Card Printer	N/A	Voting machine ballot activation device
ExpressVote Previewer	4.0.0.0	Election management software
PaperBallot	6.0.0.0	Election management software
Removable Media Service	1.5.1.0	Election management software
Toolbox	3.5.0.0	Election management software

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FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the EVS 6.1.0.0 system for use in Texas elections).

The EVS 6.1.0.0 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the EVS 6.1.0.0 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting;
10. Are capable of permitting straight-party voting; and
11. Are capable of providing records from which the operation of the system may be audited.

CONDITIONS

In their written reports, the voting system examiners indicated that the use of certain ballot formatting configurations could present issues with the ExpressVote XL when that device is used as a tabulator. The ExpressVote XL is not certified as a tabulator in Texas, and the Vendor has not sought certification of that device as a tabulator in Texas. Therefore, the examiners noted that this issue is unlikely to occur with those ballot formatting configurations. Nonetheless, the examiners recommended that such configurations not be permitted for use in Texas elections.

This certification is conditioned on the provision that the ballot formatting configurations described in the voting system examiner reports are outside of the scope of the State's certification of the EVS 6.1.0.0 system, and those configurations may not be used in the programming of any voting system used in Texas.

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CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Election Systems & Software's EVS 6.1.0.0 system for use in Texas elections, subject to the above condition.

Signed under my hand and seal of office, this 24th day of April 2020.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Christina Adkins
Sent: Thursday, April 1, 2021 10:08 PM
To: Travis - Bridgette Escobedo (Bridgette.Escobedo@traviscountytx.gov)
Subject: FW: Upgrades
Attachments: Travis County - Approval Letter.pdf

Bridgette,

It looks like DS850 purchase was approved by our office in June.

Thanks,

Christina

From: Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Sent: Wednesday, March 24, 2021 10:47 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
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Travis County
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Collin County
Bexar County

Is there anything ES&S or the counties need to do to notify you of this upgrade? Let us know if there is and we'll make sure and give that same direction to any other counties that decide to upgrade in the future. These are going to be the only counties for this year.

AMERICAN OVERSIGHT

Thank you,

Chris Moody,

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AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 5, 2020

Dana DeBeauvoir
Travis County
PO Box 149325
Austin, Texas 78714

Dear Ms. DeBeauvoir:

We are in receipt of a copy of the proposed contract between Travis County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

From: Moody, Chris [redacted]>
Sent: Wednesday, January 24, 2024 11:14 AM
To: Chuck Pinney
Cc: Bridgette Escobedo
Subject: FW: Williamson County, TX - DS300 Sales Order Agreement 12.21.2023
Attachments: Williamson County, TX - DS300 Sales Order Agreement 12.21.2023.pdf

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Chuck,

Attached is a DS300/Upgrade order that came in for Williamson last month. I was of the understanding that they had requested your approval letter but Bridgette and I don't think that happened because they were between EA's at the time. Anyways, attached is the contract for the DS300's and upgrading to EVS 6300 to support this hardware. Would you be able to approve this purchase for Williamson County please. I've included Bridgette on the email.

Thank you,

From: Newman, BreAnnah [redacted]>
Sent: Thursday, December 21, 2023 2:50 PM
To: Phone - Invoices or Orders Support <orders@essvote.com>
Cc: Bennett, Linda <[redacted]>; Hochstein, Karen [redacted]>; Mack, Tara [redacted]>; Menges, Sheri [redacted]>; Pick, Tina [redacted] Plath, Jared <[redacted]>; Ryan, Judd [redacted]>; Schlautman, Trent [redacted] Shoemaker, Roberta <[redacted] *ESS Omaha FS Team <ESSOmahaFSTeam@essvote.com>; Bloedorn, Cielo [redacted]>; Cantu, Denise [redacted]>; Granger, Katina <[redacted]>; Jackson, Courtney [redacted]; McDermott, Lee [redacted]>; McDermott, Michael [redacted]>; McDonald, Sheri [redacted]>; Mecseji, Dave [redacted]>; Hoffman, Bryan <[redacted]>; Kunz, Matt [redacted] Matravers, Ariela [redacted] Moody, Chris [redacted]>; Moody, John [redacted]>; Parker, Danda <[redacted]; Rivera, Jay [redacted] Vogel, Vicki [redacted]
Subject: Williamson County, TX - DS300 Sales Order Agreement 12.21.2023

Attached please find a copy of the fully Executed Agreement for the above referenced customer which was posted to the L Drive under Contracts & Agreements ("Actual Agreements") today.

BreAnnah Newman | Paralegal II
Election Systems & Software, LLC | 11208 John Galt Blvd., Omaha, NE 68137
O: 402 970-1189 | F: 402 970-1291 | C: 402 990-0172
[redacted]

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ELECTION SYSTEMS & SOFTWARE
11208 JOHN GALT BLVD
OMAHA, NE 68137-2364
(402) 593-0101

Sales Order Agreement

BuyBoard Contract # 710-23

Sales Quotation #: [redacted]

1st Election Date: March 5, 2024

Estimated Delivery Date: January 2024

Customer Contact, Title: Judith Ritchie

Phone Number: 512-943-1630

Customer Name: Williamson County, Texas

Fax Number: N/A

Type of Sale: ☑ NEW

Type of Equip: ☑ NEW ☐ REFURBISHED

Bill To:	Ship To:
Williamson County, Texas	Williamson County, Texas
Judith Ritchie	Judith Ritchie
301 S.E. Inner Loop - Suite 104	301 S.E. Inner Loop - Suite 104
Georgetown, TX 78626	Georgetown, TX 78626

	Item	Description	Qty	Price	Total
1	DS300	**DS300 Poll Place Scanner and Tabulator:** Model DS300 Scanner with Internal Backup Battery,Paper Roll, and One (1) Standard 4GB Memory Device - Version 6.3.0.0	30	$5,995.00	$179,850.00
2	DS300	Ballot Box with Power Supply and AC Cord	30	$880.00	$26,400.00
3	DS300	Tote Bin	30	$395.00	$11,850.00
4	DS300	#2 Ballot Box Lock	30	$11.00	$330.00
5	DS200	4GB CFAST Card	115	$75.00	$8,625.00
6	DS300	Equipment Installation	30	$125.00	$3,750.00
7	Shipping	Shipping & Handling	1	$11,400.00	$11,400.00
				Order Total	**$ 242,205.00**

Freight Billable: yes ☑ no ☐

Chris Moody
Regional Sales Manager

12/21/2023
V.P. of Finance Date

Bill Gravell (Dec 20, 2023 08:52 CST)
Customer Signature Dec 20, 2023
Date

County Judge
Title

Payment Terms	$121,102.50 of Order Total will be invoiced upon Contract Execution. $121,102.50 of Order Total will be invoiced as Equipment is provided to Customer. Invoices are due net 30 from receipt of invoice. Note 1: Any applicable state and local taxes are not included, and are the responsibility of the Customer.
Warranty Period (Years):	One (1) Year From Equipment Delivery

Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period)
The terms, conditions, and pricing for the Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period) are set forth in Exhibit A attached hereto.

SEE GENERAL TERMS

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GENERAL TERMS

1. Definitions:

All capitalized terms used, but not otherwise defined, in these Hardware Purchase and Software License Terms ("General Terms") or in an Exhibit shall have the following meanings:

a. "Documentation" means any and all written or electronic documentation furnished or generally made available to Customer by ES&S relating to the ES&S Hardware and ES&S Software, including any operating instructions, user manuals or training materials.

b. "ES&S Firmware" means ES&S' proprietary software which is installed on the ES&S Hardware.

c. "ES&S Hardware Maintenance Services" and "ES&S Software License, Maintenance and Support Services" means those services described on Exhibit A.

d. "ES&S Software" means the ES&S Software and ES&S Firmware as set forth on the front side of this agreement.

e. "ES&S Hardware" means ES&S's proprietary vote tabulation hardware set forth on the front side of this Agreement.

f. "Software" means ES&S Software and Third-Party software.

g. "Third-Party Items" means hardware, equipment and software manufactured and developed by parties other than ES&S.

2. Hardware Purchase and Software License Terms. Subject to the terms and conditions of this Sales Order Agreement ("Agreement"), ES&S agrees to sell and/or license, and Customer agrees to purchase and/or license, the ES&S Hardware and ES&S Software described on the front side of this Agreement. The payment terms for the ES&S Hardware and ES&S Software are set forth on the front side of this Agreement. The consideration for ES&S' grant of the license during the Initial Term for the ES&S Firmware is included in the cost of the ES&S Hardware.

a. **Hardware Purchase.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell, and Customer agrees to purchase, the ES&S Hardware. Title to the ES&S Hardware shall pass to Customer when Customer has paid ES&S the total amount set forth on the front side of this Agreement for the ES&S Hardware.

b. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time or temporary employees to use the ES&S Software and the Documentation in the Jurisdiction while Customer is using the ES&S Hardware and timely pays the applicable annual ES&S Software License, Maintenance and Support Fees set forth on Schedule A1. The licenses allow such bona fide employees to use and copy the ES&S Software (in object code only) and the Documentation, in the course of operating the ES&S Hardware and solely for the purposes of defining and conducting elections and tabulating and reporting election results in the Jurisdiction.

3. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;

b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party without ES&S' prior written consent; or

c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent;

d. Cause or permit any review, testing, examination, or audit of the ES&S Software without ES&S' prior written consent; or

e. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the ES&S Software (except finished ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

4. **Term of Licenses.** The licenses granted in Section 2(b) shall commence upon the delivery of the ES&S Software described in Section 2(b) and shall continue for a **one (1) year period** (the "Initial License Term). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the front side of this Agreement. The license terms for any License Renewal Term shall be set forth on Exhibit A. ES&S may terminate any of the licenses granted hereunder if Customer fails to pay the consideration due for, or breaches Sections 2(b), 3, or 9 with respect to, such licenses. Upon the termination any of the licenses granted in Section 2(b) for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

5. **Updates.** During the Initial License Term or any License Renewal Term for which Customer has paid the associated renewal fees, ES&S may provide new releases, upgrades, or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule solely defined by ES&S. Customer is solely responsible for obtaining and purchasing any upgrades or Third-Party Items required to operate the Updates, as well as the cost of any replacements, retrofits or modifications to the ES&S Hardware which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Updates to the ES&S Firmware will be incorporated by ES&S into a regularly scheduled preventative maintenance event at no additional charge to Customer. If Customer requests installation of an Update at a time other than a regularly scheduled preventative maintenance event, then Customer shall execute and deliver to ES&S a purchase order therefore and ES&S shall charge Customer accordingly for such installation. ES&S shall also charge Customer at its then-current rates to; (i) train Customer on Updates, if such training is requested by Customer and (ii) if applicable, provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all ES&S Tabulation Software Updates. If applicable, Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install the most recent Update provided to it by ES&S. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall be responsible to ensure that it has installed and is using only certified versions of ES&S Software in accordance with applicable law. In the event that any Updates are required due to changes in state law, ES&S reserves the right to charge Customer for the following:

(i) the total cost of any Third-Party Items that are required in order to operate the Updates;

(ii) the total cost of any replacements, retrofits or modifications to the ES&S Hardware contracted for herein that may be developed and offered by ES&S in order for such ES&S Hardware to remain compliant with applicable laws and regulations; and

(iii) Customer's pro-rata share of the costs of designing, developing and/or certification by applicable federal and state authorities of such state mandated Updates.

Customer's pro-rata share of the costs included under subsection (iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or ES&S Hardware and/or ES&S Software purchased and licensed by Customer under this Agreement. Customer shall pay ES&S the entire costs incurred for design, development and certification of any Update which is required due to a change in local law or is otherwise requested or required by Customer.

6. **Delivery; Risk of Loss.** The Estimated Delivery Dates and First Election Use (if any) set forth on the front side of this Agreement are estimates and may only be established or revised, as applicable, by the parties, in a written amendment to this Agreement, because of delays in executing this Agreement, changes requested by Customer, product availability and other events. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Hardware and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Hardware and ES&S Software and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement have been paid by Customer.

7. **Warranty.**

a. **ES&S Hardware/ES&S Software.** ES&S warrants that for a **one (1) year period** (the "Warranty Period"), it will repair or replace any component of the ES&S Hardware or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. The Warranty shall not include the repair or replacement of any ES&S Hardware components that are consumed in the normal course of operating the ES&S Hardware, including, but not limited to, headphones and headphone protective covers, protective coatings, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"). ES&S may modify and make available additional Consumables as they may become available from time to time. The Warranty shall not include the repair or replacement of any ES&S Hardware due to cosmetic damages, including, but not limited to, screen cracks, scratches, dents and broken plastic or any defects resulting from normal wear and tear. ES&S has no obligation under this Agreement to assume the obligations under any existing or expired warranty for a Third-Party Item. Any repaired or replaced item of ES&S Hardware or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the ES&S Hardware or ES&S Software will become the property of ES&S. This warranty is effective provided that (I) Customer notifies ES&S within three (3) business days of the discovery of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (II) the ES&S Hardware or ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (III) the ES&S Hardware or ES&S Software to be repaired or replaced has been maintained or repaired by an individual other than an authorized representative of ES&S (IV) the ES&S Hardware or ES&S Software to be repaired or replaced has not been used, displayed, disseminated, transferred, loaned, disassembled, dismantled, modified, and/or tampered with by a third party without ES&S prior written consent (V) the ES&S Hardware or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, liquid contact, use of adhesive materials on ballots, use which is not in accordance with the Documentation or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (VI) Customer has installed and is using the most recent Update provided to it by ES&S. This warranty is void for any units of hardware which: (i) have not been stored or operated in a temperature range according to their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. Upon expiration of the Warranty Period, Customer shall be entitled to receive Hardware Maintenance and Software Maintenance and Support Services, the terms of which are set forth on Exhibit A.

b. **Exclusive Remedies/Disclaimer. IN THE EVENT OF A BREACH OF SUBSECTION 7(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FURTHER, IN THE EVENT CUSTOMER DECLINES ES&S' INSTALLATION AND ACCEPTANCE TESTING SERVICES OR IN ANY WAY AT ANY TIME ALTERS, MODIFIES OR CHANGES ANY HARDWARE, SOFTWARE, THIRD-PARTY ITEMS AND/OR NETWORK (COLLECTIVELY "SYSTEM") CONFIGURATIONS WHICH HAVE BEEN PREVIOUSLY INSTALLED BY ES&S OR WHICH ARE OTHERWISE REQUIRED IN ACCORDANCE WITH THE CERTIFIED VOTING SYSTEM CONFIGURATION, ALL WARRANTIES OTHERWISE PROVIDED HEREUNDER WITH REPECT TO THE SYSTEM PURCHASED, LEASED, RENTED**

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AND/OR LICENSED UNDER THIS AGREEMENT SHALL BE VOID AND OF NO FURTHER FORCE AND EFFECT.

8. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special, or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the ES&S Hardware or ES&S Software; or (b) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (y) Customer's failure to timely or properly install and use the most recent update provided to it by ES&S or (z) Customer's election not to receive, or to terminate, the Hardware Maintenance Services or the ES&S Software Maintenance and Support.

9. **Proprietary Rights.** Customer acknowledges and agrees as follows:

ES&S owns the ES&S Software, all Documentation provided by ES&S, the design and configuration of the ES&S Hardware and the format, layout, measurements, design, and all other technical information associated with the ballots to be used with the ES&S Hardware. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the ES&S Hardware, the ES&S Software, the Documentation, and ballots that are provided, and all permitted copies of the foregoing.

10. **Termination.** This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not cure such breach within 30 days after it receives written notification thereof from the non-breaching party.

11. **Excusable Nonperformance.** Except for obligations to make payments hereunder, if either party is delayed or prevented from performing its obligations under this Agreement as a result of any cause beyond its reasonable control, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

12. **Notice.** Any notice or other communication required or permitted hereunder shall be in writing and will be deemed given when (a) delivered personally, (b) sent by confirmed email, (c) sent by commercial overnight courier (with written verification of receipt) or (d) sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses or email address set forth on such signature page unless other names or addresses are provided by either or both parties in accordance herewith.

13. **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 days, ES&S may suspend performance under this Agreement until such amount is paid. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

14. **Assignment.** Except in the case of a reorganization of the assets or operations of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S or any business operations thereof to a successor who has asserted its intent to continue the applicable business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

15. **Compliance with Laws.** ES&S warrants to Customer that, at the time of delivery, the ES&S Hardware and ES&S Software sold and licensed under this Agreement will comply with all applicable requirements of federal and state election laws and regulations that are mandatory and effective as of the Effective Date and will have been certified by the appropriate state authorities for use in Customer's state. The ES&S Hardware and ES&S Tabulation Software, including all components will be provided to Customer with a hardened network in accordance with the guidelines of the United States Election Assistance Commission. In the event Customer fails to maintain the ES&S Software in the hardened network or allows any internal or external access to the hardened network, Customer agrees to indemnify and hold harmless ES&S from and against any and all claims, damages, losses, liens, obligations, liabilities, judgments, assessed damages, costs, expenses (including reasonable attorney's fees) and the like arising out of or related to the Customer's breach of its obligations hereunder.

16. **Voting System Reviews.** In the event that the Jurisdiction or the State require any future reviews or examinations ("Reviews") of current or previous versions of state-certified ES&S voting systems or components thereof that are not otherwise required as a result of any changes or modifications voluntarily made by ES&S to the ES&S Software and/or ES&S Hardware licensed and sold hereunder, Customer shall be responsible for:

(i) Customer's pro-rata share of such Review costs;

(ii) Customer's pro-rata share of the costs of designing, developing, manufacturing and/or certification by applicable federal and state authorities of any mandated modifications to the ES&S Hardware and/or ES&S Software that may result from such Reviews; and

(iii) the total cost of any Third-Party Items that are required in order for the ES&S Hardware and/or ES&S Software to satisfy any new requirements resulting from such Reviews in order to remain certified;

Customer's pro-rata share of the costs included under subsections 16(ii) and 13(iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the ES&S Hardware and/or ES&S Software purchased and licensed by Customer under this Agreement.

17. **Certification**. By execution of this Agreement, ES&S represents and warrants that:

a) In accordance with Texas Government Code § 2270, ES&S does not boycott Israel currently and will not boycott Israel during the term of this Agreement; and

b) In accordance with Texas Government Code § 2252, that, at the time of the execution of this Agreement and for the duration of the term of this Agreement and any renewal terms, ES&S is not entered on the list prepared pursuant to Section 2252.152 of the Texas Government Code by the Texas State Comptroller of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.

18. **Customer Enhancements.** In the event that Customer requests any future enhancements of the ES&S Hardware and/or ES&S Software ("Enhancements"), such requests shall be submitted in writing to ES&S. ES&S will evaluate each of the Enhancements to determine if any of such Enhancements are technologically feasible, commercially reasonable and consistent with ES&S's security protocol and procedures. In the event that ES&S determines that any of such Enhancements meet the foregoing requirements, then ES&S shall prepare a scope of work which shall include an estimated timeline and the estimated costs for design, development, testing, certification and implementation of such Enhancements (the "SOW"). ES&S shall provide the SOW to Customer for review and written approval. After ES&S's receipt of written approval of the SOW by Customer, ES&S shall prepare a written change order for Customer's execution. ES&S shall solely own and retain any and all intellectual proprietary rights in any Enhancements developed and provided to Customer.

19. **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors, and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form, or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment, or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Customer resides, without regard to its conflicts of laws principles. The parties agree that venue for any dispute or cause of action arising out of or related to this Agreement shall be in the state and federal courts of the United States located in the State in which the Customer resides. ES&S is providing equipment, software, and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the equipment, software, or services, but shall remain fully responsible for such performance. The provisions of Sections 1-5, 7(b), 8-9, 12, 13(b), 14-16, and 19 of these General Terms shall survive any termination or expiration of this Agreement, to the extent applicable.

20. **Prompt Payment Act.** Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date the Customer receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date Williamson County Auditor receives an invoice for the goods and services. Interest charges for any overdue payments shall be paid by the Customer in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of the Customer's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%) and the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

21. **Tax.** The Customer is a political subdivision under the laws of the State of Texas and claims exemption from sales and use taxes under Tex. Tax Code Ann. §151.309, as amended. The Customer agrees to provide exemption certificates to ES&S upon request. Likewise, the County is neither liable for any taxes, charges, or fees assessed against ES&S for the supplies or products provided or any Services rendered.

22. **No Waiver of Sovereign Immunity of Powers.** Nothing in this Agreement will be deemed to constitute a waiver of sovereign immunity or powers of the Customer, the Williamson County Commissioners Court, or the Williamson County Judge.

23. **Termination.** This Agreement may be terminated at any time at the option of either party, without future pr prospective liability for performance, upon giving thirty (30) days written notice thereof.

24. **Right to Audit.** ES&S agrees that the Customer or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of ES&S which are directly pertinent to the services to be performed under this Agreement for the purposes making audits, examinations, excerpts, and transcriptions. ES&S agrees that the Customer shall have access during normal working hours to all necessary ES&S facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. The Customer shall give ES&S reasonable advance notice of intended audits.

25. **Public Information.** ES&S understands that Customer will comply with the Texas Public Information Act as interpreted by judicial ruling and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this Agreement may be subject to public disclosure pursuant to the Texas Public Information Act.

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EXHIBIT A
ES&S HARDWARE MAINTENANCE AND
SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES
(POST-WARRANTY PERIOD)

ARTICLE I
GENERAL

1. **Term; Termination.** This Exhibit A for ES&S Hardware Maintenance and Software License, Maintenance and Support Services shall be in effect for the coverage period as described in Schedule A1 (the "Initial Post-Warranty Term"). Upon expiration of the Initial Post-Warranty Term, this Exhibit A shall automatically renew for an unlimited number of successive **One-Year Periods** (each a "Renewal Period") until this Exhibit A is terminated by the first to occur of (a) either party's written election not to renew, which shall be delivered to the other party at least thirty (30) days prior to the end of the Initial Post-Warranty Term or any Renewal Period, as applicable, (b) the date which is thirty (30) days after either party notifies the other that it has materially breached this Exhibit A, if the breaching party fails to cure such breach (except for a breach pursuant to subsection (e), which will require no notice), (c) the date which is thirty (30) days after ES&S notifies Customer that it is no longer able to procure replacement parts that may be needed in order to perform the ES&S Hardware Maintenance Services contemplated hereunder, (d) the date on which the ES&S Hardware or firmware installed thereon is no longer certified by federal and/or state authorities for use in Customer's jurisdiction, or (e) the date which is thirty (30) days after Customer fails to pay any amount due to ES&S under this Exhibit A. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due to ES&S hereunder and shall only entitle Customer to a prorated refund of any fees already paid to ES&S in the event that this is Exhibit A is terminated pursuant to subsection 1(c) or 1(d) above.

2. **Fees.** In consideration for ES&S' agreement to provide ES&S Hardware Maintenance and Software License, Maintenance and Support Services under this Exhibit A, Customer shall pay to ES&S the ES&S Hardware Maintenance and Software License, Maintenance and Support Fees set forth on Schedule A1 for the Initial Post-Warranty Term. The Hardware Maintenance and Software License, Maintenance and Support Fees for the Initial Post-Warranty Term are due as set forth on Schedule A1. ES&S may increase the Hardware Maintenance and Software License, Maintenance and Support Fees for a Renewal Period by not more than 10% of the amount of the most recent Fees paid by Customer. All fees for any Renewal Period shall be due and payable no later than thirty (30) days prior to the beginning of such Renewal Period. The Software License, Maintenance and Support Fee shall be comprised of (i) a fee for the Software License, Maintenance and Support provided for the ES&S Firmware, and (ii) a fee for the Software License, Maintenance and Support provided for all other ES&S Software, and shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A. If Customer elects to receive Software License, Maintenance and Support for an Add-On or New Product during the Initial Post-Warranty Term or any Renewal Period thereof, ES&S will charge an incremental Software License, Maintenance and Support Fee for such services.

ARTICLE II
HARDWARE

1. **Maintenance Services.** The ES&S Hardware Maintenance Services to be provided to Customer under this Agreement for the ES&S Hardware set forth on Schedule A1 (the "Products") shall be subject to the following terms and conditions:

   a. **Routine Maintenance Services.** An ES&S Representative shall provide such services as may be necessary to keep the Products working in accordance with their Documentation, normal wear and tear excepted ("Normal Working Condition"). The services provided by ES&S pursuant to this Subsection 1(a) are referred to herein as "'Routine Maintenance Services". Routine Maintenance Services shall be provided once each **Twelve (12) Months** during the Initial Post-Warranty Term or any Renewal Period thereof. Generally,

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Routine Maintenance Services shall include cleaning, lubrication, diagnostic check, and calibration services. The Routine Maintenance Services shall not include the repair or replacement of any ES&S Hardware components that are consumed in the normal course of operating the ES&S Hardware, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"). ES&S may modify and make available additional Consumables as they may become available from time to time. Customer may request that Routine Maintenance Services be performed more than once during the Initial Post-Warranty Term or any Renewal Period. Any such request shall be made at least sixty (60) days before the Routine Maintenance Services are desired. The per-unit fee for such additional Routine Maintenance Services is set forth on Schedule A1 and shall be due within thirty (30) days after invoice date. ES&S will schedule the Routine Maintenance Services with Customer. The Routine Maintenance Services will be provided at Customer's Designated Location. Customer's "Designated Location" shall mean Customer's owned or leased facility at which Customer desires ES&S to perform the ES&S Hardware Maintenance Services.

b. **Repair Services.**

i. **Defects Under Normal Use and Service.** If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the item to Normal Working Condition as soon as practicable. The services provided by ES&S pursuant to this Subsection 1(b)(i) are referred to herein as "Repair Services". ES&S will perform Repair Services in conjunction with a Routine Maintenance Service event at the Customer's Designated Location.

ii. **Defects Due to Customer Actions or Omissions.** If a defect or malfunction occurs in any Product as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) use, modification, dismantling, disassembly, or transfer to third party without ES&S's prior written consent, (3) accident, theft, vandalism, neglect, abuse, liquid contact, use of adhesive materials on ballots or use that is not in accordance with instructions or specifications furnished by ES&S or (4) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, rodent infestation, or if Customer does not notify ES&S within 72 hours after it knows of the defect or malfunction, Customer shall pay ES&S for the Repair Services at ES&S' then-current rates, as well as for the cost of all parts used in connection with such Repair Services.

iii. **Timing.** The date(s) on which any Repair Services shall be provided shall be mutually agreed upon by ES&S and Customer. If Customer requires ES&S to provide "emergency" Repair Services (which shall be defined as Repair Services that are provided by ES&S within 48 hours after Customer notifies ES&S of the need therefore), and such emergency Repair Services are not needed as a result of an action, error or omission by ES&S, Customer shall pay a surcharge, as set forth on Schedule A1.

iv. **Loaner Unit.** At Customer's request and if such product is available, ES&S shall use reasonable efforts to promptly make available to Customer a product that is the same as, or substantially similar to, the Product for which Repair Services are being performed (a "Loaner Unit"). If the Repair Services are being performed

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pursuant to Subsection 1(b)(ii) above, Customer shall pay ES&S for the use of the Loaner Unit at ES&S' then-current rates including the cost of shipping.

c. **Exclusions.** ES&S has no obligation under this Agreement to (i) assume the obligations under any existing or expired warranty for a Third Party Item; (ii) repair or replace Product components that are consumed in the normal course of operating the Product, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"), or (iii) repair any Product from which the serial number has been removed or altered. In addition, ES&S may, at any time in its discretion, determine that any Product is no longer fit for ES&S Hardware Maintenance Services because it is in such poor condition that it cannot practically be restored to Normal Working Condition, or cannot be restored to Normal Working Condition at an expense that is less than the then-current value of the Product. If such a determination is made, ES&S shall no longer be required to provide ES&S Hardware Maintenance Services for such Product. ES&S shall also refund to Customer an amount equal to (1) that portion of the most recent fee paid for ES&S Hardware Maintenance Services that is attributable to such Product, multiplied by (2) a fraction, the numerator of which is the remaining number of days within the Term for which such fee was paid and the denominator of which is the total number of days within the Term.

d. **Sole Provider; Access.** Customer shall not permit any individual other than an ES&S Representative to provide maintenance or repairs with respect to the Products for so long as the Initial Post-Warranty Term or any Renewal Period is in effect. Customer shall provide ES&S Representatives with all information necessary to enable them to provide ES&S Hardware Maintenance Services. Customer shall likewise provide full access to the Products and adequate working space for all ES&S Hardware Maintenance Services performed at its Designated Location, including sufficient heat, lights, ventilation, electric current and outlets.

e. **Environmental Conditions.** Products should be stored in a clean, dry and secure environment. During the storage and operation of the Products, the temperature and moisture ranges should be maintained in accordance with the Products' Documentation.

f. **Reinstatement of ES&S Hardware Maintenance Services; Inspection.** If the Initial Post-Warranty Term or any Renewal Period thereof expires without being renewed, Customer may thereafter resume receiving ES&S Hardware Maintenance Services upon (a) notification to ES&S and (b) the granting to ES&S of access to the Products. ES&S requires Customer to allow it to inspect such Products before it provides any ES&S Hardware Maintenance Services. The purpose of such inspection shall be to determine whether or not the Products are in Normal Working Condition. The cost of such inspection will be at ES&S' then current rates and shall be due from Customer within thirty (30) days of its receipt of ES&S' invoice, therefore. If any of the Products is not in Normal Working Condition, ES&S, at the option of Customer, (i) shall provide such repairs and replacements as it deems reasonable and necessary to restore such item to Normal Working Condition, at Customer's expense with respect to the cost of any labor (charged at ES&S' then current rates) and parts used in such repairs or replacements, or (ii) shall not provide any ES&S Hardware Maintenance Services with respect to such Product(s).

ARTICLE III
SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES

1. **License and Services Provided.** ES&S shall provide license, maintenance and support services ("Software License, Maintenance and Support") for the ES&S Software, to allow Customer to continue to license and use the software in accordance with the license terms set forth in Sections 2-4 of the General Terms as well as to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship. The specific Software License,

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Maintenance and Support services provided by ES&S and each party's obligations with respect to such services are set forth on Schedule A1.

