
BALLOTS

NOTE: For counties that use ballot on demand for early voting and/or voting by mail and direct recording electronic voting machines (“DREs”) for voting in person, the minimum number of ballots and the packaging of the ballots are not applicable. However, those counties using ballot on demand must keep a record of how many ballots were produced, and how they were used. For DREs, the number of persons who signed the signature roster should equal the public count on the DRE.

NOTE: The Secretary of State is authorized to prescribe the form and content of a ballot for an election using a voting system to conform to the formatting requirements of the system. As you are aware, the format applicable to “paper” ballots with party nominees under Section 52.065 of the Texas Election Code (“TEC”) is not the same as that used in voting system ballots. [TEC, §§ 52.075, 124.062]

I. AUTHORITY RESPONSIBLE FOR PREPARING BALLOT [TEC, § 52.002]

Except as otherwise provided by law:

- A. County election officer (county clerk, county elections administrator or county tax assessor collector, as applicable), for an election ordered by governor or county authority.
- B. County chair of the political party holding the primary, for a primary election.
- C. City secretary, for an election ordered by a city authority.
- D. Secretary of the political subdivision’s governing body, or, if none, the governing body’s presiding officer, for an election ordered by an authority of a political subdivision other than a county or city.
- E. It is important to carefully proof the ballot. The Elections Division recommends that candidates be provided with copies of ballot proofs so that they may verify the correctness of their names, positions sought, and order of names on the ballot.

II. DEADLINE TO PREPARE THE BALLOT

- A. There is no specific statutory deadline by which the official ballot must be finalized.
- B. However, ballots must be prepared, finalized, and tested (if they are programmed for use with an electronic voting system) in time for mail ballots to be mailed in compliance with Section 86.004 of the Texas Election Code and the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and the federal Military and Overseas Voter Empowerment Act (MOVE), if applicable, and in time

for the start of early voting in person. Please see the Secretary of State's current online election law calendar for further details on deadlines relating to mail ballots, the time period for early voting in person, and recommended deadlines relating to ballot programming and testing.

III. DRAWING FOR PLACE ON BALLOT [TEC, § 52.094 & §§ 172.082 & 172.084]

- A. Authority responsible for having official ballot prepared must conduct a drawing to determine the order of names on the ballot when there is more than one candidate for the same office to appear on the ballot. **NEW LAW:** Per HB 19745 (85th Legislature, RS, 2017), in the primary and runoff primary elections, the **county chair** conducts the drawing, unless the county executive committee provides by resolution that the drawing be conducted by the primary committee.
- B. Authority responsible for conducting the drawing must post in the authority's office a notice of the date, hour, and place of the drawing. The notice must remain posted continuously for 72 hours immediately preceding the drawing.

Exception: For a runoff election or an election held to resolve a tie vote, the notice must remain posted for 24 hours immediately preceding the scheduled time of the drawing.

Exception: **NEW LAW-** HB 19745 (85th Legislature, RS, 2017): For the primary and runoff primary elections, the drawing **no longer needs be held at the county seat.** Notice **must be posted on the party's Internet website, if it has one,** for at least 24 consecutive hours immediately preceding the beginning of the drawing. If the party does not maintain a website, then the notice must be posted on the bulletin board used for posting notice of meetings of the commissioners court. Best practice is to post the notice on both the website (if available) and on the bulletin board.

- C. For an election not held at county expense or by a political subdivision other than a city, a notice of the drawing must be mailed to candidates. For an election held at county expense or a city election, 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 the drawing. In the primary and runoff primary election, all candidates who provide an email address on their application forms must be notified of the drawing electronically.