2. **Updates.** During the Initial Post-Warranty Term and any Renewal Period thereof, ES&S may continue to provide Updates in accordance with the terms of Section 4 of the General Terms. Unless otherwise agreed to by the parties, and subject to Customer's prior execution of a purchase order therefor, ES&S shall install ES&S Firmware Updates in accordance with Section 4 of the General Terms. Updates to the ES&S Firmware will be incorporated by ES&S into a regularly scheduled preventative maintenance event at no additional charge to Customer. If Customer requests installation of an Update at a time other than a regularly scheduled preventative maintenance event, then Customer shall execute and deliver to ES&S a purchase order therefore and ES&S shall charge Customer accordingly for such installation. ES&S shall also charge Customer at its then-current rates to; (i) train Customer on Updates, if such training is requested by Customer and (ii) if applicable, provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all ES&S Software Updates.

3. **Conditions.** ES&S shall not provide Software License, Maintenance and Support for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) use, modification, dismantling, or transfer to third party without ES&S's prior written consent, (c) accident, theft, vandalism, neglect, abuse, liquid contact or use that is not in accordance with the Documentation, (d) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (e) Customer's failure to timely and properly install and use the most recent update provided to it by ES&S, or (f) Customer's failure to notify ES&S within three (3) business days after Customer knows of the need for such services. Any such Software License, Maintenance and Support shall be provided at the fees to be agreed upon by the parties if and when the need for such Software License, Maintenance and Support arises. Replacement versions of Software and/or Third-Party Items or any services required in order to replace the same as a result of items set forth in this Section 3 or as a result of Customer's actions or inactions shall be billable to Customer at ES&S' then current rates.

4. **Proprietary Rights.** ES&S shall own the entire right, title, and interest in and to all corrections, programs, information, and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all Software License, Maintenance and Support Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information, and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Exhibit A. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered by this Exhibit A.

5. **Reinstatement of Software License, Maintenance and Support.** If the Initial Post-Warranty Term or any Renewal Period thereof expires without being renewed, Customer may thereafter receive a Software License and resume receiving Software Maintenance and Support upon (a) notification to ES&S, (b) payment of all fees, which would have been due to ES&S had the Initial Post-Warranty Term or any Renewal Period not expired, and (c) the granting to ES&S of access to the ES&S Software, so that ES&S may analyze it and perform such maintenance as may be necessary before resuming the Software License, Maintenance and Support services.

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Schedule A1
Pricing Summary

Sale Summary:		
Description	**Refer To**	**Amount**
ES&S Hardware Maintenance Fees	ES&S Hardware Maintenance Description and Fees Below	$6,450.00
ES&S Firmware License, Maintenance and Support Fees	ES&S Firmware License, Maintenance and Support Description and Fees Below	$3,000.00
Total Maintenance Fees for the Initial Post-Warranty Term:		**$9,450.00**
Terms & Conditions:		
Note 1: Any applicable state and local taxes are not included and are the responsibility of Customer.		
Note 2: **Invoicing and Payment Terms are as follows:** ES&S shall Invoice Customer annually for each year of the Initial Post-Warranty Term. Payment is due before the start of each period within the Initial Post-Warranty Term.		

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ES&S HARDWARE MAINTENANCE DESCRIPTION AND FEES

Initial Post-Warranty Term: Expiration of the Warranty Period through the **first** anniversary thereof

Qty	Description	Coverage Period	Annual Maintenance Fee Per Unit	Maintenance Fee In Total
30	Model DS300 Scanner	Year 1	$215.00	$6,450.00
Total Hardware Maintenance Fees for the Initial Post-Warranty Term				**$6,450.00**

Note 1: The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 12-month period shall be 55% of the then current maintenance fee per unit.

Note 2: Surcharge for Emergency Repair Services shall be the daily maintenance service rate in effect at the time such service is requested.

Note 3: Customer's Designated Location: Williamson County, Texas

Note 4: The Per Unit Surcharge for performance of Routine Maintenance visit at more than one Customer Designated Location shall be $25.00 per unit for all units located at second or more locations.

ES&S Hardware Maintenance Services Provided by ES&S Under this Schedule A1

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.
4. Routine Maintenance Services.
    - Onsite scheduled maintenance inspection per Article II, Section 1(a). The Inspection includes:
        - Service performed by an ES&S trained and certified technician.
        - Performance of factory approved diagnostics on the unit, identifying and making adjustments where necessary as indicated by the testing.
        - Replacement of worn or defective parts with new or remanufactured federally and state certified parts.
        - Conducting a final test to verify that the unit is working according to manufacturer's specifications.
        - Use of a checklist tailored for each piece of ES&S Tabulation Hardware.
5. Repair Services.
    - Customer will receive coverage for interim repair calls.

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- Interim repair calls may be provided during a scheduled Routine Maintenance Services event or scheduled in conjunction with other service work being performed in close proximity to Customer's location if such repairs are not election critical.

- A Product may be sent to ES&S' Depot location for repairs at a time to be mutually agreed upon by ES&S and Customer.

6. Priority Services.

- Customer has access to the ES&S Help Desk for assistance.
- The customer receives priority on service calls.
- The customer receives priority on response time.
- The customer receives priority on certified ES&S parts inventory.

Note: Except for those ES&S Hardware Maintenance Services specifically set forth herein, ES&S is under no obligation and shall not provide other ES&S Hardware Maintenance Services to the Customer unless previously agreed upon in writing by the parties.

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ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES
FIRMWARE

Initial Post-Warranty Term: Expiration of the Warranty Period through the **first** anniversary thereof

Listed below are the Hardware Products and Fees for which Firmware License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit	Firmware License, Maintenance and Support Fee in Total
30	Model DS300 Scanner	Year 1	$100.00	$3,000.00
Total Firmware License, Maintenance and Support Fees for the Initial Post-Warranty Term				**$3,000.00**

Software License, Maintenance and Support Services Provided by ES&S under the Agreement

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.

Note: Except for those Software License, Maintenance and Support services specifically set forth herein, ES&S is under no obligation and shall not provide other Software License, Maintenance and Support services to the Customer unless previously agreed upon by the parties.

Software License, Maintenance and Support and ES&S Hardware Maintenance and Support Services – Customer Responsibilities

1. Customer shall have completed a full software training session for each product selected.
    - Customer shall have completed training at a proficiency level to successfully use the hardware (firmware) and software products.
    - Customer shall have the ability to install hardware firmware and make changes to date and time settings.
    - Customer shall have the ability to change accessible consumable items on hardware. Any other changes made by the customer must be pre-approved in writing by ES&S.
2. Customer shall have reviewed a complete set of User Manuals.
3. Customer shall be responsible for the installation and integration of any third-party hardware or software application, or system purchased by the Customer, unless otherwise agreed upon, in writing, by the parties.
4. Customer shall be responsible for data extraction from Customer's voter registration system.

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5. Customer shall be responsible for implementation of any security protocols physical, network or otherwise which are necessary for the proper operation of the ES&S Hardware and ES&S Software.

6. Customer shall be responsible for the acceptance of the ES&S Hardware and Software, unless otherwise agreed upon, in writing, by the parties.

7. Customer shall be responsible for the design, layout, set up, administration, maintenance, or connectivity of the Customer's network.

8. Customer shall be responsible for the resolution of any errors associated with the Customer's network or other hardware and software not purchased or recommended by ES&S and not otherwise identified in the User Guides as part of ES&S' Hardware and Software.

9. Customer shall be responsible for all costs associated with diagnosing ballot printing problems resulting from the use of non-ES&S Ballot Partner Printers ballots.

10. Customer shall be responsible for the payment of additional or replacement Software CDs or DVDs requested by Customer. The price for such additional or replacement Software CDs or DVDs shall be at ES&S' then current rates.

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From: David Velez-Perez
Sent: Tuesday, June 6, 2023 5:07 PM
To: Callanen, Jacque
Subject: RE: certification
Attachments: Bexar County - Approval Letter.pdf; EVS 6100 Certification Order.pdf

Hello Jacque.
Here you go. Any other ES&S versions can also be accessed on this portal.

https://www.sos.texas.gov/elections/laws/ess_system.shtml

Let us know if we can assist with anything else.

David Velez-Perez

Elections Security Trainer – Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

512-475-2859
1-800-252-VOTE (8683)

elections@sos.texas.gov | electionsecurity@sos.texas.gov | www.sos.texas.gov

For Voter Related Information, please visit:

VOTETEXAS.GOV
POWERED BY THE TEXAS SECRETARY OF STATE

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Callanen, Jacque <jcallanen@bexar.org>
Sent: Tuesday, June 6, 2023 4:58 PM
To: David Velez-Perez <DVelez-Perez@sos.texas.gov>
Subject: certification

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Hi David,
Hope you are doing well. My Commissioners are asking for the ES&S SOS certification letter. Our activists are getting out of hand.
Please send at your convenience
Thanks
Jacque

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Jacque Callanen |Elections Administrator
Bexar County Elections Department
1103 S. Frio | San Antonio, TX 78207
O: 210-335-8683
jcallanen@bexar.org| www.bexar.org

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 25, 2020

Jacque Callanen
Bexar County
1103 S. Frio, Suite 100
San Antonio, Texas 78207

Dear Ms. Callanen:

We are in receipt of a copy of the proposed contract between Bexar County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the ExpressTouch curbside DRE, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF ELECTION SYSTEMS & SOFTWARE EVS 6.1.0.0 SYSTEM

PRELIMINARY STATEMENT

On January 15-16, 2020, Election Systems & Software ("ES&S" or the "Vendor") presented the EVS 6.1.0.0 system for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Mr. Ryan Vassar, an employee of the Texas Attorney General.

On January 15, 2020, Mr. Mechler, Mr. Pinney, and Dr. Sneeringer witnessed the installation of the EVS 6.1.0.0 software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. Mr. Pinney and Ms. Lena Proft, a staff attorney with the Office, examined the accessibility components of the ExpressVote, the ExpressVote XL, and the ExpressTouch.

On January 16, 2020, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device. The results were accumulated and later verified for accuracy by staff of the Secretary of State.

Examiner reports regarding the EVS 6.1.0.0 system are attached hereto and incorporated herein by this reference.

On April 20, 2020, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing, by telephone, for interested persons to express views for or against the certification of the EVS 6.1.0.0 system.

AMERICAN OVERSIGHT

BRIEF DESCRIPTION OF EVS 6.1.0.0

The EVS 6.1.0.0 system is an updated version of the EVS 6.0.4.0 system, which the Office certified in September 2019 for use in Texas elections. EVS 6.1.0.0 includes software enhancements to the existing election management system and updates to other previously certified hardware components, including the ExpressVote and ExpressVote XL ballot marking devices, the ExpressTouch curbside DRE, the DS200 precinct scanner, and the DS450 and DS850 central scanners.

EVS 6.1.0.0 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). EVS 6.1.0.0 was certified by the Election Assistance Commission (EAC) on September 24, 2019.

The components of EVS 6.1.0.0 are as follows:

Component	Version	Description
ExpressTouch	1.0.3.0	Direct-recording electronic voting machine (only for curbside voting)
DS200 (HW 1.2)	2.30.0.0	Precinct scanner
DS200 (HW 1.3)	2.30.0.0	Precinct scanner
DS450	3.4.0.0	Central Scanner
DS850	3.4.0.0	Central scanner
ExpressVote (HW 1.0)	4.0.0.0	Ballot marking device
ExpressVote (HW 2.1)	4.0.0.0	Ballot marking device
ExpressVote XL (HW 1.0)	1.0.3.0	Ballot marking device
ElectionWare	6.0.0.0	Election management software
ExpressLink	2.0.0.0	Election management software
Event Log Service	2.0.0.0	Election management software
ExpressVote Activation Card Printer	N/A	Voting machine ballot activation device
ExpressVote Previewer	4.0.0.0	Election management software
PaperBallot	6.0.0.0	Election management software
Removable Media Service	1.5.1.0	Election management software
Toolbox	3.5.0.0	Election management software

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FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the EVS 6.1.0.0 system for use in Texas elections).

The EVS 6.1.0.0 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the EVS 6.1.0.0 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting;
10. Are capable of permitting straight-party voting; and
11. Are capable of providing records from which the operation of the system may be audited.

CONDITIONS

In their written reports, the voting system examiners indicated that the use of certain ballot formatting configurations could present issues with the ExpressVote XL when that device is used as a tabulator. The ExpressVote XL is not certified as a tabulator in Texas, and the Vendor has not sought certification of that device as a tabulator in Texas. Therefore, the examiners noted that this issue is unlikely to occur with those ballot formatting configurations. Nonetheless, the examiners recommended that such configurations not be permitted for use in Texas elections.

This certification is conditioned on the provision that the ballot formatting configurations described in the voting system examiner reports are outside of the scope of the State's certification of the EVS 6.1.0.0 system, and those configurations may not be used in the programming of any voting system used in Texas.

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CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Election Systems & Software's EVS 6.1.0.0 system for use in Texas elections, subject to the above condition.

Signed under my hand and seal of office, this 24th day of April 2020.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Friday, August 16, 2019 8:47 AM
To: janderson@co.hays.tx.us
Cc: Christina Adkins
Subject: RE: Contract Approval - Hart Verity Duo Acquisition
Attachments: Hart Verity 2.3 Certification Order.pdf; Hays County - Approval Letter.pdf

Hello,

Please see the attached Approval Letter and Certification Order for Hays County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Jennifer Anderson <janderson@co.hays.tx.us>
Sent: Wednesday, August 14, 2019 10:58 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Contract Approval - Hart Verity Duo Acquisition

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Good morning,

Please see the attached contract for approval from your office. Hays County Commissioners Court voted to approve the contract and purchase of the Hart Verity Duo System as a new voting system for Hays County elections.

I have attached the adopted Resolution your review. These motions were made with the condition that the contract was approved by your office in the language.

Please let me know if there is anything else you need from me to move forward with this request. Also, what is the timeframe for receiving approval from your office?

AMERICAN OVERSIGHT

Sincerely,

Jennifer Anderson, REO | Elections Administrator
Hays County
712 S. Stagecoach Trail, Suite 1012
San Marcos Texas 78666
O: (512) 393-7310
F: (512) 878-6699

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Secretary of State

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.3 SYSTEM

PRELIMINARY STATEMENT

On May 22-23, 2019, Hart InterCivic Inc. (the "Vendor") presented Verity Voting 2.3 for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Mr. Ryan Vassar, an employee of the Texas Attorney General.

On May 22, 2019, Mr. Pinney, Mr. Mechler, and Dr. Sneeringer witnessed the installation of the Verity Voting 2.3 software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. Mr. Pinney and Ms. Heidi Martinez, a staff attorney with the Office, examined the accessibility components of the Verity Touch, the Verity Touch with Access, the Verity Touch Writer with Access, and the Verity Touch Writer Duo.

On May 23, 2019, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device. The results were accumulated and later verified for accuracy by staff of the Secretary of State.

Examiner reports regarding the Verity Voting 2.3 system are attached hereto and incorporated herein by this reference.

On July 10, 2019, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing for interested persons to express views for or against the certification of the Verity Voting 2.3 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.3

The Verity Voting 2.3 system is an updated version of the Verity Voting 2.0 system, which the Office certified in December 2016 for use in Texas elections. The updated version includes

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software enhancements to the existing election management system and introduces a new voting device, the Verity Touch Writer Duo. The Touch Writer Duo is a ballot marking device that allows users to input their selections on a digital interface and prints a paper record of the vote that can be scanned and tabulated using a precinct or central scanner.

Verity Voting 2.3 has been evaluated at an accredited independent voting system testing laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.3 was certified by the U.S. Election Assistance Commission (EAC) on March 15, 2019.

The components of Verity Voting 2.3 are as follows:

Component	Version	Description
Verity Data	2.3.1	Data management software
Verity Build	2.3.1	Election definition software
Verity Count	2.3.1	Tabulation and reporting software
Verity Central	2.3.1	Central scanning software
Verity User Management	2.3.1	User management software
Verity Election Management	2.3.1	Election management software
Verity Desktop	2.3.1	Election management software
Verity Scan	2.3.1	Precinct scanner
Verity Touch Writer with Access	2.3.1	Ballot marking device with accessibility features
Verity Controller	2.3.2	Voting machine ballot activation device
Verity Touch	2.3.1	Direct-recording electronic voting machine
Verity Touch with Access	2.3.1	Direct-recording electronic voting machine with accessibility features
Verity Touch Writer Duo	2.3.1	Ballot marking device

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.3 system for use in Texas elections).

AMERICAN OVERSIGHT

The Verity Voting 2.3 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.3 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting;
10. Are capable of permitting straight-party voting; and
11. Are capable of providing records from which the operation of the system may be audited.

CONDITIONS

In their written reports, some of the voting system examiners indicated that the Verity Voting 2.3 system does not provide a software solution to address the ballot-numbering requirements in Sections 51.006-.008, 52.062, and 62.009 of the Texas Election Code. However, the examiners noted that jurisdictions that adopt the Verity Voting 2.3 system can still comply with these requirements by following additional procedures provided by the Vendor. Therefore, the certification of system is conditioned on jurisdictions utilizing these additional procedures to comply with the Texas Election Code's ballot-numbering requirements when using the Verity Voting 2.3 system.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.3 system for use in Texas elections, subject to the above condition.

Signed under my hand and seal of office, this 22nd day of July 2019.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Secretary of State

August 16, 2019

Jennifer Anderson
Hays County
712 S Stagecoach Trail, Suite 1012
San Marcos, Texas 78666

Dear Ms. Anderson,

We are in receipt of a copy of the proposed contract between Hays County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.3.1 which includes Verity Controller, Verity Touch Writer Duo, Verity Central, and Verity Scan, firmware version 2.3.1. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems. Because the equipment identified in your proposed contract is currently certified for use in Texas, we officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

Enclosures

KI:CA

AMERICAN OVERSIGHT

From: Jennifer Anderson <janderson@co.hays.tx.us>
Sent: Friday, August 16, 2019 9:21 AM
To: Charles Pinney
Subject: RE: Contract Approval - Hart Verity Duo Acquisition

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Mr. Pinney,

Thank you so much for the expeditious response.

Have a great weekend!!

Sincerely,

Jennifer Anderson, REO | Elections Administrator
Hays County
712 S. Stagecoach Trail, Suite 1012
San Marcos Texas 78666
O: (512) 393-7310
F: (512) 878-6699

From: Charles Pinney [mailto:CPinney@sos.texas.gov]
Sent: Friday, August 16, 2019 8:47 AM
To: Jennifer Anderson <janderson@co.hays.tx.us>
Cc: Christina Adkins <CAdkins@sos.texas.gov>
Subject: RE: Contract Approval - Hart Verity Duo Acquisition

Hello,

Please see the attached Approval Letter and Certification Order for Hays County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division

AMERICAN OVERSIGHT

Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
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From: Jennifer Anderson <janderson@co.hays.tx.us>
Sent: Wednesday, August 14, 2019 10:58 AM
To: Elections Internet <Elections@sos.texas.gov>
Subject: Contract Approval - Hart Verity Duo Acquisition

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Good morning,

Please see the attached contract for approval from your office. Hays County Commissioners Court voted to approve the contract and purchase of the Hart Verity Duo System as a new voting system for Hays County elections.

I have attached the adopted Resolution your review. These motions were made with the condition that the contract was approved by your office in the language.

Please let me know if there is anything else you need from me to move forward with this request. Also, what is the timeframe for receiving approval from your office?

Sincerely,

Jennifer Anderson, REO | Elections Administrator
Hays County
712 S. Stagecoach Trail, Suite 1012
San Marcos Texas 78666
O: (512) 393-7310
F: (512) 878-6699

AMERICAN OVERSIGHT

From: David Velez-Perez
Sent: Thursday, August 24, 2023 1:04 PM
To: Peter Lichtenheld; Clifford.Tatum@vote.hctx.net; mwinn@cco.hctx.net
Cc: Christina Adkins; Charles Pinney; Kristi Hart
Subject: RE: Harris 2.7 upgrade approval request
Attachments: Harris Verity 2.7 Approval.pdf; Hart Verity 2.7 Certification Order.pdf

Importance: High

Good afternoon.

Please see enclosed letters for approval of Verity 2.7 acquisition.
Let us know if we can assist any further.

Thanks!

David Velez-Perez

Elections Security Trainer – Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

512-475-2859
1-800-252-VOTE (8683)

elections@sos.texas.gov | electionsecurity@sos.texas.gov | www.sos.texas.gov

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The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Peter Lichtenheld [redacted]>
Sent: Thursday, August 24, 2023 10:56 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>; David Velez-Perez <DVelez-Perez@sos.texas.gov>
Cc: Clifford.Tatum@vote.hctx.net; mwinn@cco.hctx.net
Subject: Harris 2.7 upgrade approval request

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Christina, Chuck and David,

Please find attached the Verity version 2.7 upgrade approval request for Harris County, TX. We look forward to your response.

AMERICAN OVERSIGHT

Peter Lichtenheld, CERA
Senior Vice President of Customer Success
Hart InterCivic
512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
https://www.hartintercivic.com/

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

August 24, 2023

Clifford Tatum
Harris County
P.O. Box 1148
Houston, Texas 77002

Dear Mr. Tatum,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Harris County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire the Hart Verity 2.7 voting system, which includes, Verity TouchWriter Duo, Verity Scan, Verity Central, Verity Transmit and Verity Transmit Receiving Station. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
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Jane Nelson
Secretary of State

REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.7 SYSTEM

PRELIMINARY STATEMENT

On March 1-2, 2023, and July 6, 2023, Hart InterCivic Inc. ("Hart" or the "Vendor") presented the Verity Voting 2.7 system for examination and certification. The examination was conducted in Austin, Texas at the Office of the Texas Secretary of State (the "Office"). Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Mr. Robert Thomson, an expert in electronic data communication systems; and
2. Mr. Austin Kinghorn, an employee of the Texas Attorney General.

On March 1, 2023, Mr. Mechler, Mr. Pinney, and Mr. Thomson witnessed the extraction of the trusted build and the installation of the Verity 2.7 software and firmware that the Office received directly from the Independent Testing Authority. The examiners, assisted by Office staff, compared the generated hashes from each device to the trusted hashes that the U.S. Election Assistance Commission ("EAC") provided to the Office. The hash validation was successful. Mr. Pinney, assisted by Office staff, conducted the examination of the accessibility components of the Verity Touch Writer Duo, Verity Touch Writer Duo Standalone, and Verity Touch Writer with Access devices.

On March 2, 2023, the Vendor demonstrated the system and answered questions presented by the examiners. After the vendor presentation, the examiners conducted a test election and tested other components of the system. The results of the test election were accumulated and verified for accuracy by Office staff.

On July 6, 2023, the examiners examined the Verity Transmit and Verity Transmit Receiving Station components of the system. The examiners conducted a test election using those components to verify the accuracy and security of the transmission process. The results of the test election were accumulated and verified for accuracy by Office staff.

AMERICAN OVERSIGHT

Examiner reports regarding the Verity Voting 2.7 system are attached hereto and incorporated herein by this reference.

On August 3, 2023, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing for interested persons to express views for or against the certification of the Verity Voting 2.7 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.7

The Verity Voting 2.7 system is an updated version of the Verity Voting 2.5 system, which the Office certified in April 2021 for use in Texas elections.

Verity Voting 2.7 includes software enhancements to the existing election management system and updates to other previously certified hardware components, including the Verity Touch Writer Duo, Verity Touch Writer Duo Standalone, and Verity Touch Writer with Access ballot marking devices, the Verity Scan precinct scanner, and the Verity Central central scanner. Verity Voting 2.7 also includes an additional software component (Verity Transmit) and an additional hardware component (Verity Transmit Receiving Station).

Verity Voting 2.7 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.7 was certified by the EAC on June 7, 2022.

The components of Verity Voting 2.7 are as follows:

Component	Version	Description
Verity Data	2.7.1	Election management software
Verity Build	2.7.1	Election management software
Verity Count	2.7.1	Election management software
Verity Central	2.7.1	Central scanner
Verity User Management	2.7.1	Election management software
Verity Election Management	2.7.1	Election management software
Verity Desktop	2.7.1	Election management software
Verity Scan	2.7.1	Precinct scanner
Verity Touch Writer with Access	2.7.1	Ballot marking device
Verity Controller	2.7.1	Voting machine ballot activation device
Verity Touch Writer Duo	2.7.1	Ballot marking device

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Verity Touch Writer Duo Standalone	2.7.1	Ballot marking device
Verity Transmit	2.7.1	Election management software
Verity Transmit Receiving Station	2.7.4[1]	Election management software

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.7 system for use in Texas elections, subject to the condition outlined below).

The Verity Voting 2.7 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.7 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting; and
10. Are capable of providing records from which the operation of the voting system may be audited.

CONDITIONS

The Secretary of State imposes the following condition on the certification of the Verity Voting 2.7 system:

1. The Verity Transmit module must be used in accordance with the procedures prescribed by the Secretary of State under Section 127.1231(b) of the Texas Election Code for the

[1] In the course of the examination of the Verity Voting 2.7 system, the examiners also reviewed Engineering Change Order ("ECO") 1605, which was a minor modification to the Verity Transmit module. That modification updated the version number of the Verity Transmit Receiving Station component from 2.7.1 to 2.7.4. The modification designated as ECO 1605 is hereby approved as part of this certification order.

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module to be considered within the scope of the certification of the Verity Voting 2.7 system.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.7 system for use in Texas elections, subject to the above condition.

Signed under my hand and seal of office, this 24th day of August, 2023.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>
Sent: Thursday, October 28, 2021 11:10 AM
To: Charles Pinney; Peter Lichtenheld
Cc: Christina Adkins
Subject: Re: Harris equipment status, numbers

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Received and thank you!

Just to be double sure I don't miss anything else n the lead up to Election Day - are there any other letter, approvals, certifications etc related to the Hart 2.5 system we need to request or conduct?

Other than the typical L&A procedures.

Get Outlook for iOS

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Thursday, October 28, 2021 10:49:47 AM
To: Peter Lichtenheld [redacted]>
Cc: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>; Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Harris equipment status, numbers

Hello,

Please see the attached Approval Letter and Certification Order for Harris County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Peter Lichtenheld [redacted]>
Sent: Monday, October 18, 2021 11:49 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>

AMERICAN OVERSIGHT

Cc: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>
Subject: Harris equipment status, numbers

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Christina and Chuck,

This is to update you on the current quantities of equipment and current Verity version in use for this election in Harris County, TX. Please see attached and send appropriate approvals.



Peter Lichtenheld, CERA
Senior Vice President of Customer Success
Hart InterCivic
512.252.6578 (o) | 512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
https://www.hartintercivic.com/

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AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Thursday, October 28, 2021 10:50 AM
To: Peter Lichtenheld
Cc: Longoria, Isabel (EAD); Christina Adkins
Subject: Re: Harris equipment status, numbers
Attachments: Harris County - Approval Letter.pdf; Hart Verity 2.5 Certification Order.pdf

Hello,

Please see the attached Approval Letter and Certification Order for Harris County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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From: Peter Lichtenheld <[redacted]>
Sent: Monday, October 18, 2021 11:49 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>
Subject: Harris equipment status, numbers

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Christina and Chuck,

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Peter Lichtenheld, CERA
Senior Vice President of Customer Success
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AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

John B. Scott
Secretary of State

October 28, 2021

Isabel Longoria
Elections Administrator
Harris County
P.O. Box 1148
Houston, Texas 77251

Dear Ms. Longoria,

We are in receipt of a copy of the proposed contract between Harris County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.5, which includes Verity Touch Writer Duo, Verity Scan, and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.5 SYSTEM

PRELIMINARY STATEMENT

On January 4-8, 2021, Hart Intercivic Inc. ("Hart" or the "Vendor") presented the Verity Voting 2.5 system for examination and certification. The examination was conducted in Austin, Texas at the Office of the Secretary of State (the "Office"). Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Ms. Lesley French, an employee of the Texas Attorney General.

At the time of the examination, the Office of the Secretary of State was closed to the public due to health and safety concerns relating to the novel coronavirus (COVID-19). As a result, certain procedures were implemented for the examination of the Verity Voting 2.5 system. For example, the examination was held in a manner that allowed some of the examiners to participate in person and other examiners to attend remotely via live video conference. The examiners who were not physically present in the exam room on a specific day were able to view the other examiners' interactions with the equipment and ask questions to the in-person examiners and the vendor. Each examiner had the opportunity to examine the equipment in person for at least one day during the exam week.

On January 4-5, 2021, Mr. Pinney was present to witness the extraction of the trusted build and the installation of the Verity 2.5 software and firmware that the Secretary of State's office received directly from the Independent Testing Authority. The other examiners observed this process remotely by watching the live video conference.

On January 6, 2021, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device by Mr. Pinney and Mr. Hurley. The results were accumulated and later verified for accuracy by staff of the Secretary of State's office. Mr. Pinney and Mr. Hurley also examined the accessibility components of the Verity Voting 2.5 system.

AMERICAN OVERSIGHT

On January 7, 2021, Mr. Watson and Mr. Mechler conducted an in-person examination of the system. Ms. French conducted an in-person examination of the system on January 8.

Examiner reports regarding the Verity Voting 2.5 system are attached hereto and incorporated herein by this reference.

On March 4, 2021, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing, by telephone, for interested persons to express views for or against the certification of the Verity Voting 2.5 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.5

The Verity Voting 2.5 system is an updated version of the Verity Voting 2.4 system, which the Office certified in June 2020 for use in Texas elections. The updated version includes enhancements to the existing hardware and software components of the Verity voting system.

Verity Voting 2.5 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.5 was certified by the Election Assistance Commission (EAC) on September 9, 2020.

The components of Verity Voting 2.5 are as follows:

Component	Version	Description
Verity Data	2.5.0	Election management software
Verity Build	2.5.0	Election management software
Verity Count	2.5.0	Election management software
Verity Central	2.5.1	Central scanner
Verity User Management	2.5.0	Election management software
Verity Election Management	2.5.0	Election management software
Verity Desktop	2.5.0	Election management software
Verity Scan	2.5.1	Precinct scanner
Verity Touch Writer with Access	2.5.1	Ballot marking device
Verity Controller	2.5.1	Voting machine ballot activation device
Verity Touch	2.5.1	Direct-recording electronic voting machine
Verity Touch with Access	2.5.1	Direct-recording electronic voting machine
Verity Touch Writer Duo	2.5.1	Ballot marking device

AMERICAN OVERSIGHT

Verity Touch Writer Duo Standalone	2.5.1	Ballot marking device

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.5 system for use in Texas elections).

The Verity Voting 2.5 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.5 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting; and
10. Are capable of providing records from which the operation of the voting system may be audited.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.5 system for use in Texas elections.

Signed under my hand and seal of office, this 1st day of APRIL 2021.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Thursday, October 28, 2021 12:09 PM
To: Longoria, Isabel (EAD)
Cc: Peter Lichtenheld; Christina Adkins
Subject: Re: Harris equipment status, numbers

Hello,

There are no other approval procedures that you need to submit to our office with regard to that upgrade.

Election Code 123.001 does provide that when you acquire a new voting system, your commissioners court will need to take an adoption action to adopt that system for use in your elections. If your previous adoption action referenced Verity 2.4, then you may need to take a new adoption action to adopt Verity 2.5.

We discuss the adoption action in a bit more detail in the following advisory on the acquisition of new voting systems: https://www.sos.texas.gov/elections/laws/advisory2019-15.shtml

Please let us know if you have any other questions about this issue or anything else relating to the election. You can reach us at Elections@sos.texas.gov or 1-800-252-8683, or you can visit our website at sos.state.tx.us/elections/index.shtml.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>
Sent: Thursday, October 28, 2021 11:09 AM
To: Charles Pinney <CPinney@sos.texas.gov>; Peter Lichtenheld [redacted]
Cc: Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Harris equipment status, numbers

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Received and thank you!

Just to be double sure I don't miss anything else n the lead up to Election Day - are there any other letter, approvals, certifications etc related to the Hart 2.5 system we need to request or conduct?

AMERICAN OVERSIGHT

Other than the typical L&A procedures.

Get Outlook for iOS

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Thursday, October 28, 2021 10:49:47 AM
To: Peter Lichtenheld <[redacted]>
Cc: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>; Christina Adkins <CAdkins@sos.texas.gov>
Subject: Re: Harris equipment status, numbers

Hello,

Please see the attached Approval Letter and Certification Order for Harris County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
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From: Peter Lichtenheld [redacted]
Sent: Monday, October 18, 2021 11:49 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>
Subject: Harris equipment status, numbers

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Christina and Chuck,

This is to update you on the current quantities of equipment and current Verity version in use for this election in Harris County, TX. Please see attached and send appropriate approvals.

HART intercivic
Peter Lichtenheld, CERA
Senior Vice President of Customer Success
Hart InterCivic
512.252.6578 (o) | 512.632.3079 (m) | 866.275.4278 (help desk)
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https://www.hartintercivic.com/

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AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Wednesday, August 25, 2021 4:22 PM
To: Felice Liston
Cc: Harvey, Suzie; Christina Adkins
Subject: Re: Hart - Montgomery County SOS Approval
Attachments: Montgomery County - Approval Letter.pdf; Hart Verity 2.5 Certification Order.pdf

Hello,

Please see the attached Approval Letter and Certification Order for Montgomery County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Felice Liston <[redacted]
Sent: Thursday, August 19, 2021 7:10 PM
To: Charles Pinney <CPinney@sos.texas.gov>
Cc: Harvey, Suzie <Suzie.Harvey@mctx.org>; Christina Adkins <CAdkins@sos.texas.gov>
Subject: Hart - Montgomery County SOS Approval

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Hello Chuck,

Montgomery County, TX, is considering the purchase of the Verity Voting System. Attached, please find the first page of the Hart Agreement plus the Agreement page reflecting the product and version numbers that are being considered for purchase. Montgomery County and Hart appreciate your review and approval of the attached document.

Please contact me should you have any questions.

Warm regards,
Felice

AMERICAN OVERSIGHT

Felice Liston
Vice President, Sales
Hart InterCivic
15500 Wells Port Drive | Austin, TX | 78728
512.589.9987 cell | 800.223.HART (ext. 6406)
[redacted] | www.hartintercivic.com

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AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Secretary of State

August 25, 2021

Suzie Harvey
Montgomery County
9159 Airport Road
Conroe, Texas 77303

Hello,

We are in receipt of a copy of the proposed contract between Montgomery County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.5, which includes Verity Touch Writer Duo and Verity Scan. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.5 SYSTEM

PRELIMINARY STATEMENT

On January 4-8, 2021, Hart Intercivic Inc. ("Hart" or the "Vendor") presented the Verity Voting 2.5 system for examination and certification. The examination was conducted in Austin, Texas at the Office of the Secretary of State (the "Office"). Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Ms. Lesley French, an employee of the Texas Attorney General.

At the time of the examination, the Office of the Secretary of State was closed to the public due to health and safety concerns relating to the novel coronavirus (COVID-19). As a result, certain procedures were implemented for the examination of the Verity Voting 2.5 system. For example, the examination was held in a manner that allowed some of the examiners to participate in person and other examiners to attend remotely via live video conference. The examiners who were not physically present in the exam room on a specific day were able to view the other examiners' interactions with the equipment and ask questions to the in-person examiners and the vendor. Each examiner had the opportunity to examine the equipment in person for at least one day during the exam week.

On January 4-5, 2021, Mr. Pinney was present to witness the extraction of the trusted build and the installation of the Verity 2.5 software and firmware that the Secretary of State's office received directly from the Independent Testing Authority. The other examiners observed this process remotely by watching the live video conference.

On January 6, 2021, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device by Mr. Pinney and Mr. Hurley. The results were accumulated and later verified for accuracy by staff of the Secretary of State's office. Mr. Pinney and Mr. Hurley also examined the accessibility components of the Verity Voting 2.5 system.

AMERICAN OVERSIGHT

On January 7, 2021, Mr. Watson and Mr. Mechler conducted an in-person examination of the system. Ms. French conducted an in-person examination of the system on January 8.

Examiner reports regarding the Verity Voting 2.5 system are attached hereto and incorporated herein by this reference.

On March 4, 2021, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing, by telephone, for interested persons to express views for or against the certification of the Verity Voting 2.5 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.5

The Verity Voting 2.5 system is an updated version of the Verity Voting 2.4 system, which the Office certified in June 2020 for use in Texas elections. The updated version includes enhancements to the existing hardware and software components of the Verity voting system.

Verity Voting 2.5 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.5 was certified by the Election Assistance Commission (EAC) on September 9, 2020.

The components of Verity Voting 2.5 are as follows:

Component	Version	Description
Verity Data	2.5.0	Election management software
Verity Build	2.5.0	Election management software
Verity Count	2.5.0	Election management software
Verity Central	2.5.1	Central scanner
Verity User Management	2.5.0	Election management software
Verity Election Management	2.5.0	Election management software
Verity Desktop	2.5.0	Election management software
Verity Scan	2.5.1	Precinct scanner
Verity Touch Writer with Access	2.5.1	Ballot marking device
Verity Controller	2.5.1	Voting machine ballot activation device
Verity Touch	2.5.1	Direct-recording electronic voting machine
Verity Touch with Access	2.5.1	Direct-recording electronic voting machine
Verity Touch Writer Duo	2.5.1	Ballot marking device

AMERICAN OVERSIGHT

Verity Touch Writer Duo Standalone	2.5.1	Ballot marking device

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.5 system for use in Texas elections).

The Verity Voting 2.5 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.5 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting; and
10. Are capable of providing records from which the operation of the voting system may be audited.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.5 system for use in Texas elections.

Signed under my hand and seal of office, this 1st day of APRIL 2021.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Thursday, August 1, 2019 10:16 AM
To: Heider I. Garcia
Cc: Christina Adkins
Subject: RE: Letter for approval of acquisition of voting equipment
Attachments: Hart Verity 2.3 Certification Order.pdf; Tarrant County - Approval Letter.pdf

Heider,

Please see the attached Approval Letter and Certification Order for Tarrant County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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From: Heider I. Garcia <HIGarcia@tarrantcounty.com>
Sent: Thursday, July 25, 2019 12:03 PM
To: Elections Internet <Elections@sos.texas.gov>
Cc: Charles Pinney <CPinney@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>
Subject: Letter for approval of acquisition of voting equipment

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Good morning,

Attached is a letter addressed to the Deputy Secretary of State, requesting approval for acquisition of new voting equipment.

Regards,

Heider Garcia
Tarrant County Elections Administrator
2700 Premier Street

AMERICAN OVERSIGHT

Fort Worth, Texas 76111
(817) 831-8683





AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Secretary of State

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
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REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.3 SYSTEM

PRELIMINARY STATEMENT

On May 22-23, 2019, Hart InterCivic Inc. (the "Vendor") presented Verity Voting 2.3 for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Mr. Ryan Vassar, an employee of the Texas Attorney General.

On May 22, 2019, Mr. Pinney, Mr. Mechler, and Dr. Sneeringer witnessed the installation of the Verity Voting 2.3 software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. Mr. Pinney and Ms. Heidi Martinez, a staff attorney with the Office, examined the accessibility components of the Verity Touch, the Verity Touch with Access, the Verity Touch Writer with Access, and the Verity Touch Writer Duo.

On May 23, 2019, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device. The results were accumulated and later verified for accuracy by staff of the Secretary of State.

Examiner reports regarding the Verity Voting 2.3 system are attached hereto and incorporated herein by this reference.

On July 10, 2019, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing for interested persons to express views for or against the certification of the Verity Voting 2.3 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.3

The Verity Voting 2.3 system is an updated version of the Verity Voting 2.0 system, which the Office certified in December 2016 for use in Texas elections. The updated version includes

AMERICAN OVERSIGHT

software enhancements to the existing election management system and introduces a new voting device, the Verity Touch Writer Duo. The Touch Writer Duo is a ballot marking device that allows users to input their selections on a digital interface and prints a paper record of the vote that can be scanned and tabulated using a precinct or central scanner.

Verity Voting 2.3 has been evaluated at an accredited independent voting system testing laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.3 was certified by the U.S. Election Assistance Commission (EAC) on March 15, 2019.

The components of Verity Voting 2.3 are as follows:

Component	Version	Description
Verity Data	2.3.1	Data management software
Verity Build	2.3.1	Election definition software
Verity Count	2.3.1	Tabulation and reporting software
Verity Central	2.3.1	Central scanning software
Verity User Management	2.3.1	User management software
Verity Election Management	2.3.1	Election management software
Verity Desktop	2.3.1	Election management software
Verity Scan	2.3.1	Precinct scanner
Verity Touch Writer with Access	2.3.1	Ballot marking device with accessibility features
Verity Controller	2.3.2	Voting machine ballot activation device
Verity Touch	2.3.1	Direct-recording electronic voting machine
Verity Touch with Access	2.3.1	Direct-recording electronic voting machine with accessibility features
Verity Touch Writer Duo	2.3.1	Ballot marking device

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.3 system for use in Texas elections).

AMERICAN OVERSIGHT

The Verity Voting 2.3 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.3 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting;
10. Are capable of permitting straight-party voting; and
11. Are capable of providing records from which the operation of the system may be audited.

CONDITIONS

In their written reports, some of the voting system examiners indicated that the Verity Voting 2.3 system does not provide a software solution to address the ballot-numbering requirements in Sections 51.006-.008, 52.062, and 62.009 of the Texas Election Code. However, the examiners noted that jurisdictions that adopt the Verity Voting 2.3 system can still comply with these requirements by following additional procedures provided by the Vendor. Therefore, the certification of system is conditioned on jurisdictions utilizing these additional procedures to comply with the Texas Election Code's ballot-numbering requirements when using the Verity Voting 2.3 system.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.3 system for use in Texas elections, subject to the above condition.

Signed under my hand and seal of office, this 22nd day of July 2019.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Secretary of State

August 1, 2019

Heider Garcia
Elections Administrator
Tarrant County
2700 Premier Street
Fort Worth, Texas 76111

Dear Mr. Garcia,

We are in receipt of a copy of the proposed contract between Tarrant County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.3.1 which includes Verity Controller, Verity Touch Writer Duo, Verity Scan, and Verity Central, firmware version 2.3.1. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems. Because the equipment identified in your proposed contract is currently certified for use in Texas, we officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

Enclosures

KI:CA

AMERICAN OVERSIGHT

From: Heider I. Garcia <HIGarcia@tarrantcounty.com>
Sent: Thursday, August 1, 2019 11:11 AM
To: Charles Pinney
Cc: Christina Adkins
Subject: RE: Letter for approval of acquisition of voting equipment

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Good morning Chuck,

I have received the attached documentation. Please convey our appreciation for the timely response to everyone involved in your office.

Regards,

Heider Garcia
Tarrant County Elections Administrator
2700 Premier Street
Fort Worth, Texas 76111
(817) 831-8683

From: Charles Pinney [mailto:CPinney@sos.texas.gov]
Sent: Thursday, August 1, 2019 10:16 AM
To: Heider I. Garcia <HIGarcia@tarrantcounty.com>
Cc: Christina Adkins <CAdkins@sos.texas.gov>
Subject: RE: Letter for approval of acquisition of voting equipment

EXTERNAL EMAIL ALERT! Think Before You Click!

Heider,

Please see the attached Approval Letter and Certification Order for Tarrant County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

AMERICAN OVERSIGHT

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Heider I. Garcia <HIGarcia@tarrantcounty.com>
Sent: Thursday, July 25, 2019 12:03 PM
To: Elections Internet <Elections@sos.texas.gov>
Cc: Charles Pinney <CPinney@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>
Subject: Letter for approval of acquisition of voting equipment

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Good morning,

Attached is a letter addressed to the Deputy Secretary of State, requesting approval for acquisition of new voting equipment.

Regards,

Heider Garcia
Tarrant County Elections Administrator
2700 Premier Street
Fort Worth, Texas 76111
(817) 831-8683





AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Friday, June 24, 2022 8:52 AM
To: Troy C. Havard
Subject: Re: Letter of authorization (EI Response)
Attachments: Hart - ECO 1524 - Approval Letter.pdf

Troy,

I've attached a copy of the approval letter that we provided to Hart for ECO 1524, which involved some optimizations to the Verity Scan and updated the version number for the Verity Scan software to 2.5.2. This approval letter authorizes a minor modification to the existing Verity 2.5 system that is already certified and for which you already received an approval letter. The county is not required to seek separate approval for this minor modification because it is considered a part of the Verity 2.5 system that you have already been approved to purchase and use.

I'm afraid I don't have a specific contact to pass on, but I would just generally say that all of the attorneys here are excellent attorneys that would be happy to assist you anytime. Please feel free to reach out to any of them if you need anything from this office.

It has been a pleasure working with you these last few years, and I wish you all the best on your future endeavors. Don't hesitate to reach out if you ever need anything from me.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Troy C. Havard <TCHavard@tarrantcounty.com>
Sent: Thursday, June 16, 2022 12:44 PM
To: Charles Pinney <CPinney@sos.texas.gov>
Subject: Letter of authorization

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Good afternoon.

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If you would please provide us with an authorization letter to upgrade our Hart Verity Scan's from their Verity version 2.5 to 2.5.2, I would appreciate it. We're contemplating having this done this summer.

Also, if you (and they) don't mind, I would appreciate it if you can give me a work cell phone number or two to contact since you're moving on to greener pastures! As I mentioned on the phone, it's always been a pleasure talking to you and you've always steered me in the right direction, so know you will be missed. Hopefully, we will speak again before you leave and I hope your new position brings you much success - if there's ever anything a peon in Tarrant County can do for you, please let me know.

Thank you, Sir and have a great rest of the week and weekend.

Have a blessed day!

Troy Havard
Assistant Elections Administrator, CERA
Tarrant County
CWO4 (ret) USMC
Office: 817-831-6463
Business Cell: 682-305-4568

"Direction, not intention, determines destination" – Andy Stanley

I would rather live my life as if there is a God and die to find out there isn't,
Than to live my life as if there isn't a God and die to find out there IS.

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

John B. Scott
Secretary of State

June 2, 2022

Tyson Gosch
Hart Intercivic
15500 Wells Port Drive
Austin, TX 78728

Dear Mr. Gosch:

Pursuant to Section 81.65 of the Texas Administrative Code, Hart Intercivic ("Hart") has submitted to our office a request for an administrative certification of a minor modification.

The proposed modification, ECO #1524, modifies the optimization process for Verity Scan devices to increase the frequency in which the Verity Scan system reorganizes those files stored on the device to optimize performance of the device and reduce the time require to scan individual ballots. This modification would result in an improvement to the overall scanning speed for Verity Scan devices.

We have reviewed the materials you provided with your request, including the SLI Compliance test reports. Our voting system examiners reviewed the information submitted and agree that Hart's proposed modifications do not warrant additional examination, and that a full certification review is not required.

Based on the information provided by Hart and the recommendations of the appointed examiners, I hereby certify Hart's request to allow these proposed modifications to Verity 2.5.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

AMERICAN OVERSIGHT

From: David Velez-Perez
Sent: Monday, October 16, 2023 12:28 PM
To: Peter Lichtenheld; Suzie Harvey; jlay@co.montgomery.tx.us
Cc: Christina Adkins; Charles Pinney; Kristi Hart
Subject: RE: Montgomery 2.7.6 upgrade approval request
Attachments: Montgomery County Approval.pdf

Hello team!
Let us know if we can assist with anything else.
Have a great weekend.

David Velez-Perez

Elections Security Trainer – Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

512-475-2859
1-800-252-VOTE (8683)

elections@sos.texas.gov | electionsecurity@sos.texas.gov | www.sos.texas.gov

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From: Peter Lichtenheld [redacted]
Sent: Monday, October 16, 2023 10:50 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>; Kristi Hart <KHart@sos.texas.gov>; David Velez-Perez <DVelez-Perez@sos.texas.gov>
Cc: Suzie Harvey <suzie.harvey@mctx.org>; jlay@co.montgomery.tx.us
Subject: Montgomery 2.7.6 upgrade approval request

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Christina and Team,

Please see attached request for approval of an upgrade to Verity 2.7.6 for Montgomery County. We look forward to your response.

AMERICAN OVERSIGHT

Peter Lichtenheld, CERA
Senior Vice President of Customer Success
Hart InterCivic
512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
https://www.hartintercivic.com/

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AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 16, 2023

Suzie Harvey
Montgomery County
9159 Airport Road
Conroe, Texas 77303

Dear Ms. Harvey,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Montgomery County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire the Hart Verity 2.7 voting system, which includes, Verity TouchWriter Duo, Verity Scan and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Wednesday, September 11, 2019 9:59 AM
To: Kunz, Matt
Cc: John Oldham; Christina Adkins
Subject: RE: SOS Approval of new voting system for Fort Bend County TX
Attachments: Fort Bend County - Approval Letter.pdf; EVS 6020 Certification Order.pdf

Hello,

Please see the attached Approval Letter and Certification Order for Fort Bend County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Kunz, Matt <[redacted]>
Sent: Tuesday, September 10, 2019 3:22 PM
To: Charles Pinney <CPinney@sos.texas.gov>
Cc: John Oldham <John.Oldham@fortbendcountytx.gov>
Subject: SOS Approval of new voting system for Fort Bend County TX

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Hi Charles.

Please approve the voting system upgrade for Fort Bend County TX.

Thanks for your help!

AMERICAN OVERSIGHT

Matt Kunz
Regional Sales Manager-Texas
Election Systems & Software
Phone: 832-622-6618
Email: [redacted]
Web: www.essvote.com

Maintaining voter confidence.

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

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Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

September 11, 2019

John Oldham
Fort Bend County
301 Jackson Street
Richmond, Texas 77469

Dear Mr. Oldham:

We are in receipt of a copy of the proposed contract between Fort Bend County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6020 which includes the ExpressVote ballot marking device, the ExpressTouch curbside DRE, the DS200 precinct scanner, and the DS450 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

David Whitley
Secretary of State

REPORT OF REVIEW OF ES&S EVS 6.0.2.0 AND THE EXPRESSVOTE XL

PRELIMINARY STATEMENT

On January 22, 2019, Election Systems & Software (the "Vendor") presented EVS 6.0.2.0 and the ExpressVote XL for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems; and
2. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Mr. Ryan Vassar, an employee of the Texas Attorney General.

On January 22, 2019, Mr. Watson, Mr. Pinney, Dr. Sneeringer, and Mr. Vassar were present and witnessed the installation of the EVS 6.0.2.0 software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. Mr. Pinney and Ms. Krystine Ramon, a staff attorney with the Office, examined the accessibility components of the ExpressVote XL.

After the accessibility review, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on the ExpressVote XL. The results were accumulated and later verified for accuracy by staff of the Secretary of State.

Examiner reports on the system are attached hereto and incorporated herein by reference.

On March 13, 2019, a public hearing was conducted in which interested persons were given an opportunity to express views for or against certification of the system.

BRIEF DESCRIPTION OF EVS 6.0.2.0 AND THE EXPRESSVOTE XL

The EVS 6.0.2.0 Voting System contains a new hardware component and an updated version of the reporting module in the ElectionWare software in previous versions of EVS that the Secretary of State certified on December 15, 2016, July 28, 2017, and November 15, 2018.

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EVS 6.0.2.0 (together with ExpressVote and ExpressTouch) has been evaluated at an accredited independent voting system testing laboratory for conformance to the 2005 Voluntary Voting System Guidelines. It has received Elections Assistance Commission (EAC) # ESSEVS6020 on October 4, 2018.

The components of EVS 6.0.2.0 are as follows:

Component	Version	Description
ExpressVote XL	1.0.0.0	Accessible ballot marker and precinct scanner
ExpressTouch	1.0.0.0	Accessible electronic vote capture and tabulation device
DS200	2.17.0.0	Precinct Scanner and Tabulator
DS450	3.1.0.0	Central Scanner and Tabulator
DS850	3.1.0.0	Central Scanner and Tabulator
ExpressVote HW 1.0	1.5.0.0	Accessible electronic ballot marker
ExpressVote HW 2.1	2.4.0.0	Accessible electronic ballot marker and precinct scanner
ElectionWare	5.0.1.0	Database system that allows jurisdictions to code, lay out ballots, and burn media
ES&S Event Log Service	1.6.0.0	Background function that monitors the functioning of Windows Event Viewer
ExpressVote Previewer 1.0	1.5.0.0	Allows user to preview screen and layout and audio for ExpressVote
ExpressVote Previewer 2.1	2.4.0.0	Allows user to preview screen and layout and audio for ExpressVote
Removable Media Service	1.5.0.0	Supports installation and removal of election and results media

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and Texas voting system examiner reports.

The EVS 6.0.2.0 Voting System and the ExpressVote XL ballot marking device and precinct scanner meet the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the EVS 6.0.2.0 and the ExpressVote XL components, among other things:

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1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting;
10. Are capable of permitting straight-party voting; and
11. Are capable of providing records from which the operation of the system may be audited.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify the EVS 6.0.2.0 Voting System and the ExpressVote XL for use in elections in Texas.

Signed under my hand and seal of office, this 28th day of MARCH, 2019.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Oldham, John <John.Oldham@fortbendcountytx.gov>
Sent: Thursday, September 12, 2019 2:43 PM
To: Charles Pinney; Kunz, Matt
Cc: Christina Adkins
Subject: RE: SOS Approval of new voting system for Fort Bend County TX

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Thank you Charles

John Oldham
Elections Administrator
4520 Reading Road
Rosenberg, TX 77471
(281) 341-8670
281-341-4418_fax

Fort Bend Votes!
Anywhere!

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Wednesday, September 11, 2019 9:59 AM
To: Kunz, Matt <[redacted]>
Cc: Oldham, John <John.Oldham@fortbendcountytx.gov>; Christina Adkins <CAdkins@sos.texas.gov>
Subject: RE: SOS Approval of new voting system for Fort Bend County TX

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Hello,

Please see the attached Approval Letter and Certification Order for Fort Bend County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

AMERICAN OVERSIGHT

1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Kunz, Matt <[redacted]>
Sent: Tuesday, September 10, 2019 3:22 PM
To: Charles Pinney <CPinney@sos.texas.gov>
Cc: John Oldham <John.Oldham@fortbendcountytx.gov>
Subject: SOS Approval of new voting system for Fort Bend County TX

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Hi Charles.

Please approve the voting system upgrade for Fort Bend County TX.

Thanks for your help!

Matt Kunz
Regional Sales Manager-Texas
Election Systems & Software
Phone: 832-622-6618
Email: [redacted]
Web: www.essvote.com

Maintaining voter confidence.

Enhancing the voting experience.

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From: David Velez-Perez
Sent: Thursday, August 24, 2023 1:14 PM
To: Peter Lichtenheld; Troy C. Havard
Cc: Christina Adkins; Charles Pinney; Kristi Hart
Subject: RE: Tarrant 2.7 upgrade approval request
Attachments: Tarrant Verity 2.7 Approval.pdf; TX2.7upgradeletter_TarrantAug2023.pdf

Importance: High

Good afternoon.

Please see enclosed letters for approval of Verity 2.7 acquisition.
Let us know if we can assist any further.

Thanks!

David Velez-Perez

Elections Security Trainer – Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

512-475-2859
1-800-252-VOTE (8683)

elections@sos.texas.gov | electionsecurity@sos.texas.gov | www.sos.texas.gov

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From: Peter Lichtenheld [redacted]
Sent: Thursday, August 24, 2023 10:52 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>; David Velez-Perez <DVelez-Perez@sos.texas.gov>
Cc: Troy C. Havard <TCHavard@tarrantcountytx.gov>
Subject: Tarrant 2.7 upgrade approval request

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AMERICAN OVERSIGHT

Christina, Chuck and David,

Please find attached the Verity version 2.7 upgrade approval request for Tarrant County, TX. We look forward to your response.

Peter Lichtenheld, CERA
Senior Vice President of Customer Success
Hart InterCivic
512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
https://www.hartintercivic.com/

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

August 24, 2023

Clinton Ludwig
Tarrant County
P.O. Box 961011
Fort Worth, Texas 76161

Dear Mr. Ludwig,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Tarrant County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire the Hart Verity 2.7 voting system, which includes, Verity TouchWriter Duo, Verity Scan, Verity Central, Verity Transmit and Verity Transmit Receiving Station. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

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August 24, 2023

Christina Worrell Adkins
Legal Director, Texas Secretary of State Elections Division
1019 Brazos Street
Austin, Texas 78701

Dear Christina,

This letter is to inform the Texas Secretary of State Elections Division of a "contract change" for the following customers. Hart InterCivic is upgrading the following Hart customers in Texas from their current Verity voting system version to the Texas approved version 2.7.

Please note:

- There is no change to the auto-renewing customer contract other than the version numbers (reflected below).
- There is no software or services charge to these customers for this upgrade, so there is no quote, invoice or new contract covering a fee.

Jurisdiction Name
Tarrant County, TX

Exhibit D

Hart Proprietary Software and Sublicensed Software

The Hart Proprietary Software licensed to Customer via annual subscription:

SOFTWARE/FIRMWARE NAME	VERSION NUMBER
Verity Controller	2.7.1
Verity TouchWriter Duo	2.7.1
Verity Scan	2.7.1
Verity Count	2.7.1
Verity Build	2.7.1
Verity Central	2.7.1
Verity Transmit	2.7.1
Verity Transmit Receiving Station	2.7.4

We will update you if there are any changes to this customer list.
We look forward to your approval/acknowledgement.

Sincerely,

Peter Lichtenheld
Senior VP of Customer Success

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Phone: 512-463-5650
Fax: 512-475-2811
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Jane Nelson
Secretary of State

REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.7 SYSTEM

PRELIMINARY STATEMENT

On March 1-2, 2023, and July 6, 2023, Hart InterCivic Inc. ("Hart" or the "Vendor") presented the Verity Voting 2.7 system for examination and certification. The examination was conducted in Austin, Texas at the Office of the Texas Secretary of State (the "Office"). Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Mr. Robert Thomson, an expert in electronic data communication systems; and
2. Mr. Austin Kinghorn, an employee of the Texas Attorney General.

On March 1, 2023, Mr. Mechler, Mr. Pinney, and Mr. Thomson witnessed the extraction of the trusted build and the installation of the Verity 2.7 software and firmware that the Office received directly from the Independent Testing Authority. The examiners, assisted by Office staff, compared the generated hashes from each device to the trusted hashes that the U.S. Election Assistance Commission ("EAC") provided to the Office. The hash validation was successful. Mr. Pinney, assisted by Office staff, conducted the examination of the accessibility components of the Verity Touch Writer Duo, Verity Touch Writer Duo Standalone, and Verity Touch Writer with Access devices.

On March 2, 2023, the Vendor demonstrated the system and answered questions presented by the examiners. After the vendor presentation, the examiners conducted a test election and tested other components of the system. The results of the test election were accumulated and verified for accuracy by Office staff.

On July 6, 2023, the examiners examined the Verity Transmit and Verity Transmit Receiving Station components of the system. The examiners conducted a test election using those components to verify the accuracy and security of the transmission process. The results of the test election were accumulated and verified for accuracy by Office staff.

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Examiner reports regarding the Verity Voting 2.7 system are attached hereto and incorporated herein by this reference.

On August 3, 2023, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing for interested persons to express views for or against the certification of the Verity Voting 2.7 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.7

The Verity Voting 2.7 system is an updated version of the Verity Voting 2.5 system, which the Office certified in April 2021 for use in Texas elections.

Verity Voting 2.7 includes software enhancements to the existing election management system and updates to other previously certified hardware components, including the Verity Touch Writer Duo, Verity Touch Writer Duo Standalone, and Verity Touch Writer with Access ballot marking devices, the Verity Scan precinct scanner, and the Verity Central central scanner. Verity Voting 2.7 also includes an additional software component (Verity Transmit) and an additional hardware component (Verity Transmit Receiving Station).

Verity Voting 2.7 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.7 was certified by the EAC on June 7, 2022.

The components of Verity Voting 2.7 are as follows:

Component	Version	Description
Verity Data	2.7.1	Election management software
Verity Build	2.7.1	Election management software
Verity Count	2.7.1	Election management software
Verity Central	2.7.1	Central scanner
Verity User Management	2.7.1	Election management software
Verity Election Management	2.7.1	Election management software
Verity Desktop	2.7.1	Election management software
Verity Scan	2.7.1	Precinct scanner
Verity Touch Writer with Access	2.7.1	Ballot marking device
Verity Controller	2.7.1	Voting machine ballot activation device
Verity Touch Writer Duo	2.7.1	Ballot marking device

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Verity Touch Writer Duo Standalone	2.7.1	Ballot marking device
Verity Transmit	2.7.1	Election management software
Verity Transmit Receiving Station	2.7.4[1]	Election management software

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.7 system for use in Texas elections, subject to the condition outlined below).

The Verity Voting 2.7 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.7 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting; and
10. Are capable of providing records from which the operation of the voting system may be audited.