IV. BALLOT CERTIFICATION

- A. The Secretary of State conducts the drawing to determine the order of the constitutional amendment propositions on the ballot. [TEC, § 274.002] No later than the 68th day before the election date, the Secretary of State shall certify to the county election officer the wording of the constitutional amendments and the number of each proposition. [TEC, § 274.003]

- B. In accordance with a deadline prescribed by rule by the Secretary of State, the state chairs and the county chairs will submit electronically to the Secretary of State the names of candidates who file on or before December 19, 2017, including those who file in accordance with the applicable extended deadline of December 18, 2017, for precinct, county, district, and statewide offices that will appear on the primary ballot so that such names may be posted on the Secretary of State's website. [TEC, §§ 172.028 & 172.029]

V. MINIMUM NUMBER OF BALLOTS [TEC, § 51.005]

- A. Formula for calculating number of ballots to be ordered:

$$A \times B^* + C = D$$

Legend:

A = percentage of voter turnout in a precinct

B* = current number of registered voters in precinct

C = 25% of A x B

D = minimum number of ballots to be ordered

*REGISTERED VOTERS WHO APPEAR ON THE LIST WITH A "S" DESIGNATION DO NOT HAVE TO BE INCLUDED IN THE TOTAL NUMBER OF REGISTERED VOTERS IN THE PRECINCT.

- B. Use figures from last like election (November Election 2014 or 2014 Primary/Runoff Primary Election, as applicable) to perform calculations. Using 2016 numbers, when there was a relatively high turnout, may result in too many ballots being ordered for 2018.

Example: Precinct 1 had 10% voter turnout. There are currently 595 registered voters. 20 registered voters are designated with an "S" in precinct 1.

$$595 - 20 = 575$$

$$10\% \times 575 = 57 \times 25\% = 14$$

(The 20 registered voters with an "S" designation.)

Therefore:

$$57 + 14 = 71 \text{ (minimum number of ballots to be ordered for precinct 1)}$$

- C. Please note: This is a formula for the minimum number of ballots to be ordered. Local issues and circumstances may require that more ballots be ordered.

VI. MINIMUM NUMBER OF BALLOTS IN LOCAL OPTION ELECTION [TEC, § 501.104]

- A. If election is conducted using printed ballots, the city secretary or the county election officer (county clerk, county elections administrator or county tax assessor collector, as applicable), as appropriate, must furnish the presiding judge of each election precinct with at least the number of ballots equal to the number of registered voters in the precinct plus 10% of that number of voters.

VII. GENERAL PRINTING AND FORMAT REQUIREMENTS

- A. Printed on white or light-colored paper, but may not be the same color as sample ballots, with black ink or some other color as approved by Secretary of State to clearly distinguish ballot styles in case of a joint election (paper ballots). [TEC, § 52.061]
- B. Sample ballots printed on yellow paper. Sample ballots are required to be posted in each polling place. [TEC, § 52.008]
- C. Numbered consecutively beginning with 1. (Do not start with number 1 for each ballot style or each precinct.) [TEC, § 52.062]

NOTE: For emergency ballots, you must number them consecutively beginning with the last total number of ballots ordered for the entire election, not the last number for that precinct.

- D. There is no minimum requirement for ballot size or type. However, all type must be in uniform size and type. [TEC, § 52.061]
- E. Ballots must be bilingual (more languages are required in certain jurisdictions).
- F. Designation of the nature of the election and date of the election must be printed at the top of the ballot. “OFFICIAL BALLOT” must be printed in large letters on the ballot immediately below the designation and date of the election. [TEC, §§ 52.063 & 52.064]
- G. If an office to be filed for an unexpired term is to be voted on at a general or primary election, “unexpired term” shall be printed on the ballot following the office title. [TEC, § 52.069]
- H. For the order of races on the primary ballot and the general election ballot, please see Section 52.092 of the Texas Election Code. For an election at which offices of a political subdivision other than a county are to be voted on, the authority ordering the election determines the order of the offices on the ballot. [TEC, § 52.093]

Except as otherwise provided by law (see BALLOT CERTIFICATION above concerning constitutional amendment election), the authority ordering an election in which more than one measure is to be voted on shall determine the order in which the propositions are to appear on the ballot. . [TEC, § 52.095]

NEW LAW: Senate Bill 957 (85th Legislature, RS, 2017) made three major changes to the law in regards to propositions on the ballot:

- A proposed constitutional amendment must be placed on the ballot before all other propositions. (Section 274.004, as amended)

- ONLY statewide propositions can be assigned **numbers** (Proposition 1, Proposition 2, etc). (Section 52.095, as amended).
- Propositions for local political subdivisions now **cannot** use numbers to identify their propositions, but instead **must** assign a unique **letter of the alphabet** to each local proposition that will appear on the ballot (Section 52.095, as amended).