CONDITIONS

The Secretary of State imposes the following condition on the certification of the Verity Voting 2.7 system:

1. The Verity Transmit module must be used in accordance with the procedures prescribed by the Secretary of State under Section 127.1231(b) of the Texas Election Code for the

[1] In the course of the examination of the Verity Voting 2.7 system, the examiners also reviewed Engineering Change Order ("ECO") 1605, which was a minor modification to the Verity Transmit module. That modification updated the version number of the Verity Transmit Receiving Station component from 2.7.1 to 2.7.4. The modification designated as ECO 1605 is hereby approved as part of this certification order.

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module to be considered within the scope of the certification of the Verity Voting 2.7 system.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.7 system for use in Texas elections, subject to the above condition.

Signed under my hand and seal of office, this 24th day of August, 2023.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Thursday, August 31, 2023 1:31 PM
To: Peter Lichtenheld
Cc: Troy C. Havard; Hart Support; Christina Adkins; David Velez-Perez
Subject: Re: Tarrant 2.7.2 request
Attachments: Tarrant County - Verity 2.7.2 Upgrade - Approval Letter.pdf; Hart - ECO 1565 - SOS Approval Letter.pdf; Hart Verity 2.7 Certification Order.pdf

Hello,

Please see the attached Approval Letter for Tarrant County, the Certification Order for Verity 2.7, and the Approval Letter for ECO-1565.

Based on my conversation with Troy on the phone today, it sounds like you're just looking to proceed with this upgrade for now. If you'd like to perform the upgrade for the modification in ECO-1599 at a later date, then please send us an updated upgrade letter and we can provide you with an approval letter for that upgrade.

Please let me know if you have any questions about this or any issues with the attachments.

Thanks,

Chuck Pinney
Senior Staff Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
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From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Thursday, August 31, 2023 12:10 PM
To: Peter Lichtenheld [redacted]>
Cc: Troy C. Havard <TCHavard@tarrantcountytx.gov>; Hart Support <hartsupport@hartic.com>; Christina Adkins <CAdkins@sos.texas.gov>; David Velez-Perez <DVelez-Perez@sos.texas.gov>
Subject: Re: Tarrant 2.7.2 request

Pete,

Just wanted to check - are you also looking to implement the multi-column ballot format modification from ECO-1599 for Tarrant County as well? That ECO has also been approved, but the version numbers for Data, Build, Central, and Scan would be 2.7.5 if so. No problem if that's not part of this upgrade, but we can issue an approval letter for both modifications if so.

Let me know if you want to do and we can provide you with the appropriate approval letter.

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Thanks,

Chuck Pinney
Senior Staff Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
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elections@sos.texas.gov | www.sos.texas.gov
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From: Peter Lichtenheld [redacted]
Sent: Thursday, August 31, 2023 11:23 AM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>; David Velez-Perez <DVelez-Perez@sos.texas.gov>
Cc: Troy C. Havard <TCHavard@tarrantcountytx.gov>; Hart Support <hartsupport@hartic.com>
Subject: Tarrant 2.7.2 request

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Christina, Chuck and David,

Please find attached the Verity version 2.7.2 upgrade approval request for Tarrant County, TX. We look forward to your response.



Peter Lichtenheld, CERA
Senior Vice President of Customer Success
Hart InterCivic
512.632.3079 (m) | 866.275.4278 (help desk)
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https://www.hartintercivic.com/

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

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Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

August 31, 2023

Clinton Ludwig
Tarrant County
P.O. Box 961011
Fort Worth, Texas 76161

Dear Mr. Ludwig,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Tarrant County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to receive an upgrade to their current Verity 2.7 system to upgrade their Verity Controller and Verity Touch Writer Duo devices from version 2.7.1 to version 2.7.2, which includes a de minimis change previously authorized by our office. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed are copies of the certification order that pertains to these systems and the approval letter for the modification.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:CP

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

August 31, 2023

Tyson Gosch
Hart Intercivic
3800 Quick Hill Rd., Suite 200
Austin, TX 78728

Dear Mr. Gosch:

Pursuant to Section 81.65 of the Texas Administrative Code, Hart Intercivic ("Hart") has submitted to our office a request for an administrative certification of a minor modification.

The proposed modification, ECO #1565, is designed to address a networking issue between the Verity Duo and Verity Controller devices where the Duo device was unable to connect to the Verity Controller device in a timely manner, which caused delays in opening the polling place. This modification is similar to a previous modification to the Verity 2.5 system, ECO-1551, that was previously approved by our office on September 6, 2022.

This modification will also update the version number for the Verity Duo and Verity Controller components from 2.7.1 to 2.7.2.

We have reviewed the materials you provided with your request, including the SLI Compliance test reports. Our voting system examiners reviewed the information submitted and agree that Hart's proposed modification does not warrant additional examination, and that a full certification review is not required.

Based on the information provided by Hart and the recommendations of the appointed examiners, I hereby certify Hart's request to allow the proposed modification to Verity 2.7 in ECO #1565.

If you need additional information, please contact the Elections Division at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
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Dial 7-1-1 For Relay Services
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Jane Nelson
Secretary of State

REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.7 SYSTEM

PRELIMINARY STATEMENT

On March 1-2, 2023, and July 6, 2023, Hart InterCivic Inc. ("Hart" or the "Vendor") presented the Verity Voting 2.7 system for examination and certification. The examination was conducted in Austin, Texas at the Office of the Texas Secretary of State (the "Office"). Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Mr. Robert Thomson, an expert in electronic data communication systems; and
2. Mr. Austin Kinghorn, an employee of the Texas Attorney General.

On March 1, 2023, Mr. Mechler, Mr. Pinney, and Mr. Thomson witnessed the extraction of the trusted build and the installation of the Verity 2.7 software and firmware that the Office received directly from the Independent Testing Authority. The examiners, assisted by Office staff, compared the generated hashes from each device to the trusted hashes that the U.S. Election Assistance Commission ("EAC") provided to the Office. The hash validation was successful. Mr. Pinney, assisted by Office staff, conducted the examination of the accessibility components of the Verity Touch Writer Duo, Verity Touch Writer Duo Standalone, and Verity Touch Writer with Access devices.

On March 2, 2023, the Vendor demonstrated the system and answered questions presented by the examiners. After the vendor presentation, the examiners conducted a test election and tested other components of the system. The results of the test election were accumulated and verified for accuracy by Office staff.

On July 6, 2023, the examiners examined the Verity Transmit and Verity Transmit Receiving Station components of the system. The examiners conducted a test election using those components to verify the accuracy and security of the transmission process. The results of the test election were accumulated and verified for accuracy by Office staff.

AMERICAN OVERSIGHT

Examiner reports regarding the Verity Voting 2.7 system are attached hereto and incorporated herein by this reference.

On August 3, 2023, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing for interested persons to express views for or against the certification of the Verity Voting 2.7 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.7

The Verity Voting 2.7 system is an updated version of the Verity Voting 2.5 system, which the Office certified in April 2021 for use in Texas elections.

Verity Voting 2.7 includes software enhancements to the existing election management system and updates to other previously certified hardware components, including the Verity Touch Writer Duo, Verity Touch Writer Duo Standalone, and Verity Touch Writer with Access ballot marking devices, the Verity Scan precinct scanner, and the Verity Central central scanner. Verity Voting 2.7 also includes an additional software component (Verity Transmit) and an additional hardware component (Verity Transmit Receiving Station).

Verity Voting 2.7 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.7 was certified by the EAC on June 7, 2022.

The components of Verity Voting 2.7 are as follows:

Component	Version	Description
Verity Data	2.7.1	Election management software
Verity Build	2.7.1	Election management software
Verity Count	2.7.1	Election management software
Verity Central	2.7.1	Central scanner
Verity User Management	2.7.1	Election management software
Verity Election Management	2.7.1	Election management software
Verity Desktop	2.7.1	Election management software
Verity Scan	2.7.1	Precinct scanner
Verity Touch Writer with Access	2.7.1	Ballot marking device
Verity Controller	2.7.1	Voting machine ballot activation device
Verity Touch Writer Duo	2.7.1	Ballot marking device

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Verity Touch Writer Duo Standalone	2.7.1	Ballot marking device
Verity Transmit	2.7.1	Election management software
Verity Transmit Receiving Station	2.7.4[1]	Election management software

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.7 system for use in Texas elections, subject to the condition outlined below).

The Verity Voting 2.7 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.7 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting; and
10. Are capable of providing records from which the operation of the voting system may be audited.

CONDITIONS

The Secretary of State imposes the following condition on the certification of the Verity Voting 2.7 system:

1. The Verity Transmit module must be used in accordance with the procedures prescribed by the Secretary of State under Section 127.1231(b) of the Texas Election Code for the

[1] In the course of the examination of the Verity Voting 2.7 system, the examiners also reviewed Engineering Change Order ("ECO") 1605, which was a minor modification to the Verity Transmit module. That modification updated the version number of the Verity Transmit Receiving Station component from 2.7.1 to 2.7.4. The modification designated as ECO 1605 is hereby approved as part of this certification order.

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module to be considered within the scope of the certification of the Verity Voting 2.7 system.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.7 system for use in Texas elections, subject to the above condition.

Signed under my hand and seal of office, this 24th day of August, 2023.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: David Velez-Perez
Sent: Friday, October 13, 2023 5:20 PM
To: Peter Lichtenheld
Cc: 'Troy C. Havard'; Hart Support; Christina Adkins; Charles Pinney; Kristi Hart
Subject: RE: Tarrant 2.7.6 request
Attachments: Verity 2.7.6 Upgrades-Tarrant.pdf

Hello team!
Let us know if we can assist with anything else.
Have a great weekend.

David Velez-Perez

Elections Security Trainer – Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

512-475-2859
1-800-252-VOTE (8683)

elections@sos.texas.gov | electionsecurity@sos.texas.gov | www.sos.texas.gov

For Voter Related Information, please visit:

VOTETEXAS.GOV
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From: Peter Lichtenheld [redacted]
Sent: Thursday, October 12, 2023 3:43 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>; David Velez-Perez <DVelez-Perez@sos.texas.gov>; Kristi Hart <KHart@sos.texas.gov>
Cc: 'Troy C. Havard' <TCHavard@tarrantcountytx.gov>; Hart Support <hartsupport@hartic.com>
Subject: Tarrant 2.7.6 request

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Christina and Team,

Please find attached the Verity upgrade approval request for Tarrant County, TX. We look forward to your response.

HART intercivic

Peter Lichtenheld, CERA

AMERICAN OVERSIGHT

Senior Vice President of Customer Success
Hart InterCivic
512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
https://www.hartintercivic.com/

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 13, 2023

Clinton Ludwig
Tarrant County
P.O. Box 961011
Fort Worth, Texas 76161

Dear Mr. Ludwig,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Tarrant County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates that the county plans to receive an upgrade from their current version of Verity Scan and Verity Central to version 2.7.6, which includes a de minimis change previously authorized by our office. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Wednesday, November 24, 2021 8:43 AM
To: Peter Lichtenheld
Cc: Hieder Garcia (higarcia@tarrantcounty.com); Troy C. Havard; Christina Adkins
Subject: Re: Tarrant upgrade to Verity 2.5 (EI Response)
Attachments: Tarrant County - Approval Letter.pdf; Hart Verity 2.5 Certification Order.pdf

Hello,

Please see the attached Approval Letter and Certification Order for Tarrant County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Peter Lichtenheld [redacted]
Sent: Thursday, November 18, 2021 1:55 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Hieder Garcia (higarcia@tarrantcounty.com) <higarcia@tarrantcounty.com>; Troy C. Havard <TCHavard@tarrantcounty.com>
Subject: Tarrant upgrade to Verity 2.5

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Christina and Chuck,

Good afternoon again. Please see attached configuration change for Tarrant County. This is only a version upgrade to Verity 2.5.

HART intercivic
Peter Lichtenheld, CERA

AMERICAN OVERSIGHT

Senior Vice President of Customer Success
Hart InterCivic
512.252.6578 (o) | 512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
https://www.hartintercivic.com/

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AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

John B. Scott
Secretary of State

November 24, 2021

Heider Garcia
Tarrant County
P.O. Box 961011
Fort Worth, Texas 76161

Hello,

We are in receipt of a copy of the proposed contract between Tarrant County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.5, which includes Verity Touch Writer Duo, Verity Scan, and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.5 SYSTEM

PRELIMINARY STATEMENT

On January 4-8, 2021, Hart Intercivic Inc. ("Hart" or the "Vendor") presented the Verity Voting 2.5 system for examination and certification. The examination was conducted in Austin, Texas at the Office of the Secretary of State (the "Office"). Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Ms. Lesley French, an employee of the Texas Attorney General.

At the time of the examination, the Office of the Secretary of State was closed to the public due to health and safety concerns relating to the novel coronavirus (COVID-19). As a result, certain procedures were implemented for the examination of the Verity Voting 2.5 system. For example, the examination was held in a manner that allowed some of the examiners to participate in person and other examiners to attend remotely via live video conference. The examiners who were not physically present in the exam room on a specific day were able to view the other examiners' interactions with the equipment and ask questions to the in-person examiners and the vendor. Each examiner had the opportunity to examine the equipment in person for at least one day during the exam week.

On January 4-5, 2021, Mr. Pinney was present to witness the extraction of the trusted build and the installation of the Verity 2.5 software and firmware that the Secretary of State's office received directly from the Independent Testing Authority. The other examiners observed this process remotely by watching the live video conference.

On January 6, 2021, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device by Mr. Pinney and Mr. Hurley. The results were accumulated and later verified for accuracy by staff of the Secretary of State's office. Mr. Pinney and Mr. Hurley also examined the accessibility components of the Verity Voting 2.5 system.

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On January 7, 2021, Mr. Watson and Mr. Mechler conducted an in-person examination of the system. Ms. French conducted an in-person examination of the system on January 8.

Examiner reports regarding the Verity Voting 2.5 system are attached hereto and incorporated herein by this reference.

On March 4, 2021, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing, by telephone, for interested persons to express views for or against the certification of the Verity Voting 2.5 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.5

The Verity Voting 2.5 system is an updated version of the Verity Voting 2.4 system, which the Office certified in June 2020 for use in Texas elections. The updated version includes enhancements to the existing hardware and software components of the Verity voting system.

Verity Voting 2.5 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.5 was certified by the Election Assistance Commission (EAC) on September 9, 2020.

The components of Verity Voting 2.5 are as follows:

Component	Version	Description
Verity Data	2.5.0	Election management software
Verity Build	2.5.0	Election management software
Verity Count	2.5.0	Election management software
Verity Central	2.5.1	Central scanner
Verity User Management	2.5.0	Election management software
Verity Election Management	2.5.0	Election management software
Verity Desktop	2.5.0	Election management software
Verity Scan	2.5.1	Precinct scanner
Verity Touch Writer with Access	2.5.1	Ballot marking device
Verity Controller	2.5.1	Voting machine ballot activation device
Verity Touch	2.5.1	Direct-recording electronic voting machine
Verity Touch with Access	2.5.1	Direct-recording electronic voting machine
Verity Touch Writer Duo	2.5.1	Ballot marking device

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Verity Touch Writer Duo Standalone	2.5.1	Ballot marking device

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.5 system for use in Texas elections).

The Verity Voting 2.5 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.5 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting; and
10. Are capable of providing records from which the operation of the voting system may be audited.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.5 system for use in Texas elections.

Signed under my hand and seal of office, this 1st day of APRIL 2021.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Thursday, January 21, 2021 5:03 PM
To: Tumati, Neeharika (EAD); Christina Adkins; Keith Ingram
Cc: Longoria, Isabel (EAD); Stevens, Beth (EAD); James, Tyler (EAD); Lemond, Scott (CAO)
Subject: Re: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY
Attachments: Harris County - Approval Letter.pdf; Hart Verity 2.4 Certification Order.pdf

Hello,

Please see the attached Certification Order and Approval Letter for Harris County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>
Sent: Thursday, January 21, 2021 4:36 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>; Keith Ingram <KIngram@sos.texas.gov>
Cc: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>; Stevens, Beth (EAD) <Beth.Stevens@vote.hctx.net>; James, Tyler (EAD) <Tyler.James@vote.hctx.net>; Lemond, Scott (CAO) <Scott.Lemond@cao.hctx.net>
Subject: RE: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY

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Hello Christina and team:

- The first attachment (pg.2) is the portion of the contract that contains a list of the hardware & software that is being acquired along with their version numbers.
- The second attachment is a list of quantities being purchased for each type of hardware.

Please let us know if we need to submit any other documents or items. We look forward to receiving the approval letter and a copy of the certification order.

AMERICAN OVERSIGHT

Thank you for your help!

Neeharika Tumati
Director of Compliance

Office of Isabel Longoria
Elections Administrator, Harris County
1001 Preston, 4th Floor
Houston, TX 77002
Office: 713-274-9814
ntumati@cco.hctx.net

From: Christina Adkins [mailto:CAdkins@sos.texas.gov]
Sent: Thursday, January 21, 2021 1:54 PM
To: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Stevens, Beth (EAD) <Beth.Stevens@vote.hctx.net>
Subject: RE: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY

We will be on the lookout for them. Also, congrats on moving forward with a new system!

From: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>
Sent: Thursday, January 21, 2021 1:53 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Stevens, Beth (EAD) <Beth.Stevens@vote.hctx.net>
Subject: RE: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY

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Thank you Christina. We will get the documents together and send them to you shortly.

Neeharika Tumati
Director of Compliance

Office of Isabel Longoria
Elections Administrator, Harris County
1001 Preston, 4th Floor
Houston, TX 77002
Office: 713-274-9814
ntumati@cco.hctx.net

From: Christina Adkins [mailto:CAdkins@sos.texas.gov]
Sent: Thursday, January 21, 2021 1:50 PM
To: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>; Charles Pinney <CPinney@sos.texas.gov>

AMERICAN OVERSIGHT

Cc: Stevens, Beth (EAD) <Beth.Stevens@vote.hctx.net>
Subject: RE: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY

Neeharika,

Thanks for the email. You would need to provide the portion of the contract that contains a list of the hardware and software that is being acquired along with their version numbers. We are also now asking for the quantities being purchased of each type of hardware.

When you submit that information to our office, we'll make sure that the versions you are acquiring have been certified by the Secretary of State's office. We'll then provide you with an approval letter and a copy of the certification order.

We have a pretty quick turnaround on this as the vendors are pretty good about getting you all the right information to pass along.

Let us know if you have any additional questions or concerns.

Thanks,

Christina

From: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>
Sent: Thursday, January 21, 2021 1:46 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Stevens, Beth (EAD) <Beth.Stevens@vote.hctx.net>
Subject: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY
Importance: High

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Hello Christina:

I hope this email finds you well. Harris County is in the process of acquiring new voting system equipment. I am reaching out on behalf of the Elections Administrator's Office to:

- ascertain which documents are required to be submitted to the SOS for approval, ("identifying information that the secretary needs to determine whether the version of the system and equipment being acquired under the contract complies with the applicable requirements." TEC 123.035).
- Whether there is anything else our office needs to complete or provide to the SOS?

We appreciate your prompt attention to this matter.

Neeharika Tumati
Director of Compliance

Office of Isabel Longoria
Elections Administrator, Harris County
1001 Preston, 4th Floor
Houston, TX 77002

AMERICAN OVERSIGHT

Office: 713-274-9814
ntumati@cco.hctx.net

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

January 21, 2021

Isabel Longoria
Elections Administrator
Harris County
P.O. Box 1148
Houston, Texas 77251

Dear Ms. Longoria,

We are in receipt of a copy of the proposed contract between Harris County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.4, which includes Verity Touch Writer Duo, Verity Scan, and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

KI:CP

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

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Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.4 SYSTEM

PRELIMINARY STATEMENT

On April 13-17, 2020, Hart InterCivic Inc. ("Hart" or the "Vendor") presented Verity Voting 2.4 for examination and certification. The examination was conducted at Hart's offices in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Ms. Lesley French, an employee of the Texas Attorney General.

At the time of the examination, the Office of the Secretary of State was closed to the public due to health and safety concerns relating to the novel coronavirus (COVID-19). As a result, the examination of the Verity Voting 2.4 system was conducted at Hart's offices and certain procedures were implemented for the examination. For example, the examination was held over the course of five days, with no more than two examiners attending in person each day (rather than a traditional two-day examination with all examiners present at once). The examiners who were not physically present in the exam room were able to participate remotely via live video conference that allowed them to view the other examiners' interactions with the equipment and ask questions to the in-person examiners and the vendor. Each examiner had the opportunity to examine the equipment in person for at least one day during the exam week.

The Secretary of State's office also instituted social distancing and protective gear guidelines based on recommendations from the Centers for Disease Control and Prevention in response to COVID-19. The equipment was secured during the week of the examination using serialized seals on the door of the exam room, and a constant livestream video feed of the exam room was accessible to the examiners at any time throughout the exam week.

On April 13 and 14, 2020, Mr. Pinney was present at Hart's offices to witness the installation of the Verity Voting 2.4 software and firmware that the Secretary of State's office received directly from

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the Independent Testing Authority. The other examiners observed this process remotely by watching the livestream footage.

On April 15, 2020, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device by Mr. Pinney and Mr. Hurley. The results were accumulated and later verified for accuracy by staff of the Secretary of State's office. Mr. Pinney and Mr. Hurley also examined the accessibility components of the Verity Voting 2.4 system.

On April 16, 2020, Dr. Sneeringer and Ms. French conducted their in-person examination of the system. Mr. Watson and Mr. Mechler conducted their in-person examinations on April 17.

Examiner reports regarding the Verity Voting 2.4 system are attached hereto and incorporated herein by this reference.

On June 10, 2020, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing, by telephone, for interested persons to express views for or against the certification of the Verity Voting 2.4 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.4

The Verity Voting 2.4 system is an updated version of the Verity Voting 2.3 system, which the Office conditionally certified in July 2019 for use in Texas elections. The updated version includes enhancements to the existing hardware and software components of the Verity system.

Verity Voting 2.4 has been evaluated at an accredited independent voting system testing laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.4 was certified by the U.S. Election Assistance Commission (EAC) on February 21, 2020.

The components of Verity Voting 2.4 are as follows:

Component	Version	Description
Verity Data	2.4	Election management software
Verity Build	2.4	Election management software
Verity Count	2.4	Election management software
Verity Central	2.4	Central scanner
Verity User Management	2.4	Election management software
Verity Election Management	2.4	Election management software
Verity Desktop	2.4	Election management software

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Verity Scan	2.4	Precinct scanner
Verity Touch Writer with Access	2.4	Ballot marking device
Verity Controller	2.4	Voting machine ballot activation device
Verity Touch	2.4	Direct-recording electronic voting machine
Verity Touch with Access	2.4	Direct-recording electronic voting machine
Verity Touch Writer Duo	2.4	Ballot marking device

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.4 system for use in Texas elections).

The Verity Voting 2.4 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.4 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting;
10. Are capable of permitting straight-party voting; and
11. Are capable of providing records from which the operation of the system may be audited.

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CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.4 system for use in Texas elections.

Signed under my hand and seal of office, this 26th day of JUNE 2020.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>
Sent: Thursday, January 21, 2021 4:37 PM
To: Christina Adkins; Charles Pinney; Keith Ingram
Cc: Longoria, Isabel (EAD); Stevens, Beth (EAD); James, Tyler (EAD); Lemond, Scott (CAO)
Subject: RE: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY
Attachments: Harris Co _Version Numbers for SOS.pdf; Harris Co_Quantities for SOS_2.pdf

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Hello Christina and team:

- The first attachment (pg.2) is the portion of the contract that contains a list of the hardware & software that is being acquired along with their version numbers.
- The second attachment is a list of quantities being purchased for each type of hardware.

Please let us know if we need to submit any other documents or items. We look forward to receiving the approval letter and a copy of the certification order.

Thank you for your help!

Neeharika Tumati
Director of Compliance

Office of Isabel Longoria
Elections Administrator, Harris County
1001 Preston, 4th Floor
Houston, TX 77002
Office: 713-274-9814
ntumati@cco.hctx.net

From: Christina Adkins [mailto:CAdkins@sos.texas.gov]
Sent: Thursday, January 21, 2021 1:54 PM
To: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Stevens, Beth (EAD) <Beth.Stevens@vote.hctx.net>
Subject: RE: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY

We will be on the lookout for them. Also, congrats on moving forward with a new system!

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Sent: Thursday, January 21, 2021 1:53 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
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Subject: RE: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY

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Thank you Christina. We will get the documents together and send them to you shortly.

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To: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>; Charles Pinney <CPinney@sos.texas.gov>
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Thanks,

Christina

From: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>
Sent: Thursday, January 21, 2021 1:46 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Stevens, Beth (EAD) <Beth.Stevens@vote.hctx.net>
Subject: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY
Importance: High

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Hello Christina:

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1001 Preston, 4th Floor
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AMERICAN OVERSIGHT

HART intercivic™

VERITY

MASTER AGREEMENT

This Master Agreement ("**Agreement**"), entered into effective as of _____, 202__ ("the **Effective Date**") by and between Hart InterCivic, Inc., a Texas corporation ("**Hart**") and the Customer set forth below ("**Customer**"), sets forth the terms and conditions pursuant to which Customer may procure from Hart certain hardware ("**Hardware**"), software ("**Software**") licenses and support services ("**Software Support Services**"), warranty services ("**Warranty Services**"), and/or design, engineering, software development, project management, operational training, election event support, and/or other services ("**Professional Services**"), from time to time. Hardware and Software may be referred to as "**Products**" and Warranty Services, Software Support Services and/or Professional Services may be referred to as "**Services**." Products may be "**Hart Hardware**," and "**Hart Proprietary Software**," (i.e. "**Hart Products**") or "**Third Party Hardware**" and "**Sublicensed Software**" (i.e. "**Third Party Products**"). The foregoing may be referred to together as the "**Verity system**."

Hart agrees to sell or provide to Customer Products and Services according to this Agreement, which includes all Schedules, Attachments and Exhibits. Customer agrees to all terms and conditions of this Agreement. Pricing and other material terms of Customer's initial commitment are as set forth in the Schedule A or Customer Signed Quote attached hereto as **Exhibit A**. This Agreement and Hart's quotations issued hereunder together comprise the complete and exclusive Agreement for the sale of the Products and the provision of the Services. No other terms and conditions sent by Customer shall apply, including any terms or conditions contained in any purchase order, request for quote (RFQ), request for proposal (RFP), communication or other operational form that is in addition to or different than the terms and conditions of this Agreement. Any of Customer's terms and conditions that are different from or in addition to those contained herein are hereby objected to and shall be of no effect unless specifically agreed to in writing by an officer of Hart. Customer acknowledges it has read and understands this Agreement (including all Schedules, Attachments and Exhibits) and is entering into this Agreement only on the basis of the terms set forth in this Agreement (including all Schedules, Attachments and Exhibits).

Agreed and Accepted:

Customer	**Hart**
Jurisdiction: _____	
Name: _____	Hart InterCivic, Inc.
Address: _____	15500 Wells Port Drive
_____	Austin, Texas 78728
_____	Attn.: Julie Mathis, CEO
Phone: _____	800-223-4278
Facsimile: _____	800-831-1485
E-mail: _____	jmathis@hartic.com
Executed By: _____	
Name: _____	Julie Mathis
Title: _____	President & CEO

This Agreement is not effective until executed by both parties.
Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement.

AMERICAN OVERSIGHT

Exhibit D

HART PROPRIETARY SOFTWARE AND SUBLICENSED SOFTWARE

Hart Proprietary Software Licensed to Customer via annual subscription may include the following. Actual software and firmware licensed is indicated in the quote or response associated with this Agreement:

SOFTWARE/FIRMWARE NAME	VERSION NUMBER
Verity Build	2.4.2
Verity Count	2.4.2
Verity Central	2.4.2
Verity Data	2.4.2
Verity Desktop	2.4.2
Verity User Management	2.4.2
Verity Election Management	2.4.2
Verity Scan	2.4.2
Verity Controller	2.4.2
Verity Touch Writer Duo	2.4.2

Licensed Location is the jurisdiction named on the signature page of this Agreement. Any future releases or updates to the software versions listed above will be documented in Hart Release Notes and Version Verification documents. Such releases and updates shall be considered Hart Proprietary Software licensed under this Agreement.

Software Sublicensed to Customer via annual subscription:

None

(The rest of this page has been intentionally left blank.)

AMERICAN OVERSIGHT

Harris County, TX - Order Quantities

Product	BAFO Qty
Verity Controller	1,000
Verity Duo	12,000
Verity Scan	1,000
Verity Transmit	10
Software Applications	1
Verity Build	1
Verity Central	3
Verity Count	2
Verity Relay	1
Canon DR-G2140 Central Scanner	3
Okidata B432dn Printer w/ Starter Cartridge	5
Okidata C931e Ballot Printer w/ Starter Cartridges	1
Verity Workstation w/ 24" Flat Panel Monitor	7
AutoBallot Kit	1,000
Verity Ballot Box w/ Transport Bag and Privacy Screens	1,000
Secure Ballot Transport Bag	1,000
Verity Ballot Box Lock Kit	100
Verity Standard Booth w/ Transport Bag and Privacy Screens	10,000
Verity Accessible Booth w/ Transport Bag and Privacy Screens	2,000
Verity Access (ATI Module)	2,000
Verity Headphones	2,000
Verity Curbside	767
Thermal Ballot Stock, 8.5" x 11"	16,000
vDrive	3,010
Verity Key	20
All Necessary Labor for Turnkey Solution and Training for Election Equipment and Software System Roll-Out	
Preventative Maintenance, Warranty, Help Desk (12 Years)	
License & Support Fees (12 Years)	
HVS Buy Back Discount	

Optional Items Recommended to Support May and Nov 2021 Elections

Product	Recommended Qty
Duo Cleaning Kit	550
Spare Verity Voting Device Battery	420
Spare Verity Power Cord	420
Spare Verity Power Supply	420
Spare Daisy Chain Cable	600
Battery Charger, 6 Bay	100
Storage Solution - Caddy, 5' Wide	1,840
vDrive Duplicator, 23 Port	5
Toner Cartridge, Okidata B432dn, Black	20
Toner Cartridge, Okidata C931e, Black	4

AMERICAN OVERSIGHT

From: Christina Adkins
Sent: Thursday, January 21, 2021 1:54 PM
To: Tumati, Neeharika (EAD); Charles Pinney
Cc: Stevens, Beth (EAD)
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AMERICAN OVERSIGHT

Office of Isabel Longoria
Elections Administrator, Harris County
1001 Preston, 4th Floor
Houston, TX 77002
Office: 713-274-9814
ntumati@cco.hctx.net

AMERICAN OVERSIGHT

From: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>
Sent: Thursday, January 21, 2021 5:10 PM
To: Charles Pinney; Christina Adkins; Keith Ingram
Cc: Longoria, Isabel (EAD); Stevens, Beth (EAD); James, Tyler (EAD); Lemond, Scott (CAO)
Subject: RE: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY

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Chuck:

Thank you very much!

Neeharika Tumati
Director of Compliance

Office of Isabel Longoria
Elections Administrator, Harris County
1001 Preston, 4th Floor
Houston, TX 77002
Office: 713-274-9814
ntumati@cco.hctx.net

From: Charles Pinney [mailto:CPinney@sos.texas.gov]
Sent: Thursday, January 21, 2021 5:03 PM
To: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>; Christina Adkins <CAdkins@sos.texas.gov>; Keith Ingram <KIngram@sos.texas.gov>
Cc: Longoria, Isabel (EAD) <Isabel.Longoria@vote.hctx.net>; Stevens, Beth (EAD) <Beth.Stevens@vote.hctx.net>; James, Tyler (EAD) <Tyler.James@vote.hctx.net>; Lemond, Scott (CAO) <Scott.Lemond@cao.hctx.net>
Subject: Re: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY

Hello,

Please see the attached Certification Order and Approval Letter for Harris County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

AMERICAN OVERSIGHT

The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>
Sent: Thursday, January 21, 2021 4:36 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>; Keith Ingram <KIngram@sos.texas.gov>
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ntumati@cco.hctx.net

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Tuesday, November 15, 2022 4:24 PM
To: Peter Lichtenheld
Cc: Christina Adkins; Clifford.Tatum@vote.hctx.net; Hart Support; Drew Stewart; Rob Blake; David Velez-Perez
Subject: Re: Upgrade approval for 2.5.3 in Harris County
Attachments: Harris Verity 2.5.3 Upgrade - Approval Letter.pdf; Hart Verity 2.5 Certification Order.pdf; Hart ECO-01551 SOS Approval letter.pdf

Hello,

Please see the attached Approval Letter and Certification Order for Harris County. I have also attached a copy of the letter approving the de minimis change for this version of Verity.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Senior Staff Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:

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From: Peter Lichtenheld [redacted]
Sent: Monday, November 14, 2022 4:59 PM
To: Charles Pinney <CPinney@sos.texas.gov>
Cc: Christina Adkins <CAdkins@sos.texas.gov>; Clifford.Tatum@vote.hctx.net <Clifford.Tatum@vote.hctx.net>; Hart Support <hartsupport@hartic.com>; Drew Stewart [redacted]; Rob Blake [redacted]>; David Velez-Perez <DVelez-Perez@sos.texas.gov>
Subject: RE: Upgrade approval for 2.5.3 in Harris County

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Chuck,

I got an OOO message from David just now (I didn't when I first sent this on 11/10). Since David's not back until after 11/28, can you process this request, please?

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Harris does not appear to have Dec runoffs, and they'd like to get this upgrade accomplished in early December.

Peter Lichtenheld, CERA
SVP of Customer Success
Hart InterCivic
512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
https://www.hartintercivic.com/

From: Peter Lichtenheld
Sent: Monday, November 14, 2022 16:39
To: David Velez-Perez dvelez-perez@sos.texas.gov
Cc: Christina Adkins (cadkins@sos.texas.gov) <cadkins@sos.texas.gov>; Chuck Pinney (cpinney@sos.texas.gov) <cpinney@sos.texas.gov>; 'Clifford.Tatum@vote.hctx.net' <Clifford.Tatum@vote.hctx.net>; Hart Support <hartsupport@hartic.com>; Drew Stewart [redacted]>; Rob Blake [redacted]
Subject: RE: Upgrade approval for 2.5.3 in Harris County

David,

Getting this back to the top of your inbox.

Peter Lichtenheld, CERA
SVP of Customer Success
Hart InterCivic
512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
https://www.hartintercivic.com/

From: Peter Lichtenheld
Sent: Thursday, November 10, 2022 12:17
To: David Velez-Perez dvelez-perez@sos.texas.gov
Cc: Christina Adkins (cadkins@sos.texas.gov) <cadkins@sos.texas.gov>; Chuck Pinney (cpinney@sos.texas.gov) <cpinney@sos.texas.gov>; Clifford.Tatum@vote.hctx.net; Hart Support <hartsupport@hartic.com>; Drew Stewart <[redacted]; Rob Blake <[redacted]
Subject: Upgrade approval for 2.5.3 in Harris County

David,

Please see the attached. We look forward to approval.

Peter Lichtenheld, CERA
Senior Vice President of Customer Success
Hart InterCivic
512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
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this communication in error, notify us immediately by telephone and (i) destroy this message if a facsimile or (ii) delete this message immediately if this is an electronic communication. Thank you.

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

John B. Scott
Secretary of State

November 15, 2022

Clifford Tatum
Harris County
P.O. Box 1148
Houston, Texas 77002

Dear Mr. Tatum,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Tarrant County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to receive an upgrade from their current version of the Hart Verity voting system to Verity 2.5.3, which includes a de minimis change previously authorized by our office. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:CP

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The State of Texas

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Phone: 512-463-5650
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Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF HART INTERCIVIC VERITY VOTING 2.5 SYSTEM

PRELIMINARY STATEMENT

On January 4-8, 2021, Hart Intercivic Inc. ("Hart" or the "Vendor") presented the Verity Voting 2.5 system for examination and certification. The examination was conducted in Austin, Texas at the Office of the Secretary of State (the "Office"). Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Ms. Lesley French, an employee of the Texas Attorney General.

At the time of the examination, the Office of the Secretary of State was closed to the public due to health and safety concerns relating to the novel coronavirus (COVID-19). As a result, certain procedures were implemented for the examination of the Verity Voting 2.5 system. For example, the examination was held in a manner that allowed some of the examiners to participate in person and other examiners to attend remotely via live video conference. The examiners who were not physically present in the exam room on a specific day were able to view the other examiners' interactions with the equipment and ask questions to the in-person examiners and the vendor. Each examiner had the opportunity to examine the equipment in person for at least one day during the exam week.

On January 4-5, 2021, Mr. Pinney was present to witness the extraction of the trusted build and the installation of the Verity 2.5 software and firmware that the Secretary of State's office received directly from the Independent Testing Authority. The other examiners observed this process remotely by watching the live video conference.

On January 6, 2021, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device by Mr. Pinney and Mr. Hurley. The results were accumulated and later verified for accuracy by staff of the Secretary of State's office. Mr. Pinney and Mr. Hurley also examined the accessibility components of the Verity Voting 2.5 system.

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On January 7, 2021, Mr. Watson and Mr. Mechler conducted an in-person examination of the system. Ms. French conducted an in-person examination of the system on January 8.

Examiner reports regarding the Verity Voting 2.5 system are attached hereto and incorporated herein by this reference.

On March 4, 2021, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing, by telephone, for interested persons to express views for or against the certification of the Verity Voting 2.5 system.

BRIEF DESCRIPTION OF VERITY VOTING 2.5

The Verity Voting 2.5 system is an updated version of the Verity Voting 2.4 system, which the Office certified in June 2020 for use in Texas elections. The updated version includes enhancements to the existing hardware and software components of the Verity voting system.

Verity Voting 2.5 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). Verity Voting 2.5 was certified by the Election Assistance Commission (EAC) on September 9, 2020.

The components of Verity Voting 2.5 are as follows:

Component	Version	Description
Verity Data	2.5.0	Election management software
Verity Build	2.5.0	Election management software
Verity Count	2.5.0	Election management software
Verity Central	2.5.1	Central scanner
Verity User Management	2.5.0	Election management software
Verity Election Management	2.5.0	Election management software
Verity Desktop	2.5.0	Election management software
Verity Scan	2.5.1	Precinct scanner
Verity Touch Writer with Access	2.5.1	Ballot marking device
Verity Controller	2.5.1	Voting machine ballot activation device
Verity Touch	2.5.1	Direct-recording electronic voting machine
Verity Touch with Access	2.5.1	Direct-recording electronic voting machine
Verity Touch Writer Duo	2.5.1	Ballot marking device

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Verity Touch Writer Duo Standalone	2.5.1	Ballot marking device

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the Verity Voting 2.5 system for use in Texas elections).

The Verity Voting 2.5 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the Verity Voting 2.5 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting; and
10. Are capable of providing records from which the operation of the voting system may be audited.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Hart InterCivic's Verity Voting 2.5 system for use in Texas elections.

Signed under my hand and seal of office, this 1st day of APRIL 2021.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

John B. Scott
Secretary of State

September 6, 2022

Tyson Gosch
Hart Intercivic
15500 Wells Port Drive
Austin, TX 78728

Dear Mr. Gosch:

Pursuant to Section 81.65 of the Texas Administrative Code, Hart Intercivic ("Hart") has submitted to our office a request for an administrative certification of a minor modification.

The proposed modification, ECO #1551, eliminate a cause of extended set up time during Verity Touch Writer Duo (Touch Duo) booth assignment, performed during equipment setup and operation at the polling place. This modification would result in an improvement to the communication channels between the Duo Controller and the Touch Writer Duo devices, reducing booth assignment setup times.

We have reviewed the materials you provided with your request, including the SLI Compliance test reports. Our voting system examiners reviewed the information submitted and agree that Hart's proposed modifications do not warrant additional examination, and that a full certification review is not required.

Based on the information provided by Hart and the recommendations of the appointed examiners, I hereby certify Hart's request to allow these proposed modifications to Verity 2.5.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

AMERICAN OVERSIGHT

From: Moody, Chris [redacted] >
Sent: Thursday, June 25, 2020 1:58 PM
To: Charles Pinney; Christina Adkins
Cc: Callanen, Jacque; Bruce Sherbet; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette.Escobedo@traviscountytx.gov
Subject: RE: Upgrades

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Thank you Chuck, I appreciate it. Take care.

Chris, John, Bruce, Jacque, Bridgette: Let me know if you need anything during this upgrade.

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Thursday, June 25, 2020 1:50 PM
To: Moody, Chris [redacted] >; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette.Escobedo@traviscountytx.gov
Subject: Re: Upgrades

Hello,

Please see the attached Approval Letters for Bexar, Collin, Fort Bend, Travis, and Williamson Counties. The Certification Order for EVS 6100 is also attached.

The upgrade to EVS 6100 for Travis County was previously approved along with the equipment purchase they made at the start of this month, so I have just attached a copy of the approval letter we provided for that acquisition.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney

Attorney -- Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

1.800.252.VOTE (8683)

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From: Moody, Chris <[redacted]>
Sent: Wednesday, June 17, 2020 9:11 AM
To: Charles Pinney <CPinney@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov <john.oldham@fortbendcountytx.gov>; cjdavis@wilco.org <cjdavis@wilco.org>; Bridgette.Escobedo@traviscountytx.gov <Bridgette.Escobedo@traviscountytx.gov>
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Attached are the Sales Orders for these upgrades.

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Monday, June 1, 2020 1:35 PM
To: Moody, Chris <[redacted]>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette.Escobedo@traviscountytx.gov
Subject: Re: Upgrades

Chris,

When a county upgrades to a new voting system (whether it's adopting EVS for the first time or upgrading from EVS 6020 to EVS 6100), then they would need to receive written approval of that contract from our office under Election Code 123.035.

On the other hand, if they acquire additional equipment as part of the same system that's already been approved (such as buying additional ExpressVotes for a version of EVS that the county has already had approved), then they would not need to seek that written approval from our office.

If you want to provide us with copies of the contracts for those counties that are upgrading then I can get that approval process taken care of.

Please let me know if you have any other questions.

Thanks,

AMERICAN OVERSIGHT

Chuck Pinney

Attorney -- Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

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From: Moody, Chris [redacted]>
Sent: Wednesday, May 27, 2020 6:30 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov <john.oldham@fortbendcountytx.gov>; cjdavis@wilco.org <cjdavis@wilco.org>; Bridgette.Escobedo@traviscountytx.gov <Bridgette.Escobedo@traviscountytx.gov>
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Christina or Charles,

The following counties are upgrading from EVS 6020 to EVS 6100.

Williamson County
Travis County
Fort Bend County
Collin County
Bexar County

Is there anything ES&S or the counties need to do to notify you of this upgrade? Let us know if there is and we'll make sure and give that same direction to any other counties that decide to upgrade in the future. These are going to be the only counties for this year.

Thank you,

Chris Moody,

AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Thursday, June 25, 2020 1:50 PM
To: Moody, Chris; Christina Adkins
Cc: Callanen, Jacque; Bruce Sherbet; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette.Escobedo@traviscountytx.gov
Subject: Re: Upgrades
Attachments: Bexar County - Approval Letter.pdf; Collin County - Approval Letter.pdf; Fort Bend County - Approval Letter.pdf; Travis County - Approval Letter.pdf; Williamson County - Approval Letter.pdf; EVS 6100 Certification Order.pdf

Hello,

Please see the attached Approval Letters for Bexar, Collin, Fort Bend, Travis, and Williamson Counties. The Certification Order for EVS 6100 is also attached.

The upgrade to EVS 6100 for Travis County was previously approved along with the equipment purchase they made at the start of this month, so I have just attached a copy of the approval letter we provided for that acquisition.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
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Subject: Re: Upgrades

Chris,

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Please let me know if you have any other questions.

Thanks,

Chuck Pinney
Attorney -- Elections Division
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Christina or Charles,

The following counties are upgrading from EVS 6020 to EVS 6100.

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Williamson County
Travis County
Fort Bend County
Collin County
Bexar County

Is there anything ES&S or the counties need to do to notify you of this upgrade? Let us know if there is and we'll make sure and give that same direction to any other counties that decide to upgrade in the future. These are going to be the only counties for this year.

Thank you,

Chris Moody,

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Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 25, 2020

Jacque Callanen
Bexar County
1103 S. Frio, Suite 100
San Antonio, Texas 78207

Dear Ms. Callanen:

We are in receipt of a copy of the proposed contract between Bexar County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the ExpressTouch curbside DRE, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 25, 2020

Bruce R. Sherbet
Collin County
2010 Redbud Blvd., Suite 102
McKinney, Texas 75069

Dear Mr. Sherbet:

We are in receipt of a copy of the proposed contract between Collin County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

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Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 25, 2020

John W. Oldham
Fort Bend County
4520 Reading Road, Suite A-400
Rosenberg, Texas 77471

Dear Mr. Oldham:

We are in receipt of a copy of the proposed contract between Fort Bend County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the ExpressTouch curbside DRE, the DS200 precinct scanner, and the DS450 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 5, 2020

Dana DeBeauvoir
Travis County
PO Box 149325
Austin, Texas 78714

Dear Ms. DeBeauvoir:

We are in receipt of a copy of the proposed contract between Travis County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 25, 2020

Christopher J. Davis
Williamson County
301 S.E. Inner Loop, Suite 104
Georgetown, Texas 78626

Dear Mr. Davis:

We are in receipt of a copy of the proposed contract between Williamson County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.texas.gov

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF ELECTION SYSTEMS & SOFTWARE EVS 6.1.0.0 SYSTEM

PRELIMINARY STATEMENT

On January 15-16, 2020, Election Systems & Software ("ES&S" or the "Vendor") presented the EVS 6.1.0.0 system for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Mr. Ryan Vassar, an employee of the Texas Attorney General.

On January 15, 2020, Mr. Mechler, Mr. Pinney, and Dr. Sneeringer witnessed the installation of the EVS 6.1.0.0 software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. Mr. Pinney and Ms. Lena Proft, a staff attorney with the Office, examined the accessibility components of the ExpressVote, the ExpressVote XL, and the ExpressTouch.

On January 16, 2020, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device. The results were accumulated and later verified for accuracy by staff of the Secretary of State.

Examiner reports regarding the EVS 6.1.0.0 system are attached hereto and incorporated herein by this reference.

On April 20, 2020, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing, by telephone, for interested persons to express views for or against the certification of the EVS 6.1.0.0 system.

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BRIEF DESCRIPTION OF EVS 6.1.0.0

The EVS 6.1.0.0 system is an updated version of the EVS 6.0.4.0 system, which the Office certified in September 2019 for use in Texas elections. EVS 6.1.0.0 includes software enhancements to the existing election management system and updates to other previously certified hardware components, including the ExpressVote and ExpressVote XL ballot marking devices, the ExpressTouch curbside DRE, the DS200 precinct scanner, and the DS450 and DS850 central scanners.

EVS 6.1.0.0 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). EVS 6.1.0.0 was certified by the Election Assistance Commission (EAC) on September 24, 2019.

The components of EVS 6.1.0.0 are as follows:

Component	Version	Description
ExpressTouch	1.0.3.0	Direct-recording electronic voting machine (only for curbside voting)
DS200 (HW 1.2)	2.30.0.0	Precinct scanner
DS200 (HW 1.3)	2.30.0.0	Precinct scanner
DS450	3.4.0.0	Central Scanner
DS850	3.4.0.0	Central scanner
ExpressVote (HW 1.0)	4.0.0.0	Ballot marking device
ExpressVote (HW 2.1)	4.0.0.0	Ballot marking device
ExpressVote XL (HW 1.0)	1.0.3.0	Ballot marking device
ElectionWare	6.0.0.0	Election management software
ExpressLink	2.0.0.0	Election management software
Event Log Service	2.0.0.0	Election management software
ExpressVote Activation Card Printer	N/A	Voting machine ballot activation device
ExpressVote Previewer	4.0.0.0	Election management software
PaperBallot	6.0.0.0	Election management software
Removable Media Service	1.5.1.0	Election management software
Toolbox	3.5.0.0	Election management software

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FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the EVS 6.1.0.0 system for use in Texas elections).

The EVS 6.1.0.0 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the EVS 6.1.0.0 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting;
10. Are capable of permitting straight-party voting; and
11. Are capable of providing records from which the operation of the system may be audited.

CONDITIONS

In their written reports, the voting system examiners indicated that the use of certain ballot formatting configurations could present issues with the ExpressVote XL when that device is used as a tabulator. The ExpressVote XL is not certified as a tabulator in Texas, and the Vendor has not sought certification of that device as a tabulator in Texas. Therefore, the examiners noted that this issue is unlikely to occur with those ballot formatting configurations. Nonetheless, the examiners recommended that such configurations not be permitted for use in Texas elections.

This certification is conditioned on the provision that the ballot formatting configurations described in the voting system examiner reports are outside of the scope of the State's certification of the EVS 6.1.0.0 system, and those configurations may not be used in the programming of any voting system used in Texas.

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CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Election Systems & Software's EVS 6.1.0.0 system for use in Texas elections, subject to the above condition.

Signed under my hand and seal of office, this 24th day of April 2020.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Moody, Chris <[redacted]
Sent: Wednesday, June 17, 2020 9:11 AM
To: Charles Pinney; Christina Adkins
Cc: Callanen, Jacque; Bruce Sherbet; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette.Escobedo@traviscountytx.gov
Subject: RE: Upgrades
Attachments: Bexar County, TX_EVS 6100 PYO_EMS Upgrade Quote.pdf; Collin County, TX_EVS 6100 PYO_EMS Upgrade Quote.pdf; Fort Bend County, TX_EVS 6100 PYO_EMS Upgrade Quote.pdf; Travis County, TX_EVS 6100 PYO_EMS Upgrade Quote.pdf; Williamson County, TX EVS 6100 PYO EMS Upgrade Quote Signed by ESS 4.30.2020.pdf

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Attached are the Sales Orders for these upgrades.

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Monday, June 1, 2020 1:35 PM
To: Moody, Chris <[redacted]>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette.Escobedo@traviscountytx.gov
Subject: Re: Upgrades

Chris,

When a county upgrades to a new voting system (whether it's adopting EVS for the first time or upgrading from EVS 6020 to EVS 6100), then they would need to receive written approval of that contract from our office under Election Code 123.035.

On the other hand, if they acquire additional equipment as part of the same system that's already been approved (such as buying additional ExpressVotes for a version of EVS that the county has already had approved), then they would not need to seek that written approval from our office.

If you want to provide us with copies of the contracts for those counties that are upgrading then I can get that approval process taken care of.

Please let me know if you have any other questions.

Thanks,

Chuck Pinney

Attorney -- Elections Division

AMERICAN OVERSIGHT

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

1.800.252.VOTE (8683)

elections@sos.texas.gov | www.sos.texas.gov/elections



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Moody, Chris <[redacted]>
Sent: Wednesday, May 27, 2020 6:30 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov <john.oldham@fortbendcountytx.gov>; cjdavis@wilco.org <cjdavis@wilco.org>; Bridgette.Escobedo@traviscountytx.gov <Bridgette.Escobedo@traviscountytx.gov>
Subject: Upgrades

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Christina or Charles,

The following counties are upgrading from EVS 6020 to EVS 6100.

Williamson County
Travis County
Fort Bend County
Collin County
Bexar County

Is there anything ES&S or the counties need to do to notify you of this upgrade? Let us know if there is and we'll make sure and give that same direction to any other counties that decide to upgrade in the future. These are going to be the only counties for this year.

Thank you,

Chris Moody,

CONFIDENTIALITY NOTICE:

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Election Systems & Software, LLC
11208 John Galt Blvd
Omaha, NE 68137

EVS 6.1.0.0 PYO – Certified and Election Night Networks

System Upgrade Purchase Order

April 27, 2020

Bexar County, Texas
1103 S. Frio, Ste 100
San Antonio, TX 78207

Qty Ord.	Description	Price	Ext. Price
	CERTIFIED NETWORK - EMS FILE SERVER		
1	**SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$61.00
1	**DELL 8 GB SERVER MEMORY – ADDITIONAL RAM**	$224.00	$224.00
	CERTIFIED NETWORK - EMS WORKSTATION		
5	**WINDOWS 10 LTSC 2019 (x64)**	$128.00	$640.00
5	***SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$305.00
5	**8GB DDR4 2400 UDIMM 1RX8 – ADDITIONAL RAM**	$100.00	$500.00
	ELECTION NIGHT NETWORK - EMS FILE SERVER		
1	**SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$61.00
1	**DELL 8 GB SERVER MEMORY – ADDITIONAL RAM**	$224.00	$224.00
	ELECTION NIGHT NETWORK - EMS WORKSTATION		
3	**WINDOWS 10 LTSC 2019 (x64)**	$128.00	$384.00
3	***SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$183.00
3	**8GB DDR4 2400 UDIMM 1RX8 – ADDITIONAL RAM**	$100.00	$300.00
	ELECTION NIGHT NETWORK - REGIONAL WORKSTATION		
7	**WINDOWS 10 LTSC 2019 (x64)**	$128.00	$896.00
7	***SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$427.00
7	**8 GB LAPTOP MEMORY – ADDITIONAL RAM**	$110.00	$770.00
	MISCELLANEOUS COMPONENTS		
34	**ES&S BITLOCKER SECURITY KEYS (128MB USB) – Optional** **(2 Keys per server/workstation (primary and backup) = 34 total)**	$33.00	$1,122.00

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	SERVICES		
1	**EMS Network Upgrade on Customer Premises** • Upgrade of EMS network performed on customer premises by ES&S Technical Services Technician ○ Includes the installation, configuration, and testing of EMS network connectivity. • Includes post upgrade end-to-end connectivity testing of EMS network. • Technical Services technician provides customer walkthrough of EMS network equipment while on-site. • EMS installation summary documentation provided to customer upon completion of installation.	$17,600.00	$17,600.00
	Discount		**-$2,018.00**
	Order Total		**$21,679.00**

Invoicing and Payment Terms:
100% of Order Total Due Thirty (30) Calendar Days after the later of (a) Equipment Delivery, or (b) Receipt of corresponding ES&S Invoice.

Note 1: Pricing of purchase order is valid for 30 days due to fluctuating pricing in 3rd party hardware and software. Agreements will need to be updated if not executed within 30 days.
Note 2: In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.
Note 3: Any applicable (City & State) sales taxes have not been included in pricing and are the responsibility of the customer.
Note 4: Shipping and Handling is not included in the Order Total and will be invoiced separately.
Note 5: Network Cabling is not included.

Customer acknowledges that ES&S is purchasing the third party items set forth herein ("Third Party Items") for resale to Customer, and that the proprietary and intellectual property rights to the Third Party Items are owned by parties other than ES &S ("Third Parties"). Customer further acknowledges that except for the payment to ES& S for the Third Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties. ES&S shall provide Customer with copies of all documentation and warranties for the Third Party Items which are provided to ES &S.

Customer Signature Date

Title

AMERICAN OVERSIGHT



Election Systems & Software, LLC
11208 John Galt Blvd
Omaha, NE 68137

EVS 6.1.0.0 PYO – LAN w/Network Central Count

System Upgrade Purchase Order

April 27, 2020

Collin County, Texas
2010 Redbud Blvd, Suite 102
McKinney, TX 75069

Qty Ord.	Description	Price	Ext. Price
	EMS FILE SERVER (Primary and Backup)		
2	**SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$122.00
2	**CERBERUS FTP PRO 10.0.16 (DS850/450 NETWORKING)**	$799.00	$1598.00
2	**DELL 8 GB SERVER MEMORY – ADDITIONAL RAM**	$224.00	$448.00
	EMS WORKSTATION		
4	**WINDOWS 10 LTSC 2019 (x64)**	$128.00	$512.00
4	***SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$244.00
4	**8GB DDR4 2400 UDIMM 1RX8 – ADDITIONAL RAM**	$100.00	$400.00
	MISCELLANEOUS COMPONENTS		
12	**ES&S BITLOCKER SECURITY KEYS (128MB USB) – Optional** **(2 Keys per server/workstation (primary and backup) = 12 total)**	$33.00	$396.00
	SERVICES		
1	**EMS Network Upgrade on Customer Premises** • Upgrade of EMS network performed on customer premises by ES&S Technical Services Technician ○ Includes the installation, configuration, and testing of EMS network connectivity. • Includes post upgrade end-to-end connectivity testing of EMS network. • Technical Services technician provides customer walkthrough of EMS network equipment while on-site. • EMS installation summary documentation provided to customer upon completion of installation.	$6,500.00	$6,500.00
	Order Total		**$10,220.00**

Invoicing and Payment Terms:
100% of Order Total Due Thirty (30) Calendar Days after the later of (a) Equipment Delivery, or (b) Receipt of corresponding ES&S Invoice.

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Note 1: Pricing of purchase order is valid for 30 days due to fluctuating pricing in 3rd party hardware and software. Agreements will need to be updated if not executed within 30 days.
Note 2: In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.
Note 3: Any applicable (City & State) sales taxes have not been included in pricing and are the responsibility of the customer.
Note 4: Shipping and Handling is not included in the Order Total and will be invoiced separately.
Note 5: Network Cabling is not included.

Customer acknowledges that ES&S is purchasing the third party items set forth herein ("Third Party Items") for resale to Customer, and that the proprietary and intellectual property rights to the Third Party Items are owned by parties other than ES &S ("Third Parties"). Customer further acknowledges that except for the payment to ES& S for the Third Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties. ES&S shall provide Customer with copies of all documentation and warranties for the Third Party Items which are provided to ES &S.

Customer Signature Date

Title

AMERICAN OVERSIGHT



Election Systems & Software, LLC
11208 John Galt Blvd
Omaha, NE 68137

EVS 6.1.0.0 PYO – Certified and Election Night Networks

System Upgrade Purchase Order

April 28, 2020

Fort Bend County, Texas
4520 Reading Road, Ste A400
Rosenberg, TX 77471

Qty Ord.	Description	Price	Ext. Price
	CERTIFIED NETWORK - EMS FILE SERVER		
1	**SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$61.00
1	**DELL 8 GB SERVER MEMORY – ADDITIONAL RAM**	$224.00	$224.00
	CERTIFIED NETWORK - EMS WORKSTATION		
2	**WINDOWS 10 LTSC 2019 (x64)**	$128.00	$256.00
2	***SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$122.00
2	**8GB DDR4 2400 UDIMM 1RX8 – ADDITIONAL RAM**	$100.00	$200.00
	ELECTION NIGHT NETWORK - EMS FILE SERVER		
1	**SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$61.00
1	**DELL 8 GB SERVER MEMORY – ADDITIONAL RAM**	$224.00	$224.00
	ELECTION NIGHT NETWORK - EMS WORKSTATION		
2	**WINDOWS 10 LTSC 2019 (x64)**	$128.00	$256.00
2	***SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$122.00
2	**8GB DDR4 2400 UDIMM 1RX8 – ADDITIONAL RAM**	$100.00	$200.00
	ELECTION NIGHT NETWORK - REGIONAL WORKSTATION		
5	**WINDOWS 10 LTSC 2019 (x64)**	$128.00	$640.00
5	***SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$305.00
5	**8 GB LAPTOP MEMORY – ADDITIONAL RAM**	$110.00	$550.00
	MISCELLANEOUS COMPONENTS		
22	**ES&S BITLOCKER SECURITY KEYS (128MB USB) – Optional** **(2 Keys per server/workstation (primary and backup) = 22 total)**	$33.00	$726.00

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	SERVICES		
1	**EMS Network Upgrade on Customer Premises – Official Network** • Upgrade of EMS network performed on customer premises by ES&S Technical Services Technician ○ Includes the installation, configuration, and testing of EMS network connectivity. • Includes post upgrade end-to-end connectivity testing of EMS network. • Technical Services technician provides customer walkthrough of EMS network equipment while on-site. • EMS installation summary documentation provided to customer upon completion of installation.	$6,500.00	$6,500.00
	Order Total		**$10,447.00**

Invoicing and Payment Terms:
100% of Order Total Due Thirty (30) Calendar Days after the later of (a) Equipment Delivery, or (b) Receipt of corresponding ES&S Invoice.

Note 1: Pricing of purchase order is valid for 30 days due to fluctuating pricing in 3rd party hardware and software. Agreements will need to be updated if not executed within 30 days.
Note 2: In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.
Note 3: Any applicable (City & State) sales taxes have not been included in pricing and are the responsibility of the customer.
Note 4: Shipping and Handling is not included in the Order Total and will be invoiced separately.
Note 5: Network Cabling is not included.
Note 6: The un-official (Election Night Reporting) network has not yet been installed and invoiced as per order #xxx. The upgrade costs are based on the upgrade of the official network. Both networks can be installed during the upgrade event. If the un-official network is installed prior to the upgrade event, the upgrade fees are subject to change to include upgrading the un-official network.