See Advisory 2017-06 for additional information on the numbering and lettering of propositions on the ballot:

<http://www.sos.state.tx.us/elections/laws/advisory2017-06.shtml>

- J. For “voting squares” and mandatory instructions, please see Sections 52.070, 52.071 & 124.063 of the Texas Election Code.
- K. Except as otherwise provided by law, authority ordering the election must prescribe the wording of a proposition that is to appear on the ballot. Propositions must be printed on the ballot in the form of a single statement and may appear on the ballot only once. [TEC, § 52.072(a), (b)]

NOTE: Many statutes authorizing a proposition or measure election specify the ballot wording. Section 52.072(e) of the Texas Election Code contains additional requirements relative to ballot language for bond and tax elections.

1. In an election in which an office and a measure are to be voted on, the proposition appears on the ballot after the listing of offices. Exception: If an election of officers is contingent on the adoption of a proposition appearing on the same ballot, the proposition shall appear on the ballot before the listing of offices. [TEC, § 52.072(c), (d)]
2. On a ballot on which a proposition is to appear, “FOR” and, below it, “AGAINST” shall be printed to the left of the proposition. The authority responsible for prescribing the wording of the proposition may substitute “YES” and “NO” on the ballot for “FOR” and “AGAINST,” if the authority considers those words more appropriate. [TEC, § 52.073(a), (e)] For instructions relative to propositions, see Sections 52.073 and 124.063 of the Texas Election Code.
3. See Advisory 2017-06 for NEW LAW on the numbering and lettering of propositions on the ballot:
<http://www.sos.state.tx.us/elections/laws/advisory2017-06.shtml>

VIII. PACKAGING REQUIREMENTS

- A. Ballots must be sealed showing the precinct for which they were prepared and show the serial numbers of the ballots for the particular precinct. [TEC, § 51.006]

- B. Record of the serial numbers of ballots for each precinct must be kept on the record of ballot distribution form. [TEC, § 51.007]

IX. CORRECTING BALLOTS [TEC, §§ 52.006-52.0064]

- A. Stickers.
- B. Line out or otherwise obscure.

NOTE: Practically speaking, if the ballots are to be tabulated by using a scanner, the use of stickers may cause the ballots to jam in the machine, and the lining out on ballots may cause the scanner to incorrectly read the marking. Accordingly, before using either of these methods, if the method of tabulating is by using a scanner, the vendor's instructions should be checked to see if these methods are advisable.

- C. Reprint.
 - 1. Notify Secretary of State within 24 hours of decision.
 - 2. Post notice of ballot destruction at least 72 hours before destruction.
 - 3. Person responsible for having ballots prepared and (i) the sheriff in an election ordered by the governor or a primary election or (ii) the authority responsible for ordering the election in any other election must be present during destruction.
 - a. Make record of ballots destroyed.
 - b. Order new ballots beginning with ballot #1, regardless of whether any ballots have been previously mailed.
 - c. Mail corrected ballots to voters who have been mailed a ballot if time permits and the correction would affect the choice of the voter.

X. NAME OF CANDIDATE ON BALLOT [TEC, §§ 52.031-52.034]

- A. A candidate's name shall be printed on the ballot with the given name or initials first, followed by a nickname (in quotes or parentheses), if any, followed by the surname (last name), in accordance with Subchapter B of Chapter 52 of the Texas Election Code. [TEC, 52.031(a)] However, the person preparing the ballot must print the name of candidate on the ballot as certified by the authority.
- B. A candidate may use one or more of the following in combination with his or her surname [TEC, § 52.031(b)]:
 - 1. given name or initials of given name; or

Example: William "Tom" Landry - Car Salesman
Tom Landry - Former Dallas Cowboys Coach

4. Candidate's name may not appear on ballot more than once on the ballot except as a candidate for (i) two or more offices that are permitted by law to be held by the same person, or (ii) the office of president or vice-president of the United States and another office. [TEC, § 52.034]

If there is a dispute as to the name nickname vs. given name, please contact the Elections Division at 1-800-252-2216 for further guidance.