Customer acknowledges that ES&S is purchasing the third party items set forth herein ("Third Party Items") for resale to Customer, and that the proprietary and intellectual property rights to the Third Party Items are owned by parties other than ES &S ("Third Parties"). Customer further acknowledges that except for the payment to ES& S for the Third Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties. ES&S shall provide Customer with copies of all documentation and warranties for the Third Party Items which are provided to ES&S.

Customer Signature Date

Title

AMERICAN OVERSIGHT



Election Systems & Software, LLC
11208 John Galt Blvd
Omaha, NE 68137

EVS 6.1.0.0 PYO – Local Area Network (LAN)

System Upgrade Purchase Order

April 27, 2020

Travis County, Texas
5501 Airport Blvd
Austin, TX 78751

Qty Ord.	Description	Price	Ext. Price
	EMS FILE SERVER		
1	**SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$61.00
1	**DELL 8 GB SERVER MEMORY – ADDITIONAL RAM**	$224.00	$224.00
	EMS WORKSTATION		
4	**WINDOWS 10 LTSC 2019 (x64)**	$128.00	$512.00
4	***SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$244.00
4	**8GB DDR4 2400 UDIMM 1RX8 – ADDITIONAL RAM**	$100.00	$400.00
	MISCELLANEOUS COMPONENTS		
10	**ES&S BITLOCKER SECURITY KEYS (128MB USB) – Optional** **(2 Keys per server/workstation (primary and backup) = 10 total)**	$33.00	$330.00
	SERVICES		
1	**EMS Network Upgrade on Customer Premises** • Upgrade of EMS network performed on customer premises by ES&S Technical Services Technician ○ Includes the installation, configuration, and testing of EMS network connectivity. • Includes post upgrade end-to-end connectivity testing of EMS network. • Technical Services technician provides customer walkthrough of EMS network equipment while on-site. • EMS installation summary documentation provided to customer upon completion of installation.	$6,500.00	$6,500.00
	Order Total		**$8,271.00**

Invoicing and Payment Terms:
100% of Order Total Due Thirty (30) Calendar Days after the later of (a) Equipment Delivery, or (b) Receipt of corresponding ES&S Invoice.

Note 1: Pricing of purchase order is valid for 30 days due to fluctuating pricing in 3rd party hardware and software. Agreements

AMERICAN OVERSIGHT

will need to be updated if not executed within 30 days.
Note 2: In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.
Note 3: Any applicable (City & State) sales taxes have not been included in pricing and are the responsibility of the customer.
Note 4: Shipping and Handling is not included in the Order Total and will be invoiced separately.
Note 5: Network Cabling is not included.

Customer acknowledges that ES&S is purchasing the third party items set forth herein ("Third Party Items") for resale to Customer, and that the proprietary and intellectual property rights to the Third Party Items are owned by parties other than ES &S ("Third Parties"). Customer further acknowledges that except for the payment to ES& S for the Third Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties. ES&S shall provide Customer with copies of all documentation and warranties for the Third Party Items which are provided to ES &S.

Customer Signature Date

Title

AMERICAN OVERSIGHT



Election Systems & Software, LLC
11208 John Galt Blvd
Omaha, NE 68137

EVS 6.1.0.0 PYO – Local Area Network (LAN)

System Upgrade Purchase Order

April 27, 2020

Williamson County, Texas
301 SE Inner Loop St 104
Georgetown, TX 78626

Qty Ord.	Description	Price	Ext. Price
	EMS FILE SERVER		
1	**SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$61.00
1	**DELL 8 GB SERVER MEMORY – ADDITIONAL RAM**	$224.00	$224.00
	EMS WORKSTATION		
2	**WINDOWS 10 LTSC 2019 (x64)**	$128.00	$256.00
2	***SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$122.00
2	**8GB DDR4 2400 UDIMM 1RX8 – ADDITIONAL RAM**	$100.00	$200.00
	MISCELLANEOUS COMPONENTS		
6	**ES&S BITLOCKER SECURITY KEYS (128MB USB) – Optional** **(2 Keys per server/workstation (primary and backup) = 12 total)**	$33.00	$198.00
	SERVICES		
1	**EMS Network Upgrade on Customer Premises** • Upgrade of EMS network performed on customer premises by ES&S Technical Services Technician ○ Includes the installation, configuration, and testing of EMS network connectivity. • Includes post upgrade end-to-end connectivity testing of EMS network. • Technical Services technician provides customer walkthrough of EMS network equipment while on-site. • EMS installation summary documentation provided to customer upon completion of installation.	$6,500.00	$6,500.00
	Order Total		**$7,561.00**

Invoicing and Payment Terms:
100% of Order Total Due Thirty (30) Calendar Days after the later of (a) Equipment Delivery, or (b) Receipt of corresponding ES&S Invoice.

Note 1: Pricing of purchase order is valid for 30 days due to fluctuating pricing in 3rd party hardware and software. Agreements

AMERICAN OVERSIGHT

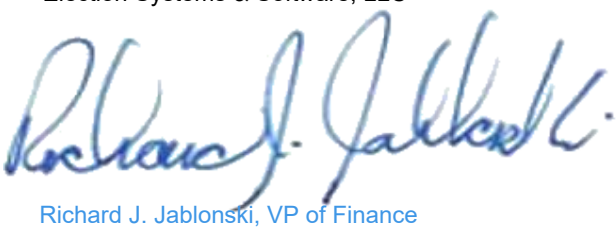
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Customer Signature Date

Title

Election Systems & Software, LLC



04/30/2020

Richard J. Jablonski, VP of Finance

AMERICAN OVERSIGHT

From: Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Sent: Thursday, June 4, 2020 7:15 PM
To: Charles Pinney
Subject: RE: Upgrades (EI Response)
Attachments: 4400003924, Mod 2.pdf; 4400003924, Mod 3.pdf

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Chuck,

Attached are the contract modifications for the purchase of the DS850s and upgrade to EVS 6100.

Please let me know if you need anything else.

Thank you,

Bridgette

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Wednesday, June 3, 2020 9:12 AM
To: Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Subject: [CAUTION EXTERNAL] Re: Upgrades (EI Response)

Bridgette,

We just need a copy of your contract that includes the equipment being purchased and the version number of the voting system. ES&S or their customers will usually provide us with a copy of the Sales Order Agreement to meet this requirement. Once we have that copy of the contract, we can take care of that approval process pretty quickly.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Sent: Monday, June 1, 2020 11:29 PM

AMERICAN OVERSIGHT

To: Charles Pinney <CPinney@sos.texas.gov>
Subject: RE: Upgrades

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Hi Chuck,

We recently upgraded our ES&S DS450 ballot scanners to the ES&S DS850 scanners. Do we just need to submit a copy of the contract for approval? Is there anything additional that is needed?

Thanks,

Bridgette

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Monday, June 1, 2020 1:35 PM
To: Moody, Chris <[redacted]>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Subject: [CAUTION EXTERNAL] Re: Upgrades

CAUTION: This email is from OUTSIDE Travis County. Links or attachments may be dangerous. Click the Phish Alert button above if you think this email is malicious.

Chris,

When a county upgrades to a new voting system (whether it's adopting EVS for the first time or upgrading from EVS 6020 to EVS 6100), then they would need to receive written approval of that contract from our office under Election Code 123.035.

On the other hand, if they acquire additional equipment as part of the same system that's already been approved (such as buying additional ExpressVotes for a version of EVS that the county has already had approved), then they would not need to seek that written approval from our office.

If you want to provide us with copies of the contracts for those counties that are upgrading then I can get that approval process taken care of.

Please let me know if you have any other questions.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
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AMERICAN OVERSIGHT

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From: Moody, Chris [redacted]>
Sent: Wednesday, May 27, 2020 6:30 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov <john.oldham@fortbendcountytx.gov>; cjdavis@wilco.org <cjdavis@wilco.org>; Bridgette.Escobedo@traviscountytx.gov <Bridgette.Escobedo@traviscountytx.gov>
Subject: Upgrades

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Christina or Charles,

The following counties are upgrading from EVS 6020 to EVS 6100.

Williamson County
Travis County
Fort Bend County
Collin County
Bexar County

Is there anything ES&S or the counties need to do to notify you of this upgrade? Let us know if there is and we'll make sure and give that same direction to any other counties that decide to upgrade in the future. These are going to be the only counties for this year.

Thank you,

Chris Moody,

CONFIDENTIALITY NOTICE:
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AMERICAN OVERSIGHT

MODIFICATION OF CONTRACT: 4400003924, Voting System and Services

ISSUED BY:	ISSUED TO:
Travis County Purchasing Office **P.O. Box 1748** **Austin, Texas 78767** **Contact: Lori Clyde** **Tel. No: (512) 854-4205**	**Election Systems & Software, LLC** **11208 John Galt Boulevard** **Omaha, NE 68137**
MODIFICATION NO.: **2**	EXECUTED DATE OF ORIGINAL CONTRACT: **August 7, 2018**
ORIGINAL CONTRACT TERM: **August 7, 2018** to **throughout the term of the warranty and for as long as services are provided in connection with the system, including maintenance and support services.**	MODIFIED CONTRACT TERM END DATE: **Throughout the term of the warranty and for as long as services are provided in connection with the system, including maintenance and support services.**

ORIGINAL CONTRACT AMOUNT:$ 8,160,340.00	MOD. 2 AMOUNT: $233,125.00	CUMULATIVE CONTRACT AMOUNT: $8,317,235.00

Note to Vendor:
☒ **Complete and execute *(sign)* your portion of the signature block section as tagged below.**
☐ **DO NOT execute. Retain for your records.**

Court Approval Required?
☒ **Yes**
☐ **No**

DESCRIPTION OF CHANGES: Except as provided in this Modification 2, all terms, conditions and provisions of the Contract referenced above, as previously modified, remain unchanged and in full force and effect.

A. The purpose of this Modification is to add additional equipment as summarized below and described in detail on page 2 of this Modification.

1. Reference Travis County, TX Purchase Proposal Quote for the purchase of two (2) ES&S Model DS850 High Speed Digital Image Scanners, each with a one-year hardware and software warranty, installation, training, and shipping and handling in the amount of $233,125.00.
2. Ongoing Annual Post-Warranty License and Maintenance and Support Fees for both ES&S Model DS850 scanners are $3,150.00 and $5,050.00, respectively. After the included one-year warranty period, the support fees will be prorated to co-term with the Contract.

B. The total one-time compensation for this Modification is $233,125.00. The Post-Warranty Maintenance and Support Fee will increase from $398,465.00 to $406,665.00, a net increase of $8,200.00.

LEGAL BUSINESS NAME: **Election Systems & Software, LLC**

BY: DocuSigned by: Richard J Jablonski F7D18E629D76496... — SIGNATURE

BY: Richard J Jablonski — PRINT NAME

TITLE: Vice President of Finance — ITS DULY AUTHORIZED AGENT

DATE: 3/26/2020

TRAVIS COUNTY, TEXAS

BY: DocuSigned by: Bonnie S. Floyd 6697AB46B9394FB... DS JT — BONNIE S. FLOYD, MBA, CPPO, CPPB, TRAVIS COUNTY PURCHASING AGENT

DATE: 3/26/2020

TRAVIS COUNTY, TEXAS

BY: DocuSigned by: Sarah Eckhardt 51D41D4E8BDA429... — TRAVIS COUNTY JUDGE

DATE: 4/1/2020

AMERICAN OVERSIGHT

Maintaining voter confidence. Enhancing the voter experience.

Travis County, TX
Purchase Proposal Quote
Submitted by Election Systems & Software

Purchase Solution Includes:

Quantity	Item Description	Unit Price	Extended Price
	Tabulation Hardware		
	Model DS850 High Speed Digital Image Scanner:		
2	Model DS850 (Includes Scanner, Steel Table/Cart, Start-up Kit, Dust Cover, Reports Printer, Audit Printer, Battery Backup, Two (2) USB Cables, and Three (3) Standard 8GB Memory Devices)	$113,500.00	$227,000.00
	Election Services		
1	Implementation Services		$1,700.00
X	DS850 Training		
X	Equipment Installation		$2,925.00
X	1 Year Hardware and Software Warranty		Included
	Shipping & Other		
X	Shipping and Handling		$1,500.00
	Total Purchase Solution		**$233,125.00**
	Payment Terms		
	Amount due within thirty (30) calendar days of delivery of Hardware and/or Software:		$233,125.00
	Annual Post-Warranty License and Maintenance and Support Fees (Fees are Based Upon a 1-Year Customer Commitment to Subscribe to the Following Services)		
	Annual Post-Warranty Hardware Maintenance and Support Fees:		
2	HMA DS850 - Extended Warranty with Biennial Maintenance	$2,525.00	$5,050.00
	Annual Post-Warranty Firmware License and Maintenance and Support Fees:		
2	Firmware License - DS850	$1,575.00	$3,150.00
	Total Annual Post-Warranty License and Maintenance and Support Fees		**$8,200.00**

Footnotes:

1. This quote is an estimate and is subject to final review and approval by both ES&S and the Customer.
2. Rates valid for 60 days and thereafter may change.
3. Any applicable (City & State) sales taxes have not been included in pricing and are the responsibility of the customer.
4. The quantity of service days reflects a reasonable estimate for implementation and selected ongoing election services. Quantities may change depending on specific Customer needs.

AMERICAN OVERSIGHT

MODIFICATION OF CONTRACT: 4400003924, Voting System and Services

ISSUED BY:	ISSUED TO:
Travis County Purchasing Office **P.O. Box 1748** **Austin, Texas 78767** **Contact: Lori Clyde** **Tel. No: (512) 854-4205**	**Election Systems & Software, LLC** **11208 John Galt Boulevard** **Omaha, NE 68137**
MODIFICATION NO.: **3**	EXECUTED DATE OF ORIGINAL CONTRACT: **August 7, 2018**
ORIGINAL CONTRACT TERM: **August 7, 2018** to **throughout the term of the warranty and for as long as services are provided in connection with the system, including maintenance and support services.**	MODIFIED CONTRACT TERM END DATE: **Throughout the term of the warranty and for as long as services are provided in connection with the system, including maintenance and support services.**

ORIGINAL CONTRACT AMOUNT: 8,160,340.00	MOD. 3 AMOUNT: $125,647.00	CUMULATIVE CONTRACT AMOUNT: $8,442,882.00

Note to Vendor:
☒ **Complete and execute *(sign)* your portion of the signature block section as tagged below.**
☐ **DO NOT execute. Retain for your records.**

Court Approval Required?
☒ **Yes**
☐ **No**

DESCRIPTION OF CHANGES: Except as provided in this Modification 3, all terms, conditions and provisions of the Contract referenced above, as previously modified, remain unchanged and in full force and effect.

A. The purpose of this Modification is to add services as summarized below and described in detail on page 2 of this Modification.

1. Reference EVS 6.1.0.0 PYO – Local Area Network (LAN) System Upgrade Purchase Order for the purchase of services for the version 6.1.0.0 upgrade for the election management system. This upgrade includes workstations, file servers, Bitlocker Security Keys, ExpressVote equipment, and DS200 and DS450 scanners.

B. The total one-time compensation for this Modification is $125,647.00.

LEGAL BUSINESS NAME: **Election Systems & Software, LLC**

BY: DocuSigned by: Richard J Jablonski F7D18E629D76496... SIGNATURE — DATE: 5/29/2020

BY: Richard J Jablonski PRINT NAME

TITLE: Vice President of Finance ITS DULY AUTHORIZED AGENT

TRAVIS COUNTY, TEXAS

BY: DocuSigned by: Bonnie S. Floyd 6697AB46B9394FB... BONNIE S. FLOYD, MBA, CPPO, CPPB, TRAVIS COUNTY PURCHASING AGENT — DS — DATE: 5/29/2020

TRAVIS COUNTY, TEXAS

BY: DocuSigned by: Sam Biscoe CD20CF375B4C48F... TRAVIS COUNTY JUDGE — DATE: 5/29/2020

AMERICAN OVERSIGHT



Election Systems & Software, LLC
11208 John Galt Blvd Omaha, NE 68137

EVS 6.1.0.0 PYO – Local Area Network (LAN)
System Upgrade Purchase Order

April 27, 2020

Travis County, Texas
5501 Airport Blvd
Austin, TX 78751

Qty Ord.	Description	Price	Ext. Price
	EMS FILE SERVER		
1	**SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$61.00
1	**DELL 8 GB SERVER MEMORY – ADDITIONAL RAM**	$224.00	$224.00
	EMS WORKSTATION		
4	**WINDOWS 10 LTSC 2019 (x64)**	$128.00	$512.00
4	***SYMANTEC ENDPOINT PROTECTION 14.2.0**	$61.00	$244.00
4	**8GB DDR4 2400 UDIMM 1RX8 – ADDITIONAL RAM**	$100.00	$400.00
	MISCELLANEOUS COMPONENT		
10	**SES&S BITLOCKER SECURITY KEYS (128MB USB)** **(2 Keys per server/workstation (primary and backup) = 10 total)**	$33.00	$330.00
	SERVICES		
1	**EMS Network Upgrade on Customer Premises** • Upgrade of EMS network performed on customer premises by ES&S Technical Services Technician ○ Includes the installation, configuration, and testing of EMS network connectivity. • Includes post upgrade end-to-end connectivity testing of EMS network. • Technical Services technician provides customer walkthrough of EMS network equipment while on-site. • EMS installation summary documentation provided to customer upon completion of installation.	$6,500.00	$6,500.00
	EMS Upgrade Fee Discount	($624.00)	($624.00)
	Firmware Upgrade Fee	$309,400.00	$309,400.00
	Firmware Upgrade Fee Discount	($191,400.00)	($191,400.00)
	Order Total		**$125,647.00**

Invoicing and Payment Terms:
100% of Order Total Due Thirty (30) Calendar Days after the later of (a) Equipment Delivery, or (b) Receipt of corresponding ES&S Invoice.

Note 1: Pricing of purchase order is valid for 30 days due to fluctuating pricing in 3rd party hardware and software. Agreements will need to be updated if not executed within 30 days.
Note 2: In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.
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Customer Signature Date

Title

AMERICAN OVERSIGHT

From: Charles Pinney
Sent: Friday, June 5, 2020 1:33 PM
To: Bridgette Escobedo
Cc: Christina Adkins
Subject: Re: Upgrades (EI Response)
Attachments: EVS 6100 Certification Order.pdf; Travis County - Approval Letter.pdf

Bridgette,

Please see the attached Approval Letter and Certification Order for Travis County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections



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Chuck,

Attached are the contract modifications for the purchase of the DS850s and upgrade to EVS 6100.

Please let me know if you need anything else.

Thank you,

Bridgette

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Wednesday, June 3, 2020 9:12 AM

AMERICAN OVERSIGHT

To: Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Subject: [CAUTION EXTERNAL] Re: Upgrades (EI Response)

Bridgette,

We just need a copy of your contract that includes the equipment being purchased and the version number of the voting system. ES&S or their customers will usually provide us with a copy of the Sales Order Agreement to meet this requirement. Once we have that copy of the contract, we can take care of that approval process pretty quickly.

Thanks,

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Hi Chuck,

We recently upgraded our ES&S DS450 ballot scanners to the ES&S DS850 scanners. Do we just need to submit a copy of the contract for approval? Is there anything additional that is needed?

Thanks,

Bridgette

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Monday, June 1, 2020 1:35 PM
To: Moody, Chris [redacted]; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
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AMERICAN OVERSIGHT

Chris,

When a county upgrades to a new voting system (whether it's adopting EVS for the first time or upgrading from EVS 6020 to EVS 6100), then they would need to receive written approval of that contract from our office under Election Code 123.035.

On the other hand, if they acquire additional equipment as part of the same system that's already been approved (such as buying additional ExpressVotes for a version of EVS that the county has already had approved), then they would not need to seek that written approval from our office.

If you want to provide us with copies of the contracts for those counties that are upgrading then I can get that approval process taken care of.

Please let me know if you have any other questions.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
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Sent: Wednesday, May 27, 2020 6:30 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov <john.oldham@fortbendcountytx.gov>; cjdavis@wilco.org <cjdavis@wilco.org>; Bridgette.Escobedo@traviscountytx.gov <Bridgette.Escobedo@traviscountytx.gov>
Subject: Upgrades

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Christina or Charles,

The following counties are upgrading from EVS 6020 to EVS 6100.

Williamson County
Travis County
Fort Bend County
Collin County
Bexar County

AMERICAN OVERSIGHT

Is there anything ES&S or the counties need to do to notify you of this upgrade? Let us know if there is and we'll make sure and give that same direction to any other counties that decide to upgrade in the future. These are going to be the only counties for this year.

Thank you,

Chris Moody,

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The State of Texas

Elections Division
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www.sos.texas.gov

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Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

REPORT OF REVIEW OF ELECTION SYSTEMS & SOFTWARE EVS 6.1.0.0 SYSTEM

PRELIMINARY STATEMENT

On January 15-16, 2020, Election Systems & Software ("ES&S" or the "Vendor") presented the EVS 6.1.0.0 system for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Mr. Ryan Vassar, an employee of the Texas Attorney General.

On January 15, 2020, Mr. Mechler, Mr. Pinney, and Dr. Sneeringer witnessed the installation of the EVS 6.1.0.0 software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. Mr. Pinney and Ms. Lena Proft, a staff attorney with the Office, examined the accessibility components of the ExpressVote, the ExpressVote XL, and the ExpressTouch.

On January 16, 2020, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on each voting device. The results were accumulated and later verified for accuracy by staff of the Secretary of State.

Examiner reports regarding the EVS 6.1.0.0 system are attached hereto and incorporated herein by this reference.

On April 20, 2020, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing, by telephone, for interested persons to express views for or against the certification of the EVS 6.1.0.0 system.

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BRIEF DESCRIPTION OF EVS 6.1.0.0

The EVS 6.1.0.0 system is an updated version of the EVS 6.0.4.0 system, which the Office certified in September 2019 for use in Texas elections. EVS 6.1.0.0 includes software enhancements to the existing election management system and updates to other previously certified hardware components, including the ExpressVote and ExpressVote XL ballot marking devices, the ExpressTouch curbside DRE, the DS200 precinct scanner, and the DS450 and DS850 central scanners.

EVS 6.1.0.0 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). EVS 6.1.0.0 was certified by the Election Assistance Commission (EAC) on September 24, 2019.

The components of EVS 6.1.0.0 are as follows:

Component	Version	Description
ExpressTouch	1.0.3.0	Direct-recording electronic voting machine (only for curbside voting)
DS200 (HW 1.2)	2.30.0.0	Precinct scanner
DS200 (HW 1.3)	2.30.0.0	Precinct scanner
DS450	3.4.0.0	Central Scanner
DS850	3.4.0.0	Central scanner
ExpressVote (HW 1.0)	4.0.0.0	Ballot marking device
ExpressVote (HW 2.1)	4.0.0.0	Ballot marking device
ExpressVote XL (HW 1.0)	1.0.3.0	Ballot marking device
ElectionWare	6.0.0.0	Election management software
ExpressLink	2.0.0.0	Election management software
Event Log Service	2.0.0.0	Election management software
ExpressVote Activation Card Printer	N/A	Voting machine ballot activation device
ExpressVote Previewer	4.0.0.0	Election management software
PaperBallot	6.0.0.0	Election management software
Removable Media Service	1.5.1.0	Election management software
Toolbox	3.5.0.0	Election management software

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FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the EVS 6.1.0.0 system for use in Texas elections).

The EVS 6.1.0.0 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the EVS 6.1.0.0 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting;
10. Are capable of permitting straight-party voting; and
11. Are capable of providing records from which the operation of the system may be audited.

CONDITIONS

In their written reports, the voting system examiners indicated that the use of certain ballot formatting configurations could present issues with the ExpressVote XL when that device is used as a tabulator. The ExpressVote XL is not certified as a tabulator in Texas, and the Vendor has not sought certification of that device as a tabulator in Texas. Therefore, the examiners noted that this issue is unlikely to occur with those ballot formatting configurations. Nonetheless, the examiners recommended that such configurations not be permitted for use in Texas elections.

This certification is conditioned on the provision that the ballot formatting configurations described in the voting system examiner reports are outside of the scope of the State's certification of the EVS 6.1.0.0 system, and those configurations may not be used in the programming of any voting system used in Texas.

AMERICAN OVERSIGHT

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Election Systems & Software's EVS 6.1.0.0 system for use in Texas elections, subject to the above condition.

Signed under my hand and seal of office, this 24th day of April 2020.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

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Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 5, 2020

Dana DeBeauvoir
Travis County
PO Box 149325
Austin, Texas 78714

Dear Ms. DeBeauvoir:

We are in receipt of a copy of the proposed contract between Travis County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

From: Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Sent: Friday, April 2, 2021 4:30 AM
To: Christina Adkins
Subject: Re: Upgrades

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Thank you!

Bridgette

Get Outlook for iOS

From: Christina Adkins <CAdkins@sos.texas.gov>
Sent: Thursday, April 1, 2021 10:07:50 PM
To: Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Subject: [CAUTION EXTERNAL] FW: Upgrades

Bridgette,

It looks like DS850 purchase was approved by our office in June.

Thanks,

Christina

From: Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Sent: Wednesday, March 24, 2021 10:47 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Subject: FW: Upgrades

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Christina,

We also purchased a DS850 scanner in addition to the DS450 we already had. Do we need to receive approval for that?

AMERICAN OVERSIGHT

TRAVIS	ES&S	SOFTWARE	EVS	6.0.2
	ES&S	BALLOT MARKER	EXPRESSVOTE	
	ES&S	SCANNER	DS200	
	ES&S	SCANNER	DS450	

Thanks,
Bridgette

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Thursday, June 25, 2020 1:50 PM
To: Moody, Chris <[redacted]>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette Escobedo <Bridgette.Escobedo@traviscountytx.gov>
Subject: [CAUTION EXTERNAL] Re: Upgrades

CAUTION: This email is from OUTSIDE Travis County. Links or attachments may be dangerous. Click the Phish Alert button above if you think this email is malicious.

Hello,

Please see the attached Approval Letters for Bexar, Collin, Fort Bend, Travis, and Williamson Counties. The Certification Order for EVS 6100 is also attached.

The upgrade to EVS 6100 for Travis County was previously approved along with the equipment purchase they made at the start of this month, so I have just attached a copy of the approval letter we provided for that acquisition.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Moody, Chris [redacted]
Sent: Wednesday, June 17, 2020 9:11 AM
To: Charles Pinney <CPinney@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov <john.oldham@fortbendcountytx.gov>; cjdavis@wilco.org <cjdavis@wilco.org>; Bridgette.Escobedo@traviscountytx.gov <Bridgette.Escobedo@traviscountytx.gov>
Subject: RE: Upgrades

AMERICAN OVERSIGHT

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Attached are the Sales Orders for these upgrades.

From: Charles Pinney <CPinney@sos.texas.gov>
Sent: Monday, June 1, 2020 1:35 PM
To: Moody, Chris [redacted]>; Christina Adkins <CAdkins@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov; cjdavis@wilco.org; Bridgette.Escobedo@traviscountytx.gov
Subject: Re: Upgrades

Chris,

When a county upgrades to a new voting system (whether it's adopting EVS for the first time or upgrading from EVS 6020 to EVS 6100), then they would need to receive written approval of that contract from our office under Election Code 123.035.

On the other hand, if they acquire additional equipment as part of the same system that's already been approved (such as buying additional ExpressVotes for a version of EVS that the county has already had approved), then they would not need to seek that written approval from our office.

If you want to provide us with copies of the contracts for those counties that are upgrading then I can get that approval process taken care of.

Please let me know if you have any other questions.

Thanks,

Chuck Pinney
Attorney -- Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov/elections

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From: Moody, Chris [redacted]
Sent: Wednesday, May 27, 2020 6:30 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>
Cc: Callanen, Jacque <jcallanen@bexar.org>; Bruce Sherbet <bsherbet@co.collin.tx.us>; john.oldham@fortbendcountytx.gov <john.oldham@fortbendcountytx.gov>; cjdavis@wilco.org <cjdavis@wilco.org>; Bridgette.Escobedo@traviscountytx.gov <Bridgette.Escobedo@traviscountytx.gov>
Subject: Upgrades

AMERICAN OVERSIGHT

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Christina or Charles,

The following counties are upgrading from EVS 6020 to EVS 6100.

Williamson County
Travis County
Fort Bend County
Collin County
Bexar County

Is there anything ES&S or the counties need to do to notify you of this upgrade? Let us know if there is and we'll make sure and give that same direction to any other counties that decide to upgrade in the future. These are going to be the only counties for this year.

Thank you,

Chris Moody,

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AMERICAN OVERSIGHT

From: David Velez-Perez
Sent: Wednesday, October 4, 2023 1:51 PM
To: Peter Lichtenheld; Christina Adkins; Kristi Hart; Charles Pinney
Cc: Hudspeth, Teneshia (CCO); Winn, Michael (CCO); DeLeon, Hector (CCO); Ballard, Jennifer (CCO)
Subject: RE: Verity 2.7.5 Harris Approval Request
Attachments: Verity 2.7.5 Upgrades-Harris.pdf

Importance: High

Good afternoon Peter.

Here is the letter with the upgrade approval.
I have also reached out to the EAC to make sure we have the hash validation files for those upgraded devices.
Please let us know so we can proceed with sending those out to the county.

Regards!

David Velez-Perez

Elections Security Trainer – Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

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1-800-252-VOTE (8683)

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From: Peter Lichtenheld [redacted]>
Sent: Wednesday, September 27, 2023 1:44 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Kristi Hart <KHart@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>; David Velez-Perez <DVelez-Perez@sos.texas.gov>
Cc: Hudspeth, Teneshia (CCO) <Teneshia.Hudspeth@cco.hctx.net>; Winn, Michael (CCO) <Michael.Winn@cco.hctx.net>; DeLeon, Hector (CCO) <Hector.Deleon@cco.hctx.net>; Ballard, Jennifer (CCO) <Jennifer.Ballard@cco.hctx.net>
Subject: Verity 2.7.5 Harris Approval Request

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Christina and Team,

Please see the attached request for upgrade approval for Harris County. We look forward to receiving your response.

Peter Lichtenheld, CERA
Senior Vice President of Customer Success
Hart InterCivic
512.632.3079 (m) | 866.275.4278 (help desk)
The best customer service in Elections
https://www.hartintercivic.com/

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www.sos.state.tx.us

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Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 4, 2023

Teneshia Hudspeth
Harris County
P.O. Box 1148
Houston, Texas 77002

Dear Ms. Hudspeth,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Harris County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates that the county plans to receive an upgrade from their current version of Verity Scan, Verity Build and Verity Central to version 2.7.5, which includes a de minimis change previously authorized by our office. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

AMERICAN OVERSIGHT

From: David Velez-Perez
Sent: Friday, October 13, 2023 5:21 PM
To: Peter Lichtenheld
Cc: Hudspeth, Teneshia (CCO); Winn, Michael (CCO); DeLeon, Hector (CCO); Ballard, Jennifer (CCO); Christina Adkins; Kristi Hart; Charles Pinney
Subject: RE: Verity 2.7.6 Harris Approval Request
Attachments: Verity 2.7.6 Upgrades-Harris.pdf

Hello team!
Let us know if we can assist with anything else.
Have a great weekend.

David Velez-Perez

Elections Security Trainer – Elections Division

Office of the Texas Secretary of State

1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701

512-475-2859
1-800-252-VOTE (8683)

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From: Peter Lichtenheld [redacted]
Sent: Thursday, October 12, 2023 3:23 PM
To: Christina Adkins <CAdkins@sos.texas.gov>; Kristi Hart <KHart@sos.texas.gov>; Charles Pinney <CPinney@sos.texas.gov>; David Velez-Perez <DVelez-Perez@sos.texas.gov>
Cc: Hudspeth, Teneshia (CCO) <Teneshia.Hudspeth@cco.hctx.net>; Winn, Michael (CCO) <Michael.Winn@cco.hctx.net>; DeLeon, Hector (CCO) <Hector.Deleon@cco.hctx.net>; Ballard, Jennifer (CCO) <Jennifer.Ballard@cco.hctx.net>
Subject: Verity 2.7.6 Harris Approval Request

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Christina and Team,

Please see the attached request for upgrade approval for Harris County. We look forward to receiving your response.

AMERICAN OVERSIGHT

Peter Lichtenheld, CERA
Senior Vice President of Customer Success
Hart InterCivic
512.632.3079 (m) | 866.275.4278 (help desk)
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https://www.hartintercivic.com/

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Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 13, 2023

Teneshia Hudspeth
Harris County
P.O. Box 1148
Houston, Texas 77002

Dear Ms. Hudspeth,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Harris County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates that the county plans to receive an upgrade from their current version of Verity Scan and Verity Central to version 2.7.6, which includes a de minimis change previously authorized by our office. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

AMERICAN OVERSIGHT

From: Chuck Pinney
Sent: Monday, January 29, 2024 8:54 AM
To: Moody, Chris
Cc: Bridgette Escobedo; David Velez-Perez
Subject: Re: Williamson County, TX - DS300 Sales Order Agreement 12.21.2023
Attachments: Williamson County - Approval Letter.pdf; EVS 6300 Certification Order.pdf

Hello,

Please see the attached Approval Letter and Certification Order for Williamson County.

Please let me know if you have any questions or any issues with the attachments.

Thanks,

Chuck Pinney
Senior Staff Attorney – Elections Division
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
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The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Moody, Chris [redacted]>
Sent: Wednesday, January 24, 2024 11:13 AM
To: Chuck Pinney <CPinney@sos.texas.gov>
Cc: Bridgette Escobedo <bridgette.escobedo@wilco.org>
Subject: FW: Williamson County, TX - DS300 Sales Order Agreement 12.21.2023

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Chuck,

Attached is a DS300/Upgrade order that came in for Williamson last month. I was of the understanding that they had requested your approval letter but Bridgette and I don't think that happened because they were between EA's at the time. Anyways, attached is the contract for the DS300's and upgrading to EVS 6300 to support this hardware. Would you be able to approve this purchase for Williamson County please. I've included Bridgette on the email.

Thank you,

AMERICAN OVERSIGHT

From: Newman, BreAnnah [redacted]
Sent: Thursday, December 21, 2023 2:50 PM
To: Phone - Invoices or Orders Support <orders@essvote.com>
Cc: Bennett, Linda [redacted]; Hochstein, Karen [redacted] Mack, Tara [redacted]; Menges, Sheri [redacted]; Pick, Tina [redacted]; Plath, Jared [redacted]; Ryan, Judd [redacted]; Schlautman, Trent [redacted]; Shoemaker, Roberta [redacted]; *ESS Omaha FS Team <ESSOmahaFSTeam@essvote.com>; Bloedorn, Cielo [redacted]; Cantu, Denise [redacted]; Granger, Katina [redacted]; Jackson, Courtney [redacted]; McDermott, Lee [redacted]; McDermott, Michael [redacted]; McDonald, Sheri [redacted]; Mecseji, Dave [redacted]; Hoffman, Bryan [redacted]; Kunz, Matt [redacted]; Matravers, Ariela [redacted]; Moody, Chris [redacted]; Moody, John [redacted]; Parker, Danda [redacted], Jay [redacted]; Vogel, Vicki [redacted]
Subject: Williamson County, TX - DS300 Sales Order Agreement 12.21.2023

Attached please find a copy of the fully Executed Agreement for the above referenced customer which was posted to the L Drive under Contracts & Agreements ("Actual Agreements") today.

BreAnnah Newman | Paralegal II
Election Systems & Software, LLC | 11208 John Galt Blvd., Omaha, NE 68137
O: 402 970-1189 | F: 402 970-1291 | C: 402 990-0172
[redacted]

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AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

January 29, 2024

Bridgette Escobedo
Williamson County
301 S.E. Inner Loop – Suite 104
Georgetown, Texas 78626

Hello,

We are in receipt of a copy of the proposed contract between Williamson County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6300 system, which includes the ExpressVote ballot marking device, the DS200 precinct scanner, the DS300 precinct scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems. Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:CP

AMERICAN OVERSIGHT

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Austin, Texas 78711-2060
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Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

REPORT OF REVIEW OF ELECTION SYSTEMS & SOFTWARE EVS 6.3.0.0 SYSTEM

PRELIMINARY STATEMENT

On January 24-25, 2023, Election Systems & Software ("ES&S" or the "Vendor") presented the EVS 6.3.0.0 system for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems;
2. Mr. Brian Mechler, an expert in electronic data communication systems;
3. Mr. Brandon Hurley, an expert in election law and procedure; and
4. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Mr. Robert Thomson, an expert in electronic data communication systems; and
2. Mr. Austin Kinghorn, an employee of the Texas Attorney General.

On January 24, 2023, Mr. Mechler, Mr. Pinney, and Mr. Thomson witnessed the installation of the EVS 6.3.0.0 software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. Mr. Pinney conducted the examination of the accessibility components of the ExpressVote and the ExpressTouch.

On January 25, 2023, the Vendor demonstrated the system and answered questions presented by the examiners. After the vendor presentation, the examiners conducted a test election and tested other components of the system. The results of the test election were accumulated and later verified for accuracy by staff of the Secretary of State.

During the initial examination, the examiners identified a paper jam issue with the DS300 precinct scanner. A follow-up examination of that issue was conducted on March 31, 2023. Consistent with the Office's administrative rules, the Office determined that due to extenuating circumstances—specifically, the completion of the follow-up examination—the examiners needed more than 30 days to complete their examiner reports. *See* 1 Tex. Admin. Code § 81.60(9)(C). Accordingly, the Office extended the deadline for the examiners to submit their reports pertaining to the EVS 6.3.0.0 system. 1 Tex. Admin. Code § 81.60(9)(C). The examiners' reports indicate that the paper jam issue could be resolved by imposing a condition on certification prohibiting the installation of the imprinter on the DS300 precinct scanner.

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Examiner reports regarding the EVS 6.3.0.0 system are attached hereto and incorporated herein by this reference.

On June 1, 2023, pursuant to Section 122.0371 of the Texas Election Code, the Office held a public hearing for interested persons to express views for or against the certification of the EVS 6.3.0.0 system.

BRIEF DESCRIPTION OF EVS 6.3.0.0

The EVS 6.3.0.0 system is an updated version of the EVS 6.1.1.0 system, which the Office certified in January 2021 for use in Texas elections.[1] EVS 6.3.0.0 includes software enhancements to the existing election management system and updates to other previously certified hardware components, including the ExpressVote ballot marking device, the ExpressTouch curbside DRE, the DS200 precinct scanner, and the DS450 and DS850 central scanners. EVS 6.3.0.0 also included an additional hardware component (DS300 precinct scanner). The ExpressVote XL ballot marking device was not submitted for certification with the EVS 6.3.0.0 system.

EVS 6.3.0.0 has been evaluated at an accredited independent voting system laboratory for conformance to the 2005 Voluntary Voting System Guidelines (VVSG). EVS 6.3.0.0 was certified by the U.S. Election Assistance Commission (EAC) on November 17, 2022.

The components of EVS 6.3.0.0 are as follows:

Component	Version	Description
ExpressTouch	4.2.1.0	Direct-recording electronic voting machine (only for curbside voting)
DS200 (HW 1.2)	3.0.0.0	Precinct scanner
DS200 (HW 1.3)	3.0.0.0	Precinct scanner
DS200 (HW 1.3.13)	3.0.0.0	Precinct scanner
DS300	3.0.0.0	Precinct scanner
DS450	4.2.0.0	Central scanner
DS850	4.2.0.0	Central scanner
DS950	4.2.0.0	Central scanner
ExpressVote (HW 1.0)	4.2.1.0	Ballot marking device
ExpressVote (HW 2.1)	4.2.1.0	Ballot marking device

[1] ES&S also submitted the EVS 6.2.0.0 system for certification in Texas. The examination of that system occurred in June 2022. The Office's certification orders for the EVS 6.2.0.0 and EVS 6.3.0.0 systems are being issued simultaneously.

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ElectionWare	6.3.0.0	Election management software
ExpressLink	3.0.0.0	Election management software
Event Log Service	3.0.0.0	Election management software
ExpressVote Activation Card Printer	N/A	Voting machine ballot activation device
PaperBallot	6.3.0.0	Election management software
Removable Media Service	3.0.0.0	Election management software
Toolbox	4.3.0.0	Election management software
Regional Results	1.5.0.0	Election management software

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and the written reports of the voting system examiners (all of whom recommended certifying the EVS 6.3.0.0 system for use in Texas elections, subject to certain conditions outlined below).

The EVS 6.3.0.0 system, including its hardware and software components, meets the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the EVS 6.3.0.0 system and its components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting; and
10. Are capable of providing records from which the operation of the voting system may be audited.

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CONDITIONS

The Secretary of State imposes the following conditions on the certification of the EVS 6.3.0.0 system:

1. The imprinter attachment shall not be installed on any tabulation devices used with the EVS 6.3.0.0 system.

2. The Regional Results module must be used in accordance with procedures prescribed by the Secretary of State under Section 127.1231(b) of the Texas Election Code for the module to be considered within the scope of the certification of the EVS 6.3.0.0 system.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify Election Systems & Software's EVS 6.3.0.0 system for use in Texas elections, subject to the above conditions.

Signed under my hand and seal of office, this 29TH day of JUNE, 2023.

JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

AMERICAN OVERSIGHT

From: Tumati, Neeharika (EAD) <Neeharika.Tumati@vote.hctx.net>
Sent: Thursday, January 21, 2021 1:46 PM
To: Christina Adkins; Charles Pinney
Cc: Stevens, Beth (EAD)
Subject: TEC 123.035 Submission Documents for Acquisition of a Voting System-HARRIS COUNTY

Importance: High

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Hello Christina:

I hope this email finds you well. Harris County is in the process of acquiring new voting system equipment. I am reaching out on behalf of the Elections Administrator's Office to:

- ascertain which documents are required to be submitted to the SOS for approval, ("identifying information that the secretary needs to determine whether the version of the system and equipment being acquired under the contract complies with the applicable requirements." TEC 123.035).
- Whether there is anything else our office needs to complete or provide to the SOS?

We appreciate your prompt attention to this matter.

Neeharika Tumati
Director of Compliance

Office of Isabel Longoria
Elections Administrator, Harris County
1001 Preston, 4th Floor
Houston, TX 77002
Office: 713-274-9814
ntumati@cco.hctx.net

AMERICAN OVERSIGHT

From: GeneralCounsel
Sent: Friday, February 16, 2024 11:10 AM
To: [redacted]
Subject: RE: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

Good morning,

Thank you for your payment.

This email acknowledges receipt of payment for your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office on February 15, 2024 (the "Request").

We will begin processing your Request in accordance with the PIA. Our Office will be closed on Monday, February 19, 2024 in observance of Presidents Day. You will receive a response from our Office on or before the 10th business day March 1, 2024.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: [redacted]>
Sent: Thursday, February 15, 2024 1:42 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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Dear Jennifer,

Thank you...payment has been made.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
313-720-5471
"Occupy till I come" - *Luke 19:13*
"As for those who persist in sin...rebuke them" - *1Timothy 5:20*
"Be not afraid nor dismayed...for the battle is not yours, but God's." - *2Chron 2:15*

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On Thursday, February 15, 2024 10:28 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

Good morning,

Thank you for your email. The payment link was just sent to you. This email will contain a secure link to a payment portal, where you can enter in your credit card information and pay online. Please let me know if you do not see the email from payments@sos.texas.gov in your inbox or spam folder.

If you choose to proceed with payment using a credit card, please note that an additional 2.7% convenience fee is assessed on all credit card charges. It will show up as a separate charge with TX SOS as the name and a Maryland address.

We will provide you any responsive information—to the extent such information is not excepted from disclosure under state or federal law—on a rolling basis upon receipt of your payment.

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: [redacted]
Sent: Wednesday, February 14, 2024 3:12 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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Please send cc payment information for payment.

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Laura

Laura Pressley, Ph.D.
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On Wednesday, February 14, 2024 9:48 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

> Good morning,
>
> Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.
>
> Kind regards,
>
> *Jennifer Williams*

AMERICAN OVERSIGHT

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: GeneralCounsel

Sent: Friday, February 2, 2024 10:24 AM

To: [redacted]

Subject: RE: Voting System Contract Approval Requests - SoS Open Records

Good morning,

This email acknowledges receipt of your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office of the Texas Secretary of State (the "Office") via email on January 31, 2024 (the "Request").

We will process your Request in accordance with the PIA. You will receive a response from our Office on the 10th business day, February 14, 2024.

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: [redacted]

Sent: Wednesday, January 31, 2024 4:47 PM

To: GeneralCounsel <GeneralCounsel@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>

Subject: Voting System Contract Approval Requests - SoS Open Records

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Dear Mr. Bitter and Christina,

Hope you are both doing well. Please consider this an open records request pursuant to Tex. Gov't Code Chapter 552.

Please provide the following documents related to voting system and voting equipment contract approvals pursuant to Tex. Elec.Code Sections 123.0311, 123.035 for the following years and counties:
- Harris (2019 - 2024)
- Bexar (2019 - 2024)
- Dallas (2019 - 2024)
- Tarrant (2019 - 2024)
- Travis (2019 - 2024)
- Fort Bend (2019 - 2024)
- Montgomery (2019 - 2024)
- Hays (2019 - 2024)
- Williamson (2019 - 2024)
- Bell (2019 - 2024)

For the counties and time frames noted above, please include information:
- Each of the county's requests for an SoS letter and SoS order for the secretary to determine if the version of the voting system and equipment being acquired under the contract between the county and ES&S or Hart InterCivic complies with the applicable requirements.

AMERICAN OVERSIGHT

- Each of the county's voting system contracts (between the county and ES&S or Hart InterCivic) submitted to the SoS for review and determination if it complies with requirements.
- Each of the SoS letters stating that the voting system and voting system equipment being acquired by the County under the submitted contract satisfy the applicable requirements for approval.
- Each of the SoS written orders issued under Section 122.038 and 122.070 approving the voting system and voting system equipment for use in elections and, if applicable, of the written order issued under Section 122.095 granting conditional approval of the system or equipment.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

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From: [redacted]
Sent: Thursday, February 15, 2024 1:42 PM
To: GeneralCounsel
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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AMERICAN OVERSIGHT

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

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Office of the Texas Secretary of State

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Sent: Friday, February 2, 2024 10:24 AM

To: [redacted]

Subject: RE: Voting System Contract Approval Requests - SoS Open Records

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- Each of the SoS letters stating that the voting system and voting system equipment being acquired by the County under the submitted contract satisfy the applicable requirements for approval.
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AMERICAN OVERSIGHT

From: GeneralCounsel
Sent: Thursday, February 15, 2024 10:29 AM
To: [redacted]
Cc: GeneralCounsel
Subject: RE: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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Thank you for your email. The payment link was just sent to you. This email will contain a secure link to a payment portal, where you can enter in your credit card information and pay online. Please let me know if you do not see the email from payments@sos.texas.gov in your inbox or spam folder.

If you choose to proceed with payment using a credit card, please note that an additional 2.7% convenience fee is assessed on all credit card charges. It will show up as a separate charge with TX SOS as the name and a Maryland address.

We will provide you any responsive information—to the extent such information is not excepted from disclosure under state or federal law—on a rolling basis upon receipt of your payment.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: [redacted]
Sent: Wednesday, February 14, 2024 3:12 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

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Dear Jennifer,

These quotes are acceptable.
Please send cc payment information for payment.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

AMERICAN OVERSIGHT

313-720-5471
"Occupy till I come" - *Luke 19:13*
"As for those who persist in sin...rebuke them" - *1Timothy 5:20*
"Be not afraid nor dismayed...for the battle is not yours, but God's." - *2Chron 2:15*

The content of this message is TRUE TEXAS ELECTIONS, LLC CONFIDENTIAL.
If you are not the intended recipient, please notify me, delete this email and do not use or distribute this email.

On Wednesday, February 14, 2024 9:48 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: GeneralCounsel
Sent: Friday, February 2, 2024 10:24 AM
To: [redacted]
Subject: RE: Voting System Contract Approval Requests - SoS Open Records

Good morning,

AMERICAN OVERSIGHT

This email acknowledges receipt of your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office of the Texas Secretary of State (the "Office") via email on January 31, 2024 (the "Request").

We will process your Request in accordance with the PIA. You will receive a response from our Office on the 10th business day, February 14, 2024.

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: [redacted]
Sent: Wednesday, January 31, 2024 4:47 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>
Subject: Voting System Contract Approval Requests - SoS Open Records

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Dear Mr. Bitter and Christina,

AMERICAN OVERSIGHT

Hope you are both doing well. Please consider this an open records request pursuant to Tex. Gov't Code Chapter 552.

Please provide the following documents related to voting system and voting equipment contract approvals pursuant to Tex. Elec.Code Sections 123.0311, 123.035 for the following years and counties:
- Harris (2019 - 2024)
- Bexar (2019 - 2024)
- Dallas (2019 - 2024)
- Tarrant (2019 - 2024)
- Travis (2019 - 2024)
- Fort Bend (2019 - 2024)
- Montgomery (2019 - 2024)
- Hays (2019 - 2024)
- Williamson (2019 - 2024)
- Bell (2019 - 2024)

For the counties and time frames noted above, please include information:
- Each of the county's requests for an SoS letter and SoS order for the secretary to determine if the version of the voting system and equipment being acquired under the contract between the county and ES&S or Hart InterCivic complies with the applicable requirements.
- Each of the county's voting system contracts (between the county and ES&S or Hart InterCivic) submitted to the SoS for review and determination if it complies with requirements.
- Each of the SoS letters stating that the voting system and voting system equipment being acquired by the County under the submitted contract satisfy the applicable requirements for approval.
- Each of the SoS written orders issued under Section 122.038 and 122.070 approving the voting system and voting system equipment for use in elections and, if applicable, of the written order issued under Section 122.095 granting conditional approval of the system or equipment.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

313-720-5471
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"As for those who persist in sin...rebuke them" - 1Timothy 5:20
"Be not afraid nor dismayed...for the battle is not yours, but God’s." - 2Chron 2:15

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AMERICAN OVERSIGHT

From: [redacted]
Sent: Wednesday, February 14, 2024 3:12 PM
To: GeneralCounsel
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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Dear Jennifer,

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Laura Pressley, Ph.D.
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If you are not the intended recipient, please notify me, delete this email and do not use or distribute this email.

On Wednesday, February 14, 2024 9:48 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

> Good morning,
>
> Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.
>
> Kind regards,

AMERICAN OVERSIGHT

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: GeneralCounsel
Sent: Friday, February 2, 2024 10:24 AM
To: [redacted]
Subject: RE: Voting System Contract Approval Requests - SoS Open Records

Good morning,

This email acknowledges receipt of your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office of the Texas Secretary of State (the "Office") via email on January 31, 2024 (the "Request").

We will process your Request in accordance with the PIA. You will receive a response from our Office on the 10th business day, February 14, 2024.

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: [redacted]
Sent: Wednesday, January 31, 2024 4:47 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>
Subject: Voting System Contract Approval Requests - SoS Open Records

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- Fort Bend (2019 - 2024)
- Montgomery (2019 - 2024)
- Hays (2019 - 2024)
- Williamson (2019 - 2024)
- Bell (2019 - 2024)

For the counties and time frames noted above, please include information:
- Each of the county's requests for an SoS letter and SoS order for the secretary to determine if the version of the voting system and equipment being acquired under the contract between the county and ES&S or Hart InterCivic complies with the applicable requirements.
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- Each of the SoS letters stating that the voting system and voting system equipment being acquired by the County under the submitted contract satisfy the applicable requirements for approval.

AMERICAN OVERSIGHT

- Each of the SoS written orders issued under Section 122.038 and 122.070 approving the voting system and voting system equipment for use in elections and, if applicable, of the written order issued under Section 122.095 granting conditional approval of the system or equipment.

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Laura Pressley, Ph.D.
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AMERICAN OVERSIGHT

From: GeneralCounsel
Sent: Wednesday, February 14, 2024 9:48 AM
To: [redacted]
Cc: GeneralCounsel
Subject: RE: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165
Attachments: 2-14-24 Statement of Estimated Costs - Pressley PIR 24-0165.pdf; Attachment A for Request Regarding Cost Estimate.pdf

Good morning,

Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel
Sent: Friday, February 2, 2024 10:24 AM
To: [redacted]
Subject: RE: Voting System Contract Approval Requests - SoS Open Records

Good morning,

This email acknowledges receipt of your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office of the Texas Secretary of State (the "Office") via email on January 31, 2024 (the "Request").

We will process your Request in accordance with the PIA. You will receive a response from our Office on the 10th business day, February 14, 2024.

Kind regards,

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Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: [redacted]>
Sent: Wednesday, January 31, 2024 4:47 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>
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- Montgomery (2019 - 2024)
- Hays (2019 - 2024)
- Williamson (2019 - 2024)
- Bell (2019 - 2024)

For the counties and time frames noted above, please include information:
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The State of Texas

Executive Division
Capitol Building, 1E.8
P.O. Box 12887
Austin, Texas 78711-2887

Phone: 512-463-5770
Fax: 512-475-2761
Dial 7-1-1 For Relay Services
www.sos.texas.gov

Jane Nelson
Secretary of State

February 14, 2024

Laura Pressley

Sent via Electronic Mail to: [redacted]

Re: Request for records, received: January 31, 2024 (SOS PIR No. 24-0165)

Dear Dr. Pressley:

This letter responds to your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office of the Texas Secretary of State (the "Office") via email on January 31, 2024 (the "Request"). In the Request, you state:

> *Please provide the following documents related to voting system and voting equipment contract approvals pursuant to Tex. Elec.Code Sections 123.0311, 123.035 for the following years and counties:*
> *- Harris (2019 - 2024)*
> *- Bexar (2019 - 2024)*
> *- Dallas (2019 - 2024)*
> *- Tarrant (2019 - 2024)*
> *- Travis (2019 - 2024)*
> *- Fort Bend (2019 - 2024)*
> *- Montgomery (2019 - 2024)*
> *- Hays (2019 - 2024)*
> *- Williamson (2019 - 2024)*
> *- Bell (2019 - 2024)*
>
> ***For the counties and time frames noted above, please include information:***
> *- Each of the county's requests for an SoS letter and SoS order for the secretary to determine if the version of the voting system and equipment being acquired under the contract between the county and ES&S or Hart InterCivic complies with the applicable requirements.*
> *- Each of the county's voting system contracts (between the county and ES&S or Hart InterCivic) submitted to the SoS for review and determination if it complies with requirements.*
> *- Each of the SoS letters stating that the voting system and voting system equipment being acquired by the County under the submitted contract satisfy the applicable requirements for approval.*
> *- Each of the SoS written orders issued under Section 122.038 and 122.070 approving the voting system and voting system equipment for use in elections and,*

AMERICAN OVERSIGHT

if applicable, of the written order issued under Section 122.095 granting conditional approval of the system or equipment.

NOTICE OF APPLICATION OF SEC. 552.231 OF THE TEXAS GOVERNMENT CODE

Pursuant to Section 552.231 of the Texas Government Code, we have determined that (1) responding to the Request will require programming or manipulation of data; and (2) the information responsive to the Request can be made available only at a cost that covers the programming and manipulation of data.

STATEMENT OF ESTIMATED TIME AND COSTS:

Pursuant to Sections 552.231 and 552.2615 of the Texas Government Code, we have determined that responding to the Request will require programming or manipulation of data, and the responsive information can only be made available to you at a cost that covers this programming or manipulation. In addition, locating and compiling the responsive documents, and possibly redacting information that may be withheld from such documents, will result in the imposition of a charge that exceeds $40. Therefore, we are providing you with this cost estimate as required by Section 552.2615 of the Texas Government Code. Pursuant to 1 T.A.C. § 71.9(a), any fees and charges payable to our Office must be paid in advance. As noted in the itemized list of charges below, the estimated cost for responding to the Request is **$122.40**.

Statement of Estimated Costs

Description	**Qty x Price**	**Total**
Labor, Programming to Write Queries ($28.50/hr) (1 T.A.C. § 70.3(c))	2 x $28.50	$57.00
Labor cost to locate, compile, manipulate data, and reproduce the requested information and potentially redact confidential information from certain documents ($15/hr) (1 T.A.C. § 70.3(d))	3 x $15.00	$45.00
Overhead (20% of Labor) (1 T.A.C. § 70.3(e))	x .20	$20.40
	Total	$122.40

There is a less expensive way for you to obtain the requested information. You may view the information in person at our Office. Pursuant to Section 552.272 of the Texas Government Code, there will still be costs involved in processing the Request through an in-person inspection of the requested information. If you want to receive a revised cost estimate prior to an in-person inspection of the documents, please let us know.

AMERICAN OVERSIGHT

Additionally, as further detailed in Attachment A to this letter, pursuant to Section 552.2615 of the Texas Government Code, you must take certain steps in order to avoid the withdrawal of the Request. Specifically, Section 552.2615 requires:

(1) the requestor to provide the governmental body with a mailing or electronic mail address to receive the itemized statement (it is the requestor's choice which type of address to provide);
(2) the Office of the Secretary of State to inform the requestor that the request is considered automatically withdrawn if the requestor does not respond in writing to the itemized statement within 10 business days after the date the statement is sent to the requestor. This response is limited by law to a response that the requestor will accept the estimated charges, will modify the request in response to the itemized statement, or has sent to the Cost Rules Administrator at the Office of the Attorney General a complaint alleging that the requestor has been overcharged for the requested public information; and
(3) the requestor to respond to the statement by delivering the written response to the governmental body either by mail, in person, or by electronic mail.

Separately, Section 552.263(f) of the Texas Government Code provides that a requestor "who fails to make a deposit or post a bond required . . . before the 10th business day after the date the deposit or bond is required is considered to have withdrawn the request for the copy of the public information that precipitated the requirement of the deposit or bond."

Finally, as provided in Attachment A, if this Office determines at a later date, but before making the copy of the public information available, that the estimated charges will exceed the charges detailed in the written itemized statement by 20 percent or more, this Office will send a written updated itemized statement that details all the estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

We have provided this statement to you via electronic mail because that is the method in which you have chosen to communicate with us. If you would like to receive the statement by mail, please provide us with a mailing address. If you agree to accept the estimated charges, please do so in writing. To pay the charges by credit card, please let us know and we will send you a secure link to a payment portal where you can pay online. The Office does not accept payment information via email. Alternatively, you may deliver a copy of this letter with a check or money order for the amount to the following address:

Mailing Address:
Office of the Secretary of State
Executive Division
P.O. Box 12697
Austin, TX 78711-2697
Attn: Adam Bitter, General Counsel

AMERICAN OVERSIGHT

Delivery Address:
Office of the Secretary of State
Executive Division
1100 Congress Avenue
Room 1E.8
Austin, TX 78701
Attn: Adam Bitter, General Counsel

Email: generalcounsel@sos.texas.gov

The check or money order should be made payable to "Secretary of State." We will provide you any responsive information—to the extent such information is not excepted from disclosure under state or federal law—on a rolling basis upon receipt of your payment.

If you have any questions or would like to discuss or modify your request, please do not hesitate to contact our office at (512) 463-5770 or at the email address below.

Sincerely,



Adam Bitter
General Counsel
Office of the Texas Secretary of State
generalcounsel@sos.texas.gov
AB/jw

Enclosure

AMERICAN OVERSIGHT

ATTACHMENT A

Rights and Responsibilities of a Requestor When Presented with an Itemized Estimated Statement of Costs

Pursuant to Section 552.2615 of the Texas Government Code, you must:

- Provide this office with a mailing or electronic mail address for the purpose of receiving the itemized statement and any updated itemized statement. It is your choice as to which type of address to provide this office.
- Respond in writing to the itemized statement or any updated itemized statement within ten (10) days after the date the statement is sent by this office and inform this office that:

    1. You will accept the estimated charges;
    2. You are modifying the request in response to the itemized statement; or
    3. You have sent a complaint to the Attorney General alleging that you have been overcharged for being provided with a copy of the public information requested.

If this office determines at a later date, but before making the copy of the public information available, that the estimated charges will exceed the charges detailed in the written itemized statement by 20 percent or more, this office will send a written updated itemized statement that details all the estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

NOTICE: Your request will be considered automatically withdrawn if you fail to respond within ten (10) business days after the date the statement of itemized estimated costs is: (1) delivered to you in person; (2) deposited by this office in the United States mail; or (3) transmitted by electronic mail if you have agreed to receive the statement by electronic mail.

You may respond to the itemized statement of estimated costs sent to you by delivering your written response by mail, in person, or by electronic mail. The addresses are as follows:

Mailing Address:
Office of the Secretary of State
Executive Division
PO Box 12887
Austin, TX 78711-2887
Attn: Adam Bitter, General Counsel

Delivery Address:
Office of the Secretary of State
Executive Division
1100 Congress Avenue
Room 1E.8
Austin, TX 78701
Attn: Adam Bitter, General Counsel

Email: generalcounsel@sos.texas.gov

AMERICAN OVERSIGHT

From: GeneralCounsel
Sent: Thursday, March 21, 2024 4:04 PM
To: [redacted]
Cc: GeneralCounsel
Subject: RE: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165
Attachments: 3.21.24 Documents.zip

Good afternoon,

As a follow up to our March 1 email, please see the attached zipped folder containing an additional production of documents responsive to your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA").

The responsive documents contain email addresses of the general public. An email address of a member of the public is confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold an email address of a member of the public without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on April 19, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, March 1, 2024 11:03 AM
To: [redacted]
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

Good morning,

As a follow up to our February 16 email, please see the attached zipped folder containing an initial production of documents responsive to your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA").

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on March 22, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

AMERICAN OVERSIGHT

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel
Sent: Friday, February 16, 2024 11:10 AM
To: [redacted]
Subject: RE: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

Good morning,

Thank you for your payment.

This email acknowledges receipt of payment for your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office on February 15, 2024 (the "Request").

We will begin processing your Request in accordance with the PIA. Our Office will be closed on Monday, February 19, 2024 in observance of Presidents Day. You will receive a response from our Office on or before the 10th business day March 1, 2024.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: [redacted]
Sent: Thursday, February 15, 2024 1:42 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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Dear Jennifer,

Thank you...payment has been made.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
313-720-5471
"Occupy till I come" - *Luke 19:13*
"As for those who persist in sin...rebuke them" - *1Timothy 5:20*
"Be not afraid nor dismayed...for the battle is not yours, but God's." - *2Chron 2:15*

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On Thursday, February 15, 2024 10:28 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

Good morning,

Thank you for your email. The payment link was just sent to you. This email will contain a secure link to a payment portal, where you can enter in your credit card information and pay online. Please let me know if you do not see the email from payments@sos.texas.gov in your inbox or spam folder.

If you choose to proceed with payment using a credit card, please note that an additional 2.7% convenience fee is assessed on all credit card charges. It will show up as a separate charge with TX SOS as the name and a Maryland address.

We will provide you any responsive information—to the extent such information is not excepted from disclosure under state or federal law—on a rolling basis upon receipt of your payment.

Kind regards,

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Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: [redacted]
Sent: Wednesday, February 14, 2024 3:12 PM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

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Dear Jennifer,

These quotes are acceptable.
Please send cc payment information for payment.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

313-720-5471
"Occupy till I come" - *Luke 19:13*
"As for those who persist in sin...rebuke them" - *1Timothy 5:20*
"Be not afraid nor dismayed...for the battle is not yours, but God's." - *2Chron 2:15*

The content of this message is TRUE TEXAS ELECTIONS, LLC CONFIDENTIAL. If you are not the intended recipient, please notify me, delete this email and do not use or distribute this email.

On Wednesday, February 14, 2024 9:48 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

> Good morning,
>
> Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.
>
> Kind regards,

AMERICAN OVERSIGHT

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: GeneralCounsel

Sent: Friday, February 2, 2024 10:24 AM

To: [redacted]

Subject: RE: Voting System Contract Approval Requests - SoS Open Records

Good morning,

This email acknowledges receipt of your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office of the Texas Secretary of State (the "Office") via email on January 31, 2024 (the "Request").

We will process your Request in accordance with the PIA. You will receive a response from our Office on the 10th business day, February 14, 2024.

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

AMERICAN OVERSIGHT

From: [redacted]

Sent: Wednesday, January 31, 2024 4:47 PM

To: GeneralCounsel <GeneralCounsel@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>

Subject: Voting System Contract Approval Requests - SoS Open Records

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are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, pleas
this email as an attachment to Informationsecurity@sos.texas.gov.

Dear Mr. Bitter and Christina,

Hope you are both doing well. Please consider this an open records request pursuant to Tex. Gov't Code Chapter 552.

Please provide the following documents related to voting system and voting equipment contract approvals pursuant to Tex. Elec.Code Sections 123.0311, 123.035 for the following years and counties:
- Harris (2019 - 2024)
- Bexar (2019 - 2024)
- Dallas (2019 - 2024)
- Tarrant (2019 - 2024)
- Travis (2019 - 2024)
- Fort Bend (2019 - 2024)
- Montgomery (2019 - 2024)
- Hays (2019 - 2024)
- Williamson (2019 - 2024)
- Bell (2019 - 2024)

For the counties and time frames noted above, please include information:
- Each of the county's requests for an SoS letter and SoS order for the secretary to determine if the version of the voting system and equipment being acquired under the contract between the county and ES&S or Hart InterCivic complies with the applicable requirements.

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- Each of the county's voting system contracts (between the county and ES&S or Hart InterCivic) submitted to the SoS for review and determination if it complies with requirements.
- Each of the SoS letters stating that the voting system and voting system equipment being acquired by the County under the submitted contract satisfy the applicable requirements for approval.
- Each of the SoS written orders issued under Section 122.038 and 122.070 approving the voting system and voting system equipment for use in elections and, if applicable, of the written order issued under Section 122.095 granting conditional approval of the system or equipment.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

313-720-5471
"Occupy till I come" - Luke 19:13
"As for those who persist in sin...rebuke them" - 1Timothy 5:20
"Be not afraid nor dismayed...for the battle is not yours, but God's." - 2Chron 2:15

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The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

David Whitley
Secretary of State

April 18, 2019

Jacque Callanen
Elections Administrator
Bexar County
1103 S. Frio, Suite 100
San Antonio, Texas 78207

Dear Ms. Callanen:

We are in receipt of a copy of the proposed contract between Bexar County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6020 which includes the DS200 precinct scanner, the DS450 central scanner, the DS850 central scanner, and the ExpressVote ballot marking device. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore, officially, approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

The State of Texas

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Austin, Texas 78711-2060
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(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 25, 2020

Jacque Callanen
Bexar County
1103 S. Frio, Suite 100
San Antonio, Texas 78207

Dear Ms. Callanen:

We are in receipt of a copy of the proposed contract between Bexar County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the ExpressTouch curbside DRE, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

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David Whitley
Secretary of State

April 23, 2019

Toni Pippins-Poole
Elections Administrator
Dallas County
2377 North Stemmons Freeway, Suite 820
Dallas, Texas 75207

Dear Ms. Pippins-Poole:

We are in receipt of a copy of the proposed contract between Dallas County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6020 which includes the DS200 precinct scanner, the DS850 central scanner, and the ExpressVote ballot marking device. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore, officially, approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

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Ruth R. Hughes
Secretary of State

June 25, 2020

John W. Oldham
Fort Bend County
4520 Reading Road, Suite A-400
Rosenberg, Texas 77471

Dear Mr. Oldham:

We are in receipt of a copy of the proposed contract between Fort Bend County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the ExpressTouch curbside DRE, the DS200 precinct scanner, and the DS450 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

The State of Texas

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(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

September 11, 2019

John Oldham
Fort Bend County
301 Jackson Street
Richmond, Texas 77469

Dear Mr. Oldham:

We are in receipt of a copy of the proposed contract between Fort Bend County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6020 which includes the ExpressVote ballot marking device, the ExpressTouch curbside DRE, the DS200 precinct scanner, and the DS450 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

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Ruth R. Hughs
Secretary of State

January 21, 2021

Isabel Longoria
Elections Administrator
Harris County
P.O. Box 1148
Houston, Texas 77251

Dear Ms. Longoria,

We are in receipt of a copy of the proposed contract between Harris County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.4, which includes Verity Touch Writer Duo, Verity Scan, and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

KI:CP

AMERICAN OVERSIGHT

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John B. Scott
Secretary of State

October 28, 2021

Isabel Longoria
Elections Administrator
Harris County
P.O. Box 1148
Houston, Texas 77251

Dear Ms. Longoria,

We are in receipt of a copy of the proposed contract between Harris County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.5, which includes Verity Touch Writer Duo, Verity Scan, and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:CP

AMERICAN OVERSIGHT

The State of Texas

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John B. Scott
Secretary of State

November 15, 2022

Clifford Tatum
Harris County
P.O. Box 1148
Houston, Texas 77002

Dear Mr. Tatum,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Tarrant County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to receive an upgrade from their current version of the Hart Verity voting system to Verity 2.5.3, which includes a de minimis change previously authorized by our office. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:CP

AMERICAN OVERSIGHT

The State of Texas

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(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

August 24, 2023

Clifford Tatum
Harris County
P.O. Box 1148
Houston, Texas 77002

Dear Mr. Tatum,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Harris County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire the Hart Verity 2.7 voting system, which includes, Verity TouchWriter Duo, Verity Scan, Verity Central, Verity Transmit and Verity Transmit Receiving Station. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
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Austin, Texas 78711-2060
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Secretary of State

August 16, 2019

Jennifer Anderson
Hays County
712 S Stagecoach Trail, Suite 1012
San Marcos, Texas 78666

Dear Ms. Anderson,

We are in receipt of a copy of the proposed contract between Hays County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.3.1 which includes Verity Controller, Verity Touch Writer Duo, Verity Central, and Verity Scan, firmware version 2.3.1. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems. Because the equipment identified in your proposed contract is currently certified for use in Texas, we officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

Enclosures

KI:CA

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The State of Texas

Elections Division
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(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

July 30, 2020

Jennifer Anderson
Elections Administrator
Hays County
712 South Stagecoach Trail, Suite 1012
San Marcos, Texas 78666

Dear Ms. Anderson,

We are in receipt of a copy of the proposed contract between Hays County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.4, which includes Verity Touch Writer Duo, Verity Scan, and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
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(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

October 16, 2023

Suzie Harvey
Montgomery County
9159 Airport Road
Conroe, Texas 77303

Dear Ms. Harvey,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Montgomery County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire the Hart Verity 2.7 voting system, which includes, Verity TouchWriter Duo, Verity Scan and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
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(800) 252-VOTE (8683)

Secretary of State

August 1, 2019

Heider Garcia
Elections Administrator
Tarrant County
2700 Premier Street
Fort Worth, Texas 76111

Dear Mr. Garcia,

We are in receipt of a copy of the proposed contract between Tarrant County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.3.1 which includes Verity Controller, Verity Touch Writer Duo, Verity Scan, and Verity Central, firmware version 2.3.1. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems. Because the equipment identified in your proposed contract is currently certified for use in Texas, we officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

Enclosures

KI:CA

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
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Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughs
Secretary of State

July 30, 2020

Heider Garcia
Elections Administrator
Tarrant County
P.O. Box 961011
Fort Worth, Texas 76161

Dear Mr. Garcia,

We are in receipt of a copy of the proposed contract between Tarrant County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.4, which includes Verity Touch Writer Duo, Verity Scan and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:CP

AMERICAN OVERSIGHT

The State of Texas

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(800) 252-VOTE (8683)

John B. Scott
Secretary of State

November 24, 2021

Heider Garcia
Tarrant County
P.O. Box 961011
Fort Worth, Texas 76161

Hello,

We are in receipt of a copy of the proposed contract between Tarrant County and Hart InterCivic ("Hart"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire Hart's Verity 2.5, which includes Verity Touch Writer Duo, Verity Scan, and Verity Central. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:CP

AMERICAN OVERSIGHT

The State of Texas

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John B. Scott
Secretary of State

October 26, 2022

Heider Garcia
Tarrant County
P.O. Box 961011
Fort Worth, Texas 76161

Dear Mr. Garcia,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Tarrant County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to receive an upgrade from their current Verity Scan version to the Verity Scan 2.5.3, which includes a de minimis change previously authorized by our office. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

KI:DVP

AMERICAN OVERSIGHT

The State of Texas

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Austin, Texas 78711-2060
www.sos.state.tx.us

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Fax: 512-475-2811
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(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

August 24, 2023

Clinton Ludwig
Tarrant County
P.O. Box 961011
Fort Worth, Texas 76161

Dear Mr. Ludwig,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Tarrant County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire the Hart Verity 2.7 voting system, which includes, Verity TouchWriter Duo, Verity Scan, Verity Central, Verity Transmit and Verity Transmit Receiving Station. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

AMERICAN OVERSIGHT

The State of Texas

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Jane Nelson
Secretary of State

October 13, 2023

Clinton Ludwig
Tarrant County
P.O. Box 961011
Fort Worth, Texas 76161

Dear Mr. Ludwig,

We are in receipt of a copy of the proposed contract between Hart InterCivic ("Hart") and Tarrant County, which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates that the county plans to receive an upgrade from their current version of Verity Scan and Verity Central to version 2.7.6, which includes a de minimis change previously authorized by our office. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to these systems.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

AMERICAN OVERSIGHT

The State of Texas

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Ruth R. Hughes
Secretary of State

June 5, 2020

Dana DeBeauvoir
Travis County
PO Box 149325
Austin, Texas 78714

Dear Ms. DeBeauvoir:

We are in receipt of a copy of the proposed contract between Travis County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, the DS450 central scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

July 7, 2023

Bridgette Escobedo
Travis County
PO Box 149325
Austin, Texas 78714

Dear Ms. Escobedo:

We are in receipt of a copy of the proposed contract between Travis County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6300 system, which includes the ExpressVote ballot marking device, the DS200 precinct scanner, the DS450 central scanner, the DS850 central scanner, and the DS950 central scanner. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems. Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:DVP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

David Whitley
Secretary of State

April 23, 2019

Chris Davis
Elections Administrator
Williamson County
301 S.E. Inner Loop, Suite 104
Georgetown, Texas 78626

Dear Mr. Davis:

We are in receipt of a copy of the proposed contract between Williamson County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6020 which includes the DS200 precinct scanner, the DS850 central scanner, and the ExpressVote ballot marking device. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore, officially, approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Jane Nelson
Secretary of State

January 29, 2024

Bridgette Escobedo
Williamson County
301 S.E. Inner Loop – Suite 104
Georgetown, Texas 78626

Hello,

We are in receipt of a copy of the proposed contract between Williamson County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6300 system, which includes the ExpressVote ballot marking device, the DS200 precinct scanner, the DS300 precinct scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that these systems are currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems. Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

Christina W. Adkins

Christina Worrell Adkins
Director of Elections

CA:CP

AMERICAN OVERSIGHT

The State of Texas

Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

Ruth R. Hughes
Secretary of State

June 25, 2020

Christopher J. Davis
Williamson County
301 S.E. Inner Loop, Suite 104
Georgetown, Texas 78626

Dear Mr. Davis:

We are in receipt of a copy of the proposed contract between Williamson County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6100 which includes the ExpressVote ballot marking device, the DS200 precinct scanner, and the DS850 central scanner. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore officially approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,



Keith Ingram
Director of Elections

Enclosures

KI:CP

AMERICAN OVERSIGHT

From: [redacted]
Sent: Thursday, March 7, 2024 1:38 PM
To: GeneralCounsel
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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Thank you...just wanted to clarify if Bell was simply missed in the first production.
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC
313-720-5471
"Occupy till I come" - *Luke 19:13*
"As for those who persist in sin...rebuke them" - *1Timothy 5:20*
"Be not afraid nor dismayed...for the battle is not yours, but God's." - *2Chron 2:15*

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If you are not the intended recipient, please notify me, delete this email and do not use or distribute this email.

On Thursday, March 7, 2024 9:39 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

> Good morning,
>
> I can confirm that the production of documents that we provided you on March 1, 2024 did not contain any documents for Bell County. However, as we stated, we require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on March 22, 2024. *See* Tex. Gov't Code § 552.221(d).
>
> Kind regards,
>
> *Jennifer Williams*
>
> Legal Assistant to the General Counsel

AMERICAN OVERSIGHT

From: [redacted]
Sent: Tuesday, March 5, 2024 12:41 AM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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Thank you, Ms. Williams.

Can you please verify that in this first set, you *do not have any records for Bell county*?
Regards,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

313-720-5471
"Occupy till I come" - *Luke 19:13*
"As for those who persist in sin...rebuke them" - *1Timothy 5:20*
"Be not afraid nor dismayed...for the battle is not yours, but God's." - *2Chron 2:15*

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AMERICAN OVERSIGHT

On Friday, March 1, 2024 11:02 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

Good morning,

As a follow up to our February 16 email, please see the attached zipped folder containing an initial production of documents responsive to your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA").

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you additional responsive documents on a rolling basis—to the extent such information is not excepted from disclosure under state or federal law—with our next production by 5:00 p.m. on March 22, 2024. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: GeneralCounsel

Sent: Friday, February 16, 2024 11:10 AM

To: [redacted]

Subject: RE: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

AMERICAN OVERSIGHT

Good morning,

Thank you for your payment.

This email acknowledges receipt of payment for your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office on February 15, 2024 (the "Request").

We will begin processing your Request in accordance with the PIA. Our Office will be closed on Monday, February 19, 2024 in observance of Presidents Day. You will receive a response from our Office on or before the 10th business day March 1, 2024.

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: [redacted]

Sent: Thursday, February 15, 2024 1:42 PM

To: GeneralCounsel <GeneralCounsel@sos.texas.gov>

Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, pleas
this email as an attachment to Informationsecurity@sos.texas.gov.

AMERICAN OVERSIGHT

Dear Jennifer,

Thank you...payment has been made.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

313-720-5471
"Occupy till I come" - *Luke 19:13*
"As for those who persist in sin...rebuke them" - *1Timothy 5:20*
"Be not afraid nor dismayed...for the battle is not yours, but God's." - *2Chron 2:15*

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If you are not the intended recipient, please notify me, delete this email and do not use or distribute this email.

On Thursday, February 15, 2024 10:28 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

> Good morning,
>
> Thank you for your email. The payment link was just sent to you. This email will contain a secure link to a payment portal, where you can enter in your credit card information and pay online. Please let me know if you do not see the email from payments@sos.texas.gov in your inbox or spam folder.
>
> If you choose to proceed with payment using a credit card, please note that an additional 2.7% convenience fee is assessed on all credit card charges. It will show up as a separate charge with TX SOS as the name and a Maryland address.
>
> We will provide you any responsive information—to the extent such information is not excepted from disclosure under state or federal law—on a rolling basis upon receipt of your payment.

AMERICAN OVERSIGHT

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: [redacted]

Sent: Wednesday, February 14, 2024 3:12 PM

To: GeneralCounsel <GeneralCounsel@sos.texas.gov>

Subject: Re: Voting System Contract Approval Requests - SoS Open Records - SOS PIR 24-0165

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are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing em
this email as an attachment to Informationsecurity@sos.texas.gov.

Dear Jennifer,

These quotes are acceptable.
Please send cc payment information for payment.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

AMERICAN OVERSIGHT

313-720-5471
"Occupy till I come" - *Luke 19:13*
"As for those who persist in sin...rebuke them" - *1Timothy 5:20*
"Be not afraid nor dismayed...for the battle is not yours, but God's." - *2Chron 2:15*

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If you are not the intended recipient, please notify me, delete this email and do not use or distribute this email.

On Wednesday, February 14, 2024 9:48 AM, GeneralCounsel <GeneralCounsel@sos.texas.gov> wrote:

> Good morning,
>
> Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.
>
> Kind regards,
>
> *Jennifer Williams*
>
> Legal Assistant to the General Counsel
>
> Office of the Texas Secretary of State
>
> ---
>
> **From:** GeneralCounsel
>
> **Sent:** Friday, February 2, 2024 10:24 AM

AMERICAN OVERSIGHT

To: [redacted]
[redacted]>

Subject: RE: Voting System Contract Approval Requests - SoS Open Records

Good morning,

This email acknowledges receipt of your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the "PIA"), which was received by the Office of the Texas Secretary of State (the "Office") via email on January 31, 2024 (the "Request").

We will process your Request in accordance with the PIA. You will receive a response from our Office on the 10th business day, February 14, 2024.

Kind regards,

Jennifer Williams

Legal Assistant to the General Counsel

Office of the Texas Secretary of State

From: [redacted]

Sent: Wednesday, January 31, 2024 4:47 PM

To: GeneralCounsel <GeneralCounsel@sos.texas.gov>; Christina Adkins <CAdkins@sos.texas.gov>

AMERICAN OVERSIGHT

Subject: Voting System Contract Approval Requests - SoS Open Records

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are expecting the email and know that the content is safe. If you believe this to be a malicious or phis
this email as an attachment to Informationsecurity@sos.texas.gov.

Dear Mr. Bitter and Christina,

Hope you are both doing well. Please consider this an open records request pursuant to Tex. Gov't Code Chapter 552.

Please provide the following documents related to voting system and voting equipment contract approvals pursuant to Tex. Elec.Code Sections 123.0311, 123.035 for the following years and counties:
- Harris (2019 - 2024)
- Bexar (2019 - 2024)
- Dallas (2019 - 2024)
- Tarrant (2019 - 2024)
- Travis (2019 - 2024)
- Fort Bend (2019 - 2024)
- Montgomery (2019 - 2024)
- Hays (2019 - 2024)
- Williamson (2019 - 2024)
- Bell (2019 - 2024)

For the counties and time frames noted above, please include information:
- Each of the county's requests for an SoS letter and SoS order for the secretary to determine if the version of the voting system and equipment being acquired under the contract between the county and ES&S or Hart InterCivic complies with the applicable requirements.
- Each of the county's voting system contracts (between the county and ES&S or Hart

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InterCivic) submitted to the SoS for review and determination if it complies with requirements.
- Each of the SoS letters stating that the voting system and voting system equipment being acquired by the County under the submitted contract satisfy the applicable requirements for approval.
- Each of the SoS written orders issued under Section 122.038 and 122.070 approving the voting system and voting system equipment for use in elections and, if applicable, of the written order issued under Section 122.095 granting conditional approval of the system or equipment.

Blessings,
Laura

Laura Pressley, Ph.D.
Founder, True Texas Elections, LLC

313-720-5471
"Occupy till I come" - Luke 19:13
"As for those who persist in sin...rebuke them" - 1Timothy 5:20
"Be not afraid nor dismayed...for the battle is not yours, but God's." - 2Chron 2:15

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AMERICAN OVERSIGHT

From: Christina Adkins
To: "Beth Biesel"
Cc: Elizabeth Baron; Clint Curtis; Jody Curtis
Subject: RE: Wednesday, Oct. 25th Follow-up
Date: Tuesday, February 6, 2024 4:22:25 PM
Attachments: image001.png

My apologies – I did not hit send on this email. Please let me know if you have any additional questions/concerns.

Beth,

Forgive me for the delay --- I'm still in post-Election catch up. Here are our responses.

- Cameras are allowed after the polls close, 7:00pm or later, in the counting area - or before 7:00pm if the counting is done 100ft away from the polling place.
    - This is consistent with our existing guidance.

- If using the calculator method, we should use the label "Batch Total Sheet" rather than "Batch Tally Sheet" since we are not using tally marks.
    - As a reminder, this method of hand counting would require certification or a legislative change. But we agree with the change in terminology.

- If using the calculator method, we need a way of memorializing the tally count with a paper trail showing how we arrived at our totals for each candidate or proposition.
    - This method would require certification or a legislative change. I agree that they should incorporate some kind of tally method to provide better documentation for the results of their counting process that do not solely depend on a continuous camera feed.

- Elizabeth Baron will follow up with you on what can be done with the number grid/bingo tally sheets. We want to know if they comply with the need to have a paper record showing how the total for a candidate or proposition was determined.
    - We're happy to review this when it comes in. No issues with a modified tally sheet, but we'll want to make sure it complies with the requirements.

- Parallel counting is not allowed. Parallel counting would be an unauthorized count. The reason is to avoid disputes as to which count would be official.
    - This is correct.

- Ballot on Demand printers do not need to be certified.
    - Correct.

AMERICAN OVERSIGHT

- The hand count calculators do not need to be certified because they are not a voting system. They do not cast ballots and they do not tabulate ballots.
    - If we are talking about the device they presented to us, then that would require a legislative change to the definition of "voting system" under 122.001 to create an exception for this type of system. The current definition of "voting system" encompasses this type of device and under current law it would require certification as a voting system.

- Write-in candidates would be counted and adjudicated, if necessary, by the Presiding Judge when the hand count is done at the precinct location.
    - Correct.

- Ballot Boxes 1-4 may have some flexibility. In Dallas County, we use a zippered canvas bag with a seal for our ballot box 4. Chuck or Heidi were going to clarify the absolute requirements for boxes, especially if the counting begins after the polls closed. Could we eliminate one of the boxes if we begin after 7:00pm?
    - If they are not using rotating ballot boxes, then I don't think they need to have both Ballot Box #1 and #2, and could use a single ballot box for the deposit of voters' ballots that is delivered to the counting officers at the end of the night.

- Ballots must be approved by the SOS before going to the printer.
    - Printers have to provide notice to our office under 51.013 if they will be printing ballots for the GESCO or a primary. They don't need approval for individual ballot formats.

- Chuck will investigate whether or not the process of counting one pair of candidates at a time across all ballots in a batch vs counting one ballot at a time is materially different from the process described in Chapter 65? Would it need a legislative change or would the law requirements be met because we are still counting by race, albeit, by pairs. (The calculator method of hand counting is done by counting the votes for a pair of candidates at a time, within a given race, going through all the ballots in a batch for each pair. After all the candidates within the race are counted, then the counters would go to the next race/next pair. The advantage of this method is that the throughput rate is much faster than Chapter 65 (fewer people, less time) and the two means of reconciling a) for each count run and b) at the end of each race yield a higher degree of accuracy and confidence.
    - We are looking a this issue in more detail. Our concerns lies with Section 65.005(a) of the Texas Election Code. We've had a couple of different questions on this issue and are discussing. I'll have an answer for you on this one shortly.

- The question of sorting the ballots by precinct/ballot style during Early Voting was discussed, but I am unclear on what the law requires. For Early Voting, could we sort the ballots at the countywide vote location as they are voted into ballot boxes labeled by precinct

AMERICAN OVERSIGHT

number/ballot style? Historical data will give us a high degree of accuracy of predetermining the majority of precincts that are represented at a particular vote location. The outliers could go in a miscellaneous box to be sorted at the end of the night or some other time.

- I don't think there is anything that would authorize sorting at the early voting locations. You have to have specific authorization to access the ballot box for specifically authorized purposes, and there is nothing in the Election Code that allows for this kind of sorting at a polling location. I think the EVBB can (and should) certainly sort the early voting ballots before they are hand-counted.

- We know that counting of Eary Voting ballots may not occur until polls open on Election Day, but may EVBB convene before that time to sort ballots into precincts?
  - 87.062 is organized implies that the ballot boxes are being opened at the time that counting will be conducted. But I am open to a different approach here.

Christina Worrell Adkins
Director of Elections
Office of the Texas Secretary of State
1019 Brazos Street | Rudder Building, 2nd Floor | Austin, Texas 78701
512-463-9859 (direct) | 1.800.252.VOTE (8683)
elections@sos.texas.gov | www.sos.texas.gov
For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Beth Biesel [redacted]
Sent: Monday, October 30, 2023 9:29 AM
To: Christina Adkins <CAdkins@sos.texas.gov>
Cc: Elizabeth Baron [redacted]; Clint Curtis [redacted]>; Jody Curtis [redacted]
Subject: Wednesday, Oct. 25th Follow-up

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a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

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Dear Christina,

Thank you so much for meeting with Elizabeth, Clint, Jody, and me Wednesday, October 25, 2023, and for bringing your very talented staff to the meeting to help us sort through the many sections of the Texas Election Code. We appreciate your taking a serious look at our two alternatives to the Chapter 65 Hand Count Method. Your guidance and suggestions are extremely valuable.

To make sure that we are on the right track, I would like to summarize the things that we learned from the meeting. I look forward to your feedback. In no particular order:

- Cameras are allowed after the polls close, 7:00pm or later, in the counting area - or before 7:00pm if the counting is done 100ft away from the polling place.
- If using the calculator method, we should use the label “Batch Total Sheet” rather than “Batch Tally Sheet” since we are not using tally marks.
- If using the calculator method, we need a way of memorializing the tally count with a paper trail showing how we arrived at our totals for each candidate or proposition.
- Elizabeth Baron will follow up with you on what can be done with the number grid/bingo tally sheets. We want to know if they comply with the need to have a paper record showing how the total for a candidate or proposition was determined.
- Parallel counting is not allowed. Parallel counting would be an unauthorized count. The reason is to avoid disputes as to which count would be official.
- Ballot on Demand printers do not need to be certified.
- The hand count calculators do not need to be certified because they are not a voting system. They do not cast ballots and they do not tabulate ballots.

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- Write-in candidates would be counted and adjudicated, if necessary, by the Presiding Judge when the hand count is done at the precinct location.
- Ballot Boxes 1-4 may have some flexibility. In Dallas County, we use a zippered canvas bag with a seal for our ballot box 4. Chuck or Heidi were going to clarify the absolute requirements for boxes, especially if the counting begins after the polls closed. Could we eliminate one of the boxes if we begin after 7:00pm?
- Ballots must be approved by the SOS before going to the printer.
- Chuck will investigate whether or not the process of counting one pair of candidates at a time across all ballots in a batch vs counting one ballot at a time is materially different from the process described in Chapter 65? Would it need a legislative change or would the law requirements be met because we are still counting by race, albeit, by pairs. (The calculator method of hand counting is done by counting the votes for a pair of candidates at a time, within a given race, going through all the ballots in a batch for each pair. After all the candidates within the race are counted, then the counters would go to the next race/next pair. The advantage of this method is that the throughput rate is much faster than Chapter 65 (fewer people, less time) and the two means of reconciling a) for each count run and b) at the end of each race yield a higher degree of accuracy and confidence.
- The question of sorting the ballots by precinct/ballot style during Early Voting was discussed, but I am unclear on what the law requires. For Early Voting, could we sort the ballots at the countywide vote location as they are voted into ballot boxes labeled by precinct number/ballot style? Historical data will give us a high degree of accuracy of predetermining the majority of precincts that are represented at a particular vote location. The outliers could go in a miscellaneous box to be sorted at the end of the night or some other time.
- We know that counting of Eary Voting ballots may not occur until polls open on Election Day, but may EVBB convene before that time to sort ballots into precincts?

We are so deeply grateful for your incredible dedication to protecting our Texas elections! You have a great team! We look forward to working closely with you as we find new ways to increase trust in our elections through transparency, verifiability, and accuracy. This is not a slogan; it is the gold standard!

AMERICAN OVERSIGHT

Sincerely,
Beth Biesel
and
Elizabeth Baron
Jody and Clint Curtis

AMERICAN OVERSIGHT