

# Duties of the Early Voting Clerk

Texas Secretary of State – Elections Division

September 2023 Webinar



# Who is the Early Voting Clerk?

- **County Clerk / Elections Administrator** (Sec. 83.002)
  - General Election for State and County Officers
  - Primary Election
  - Special Election Ordered by Governor (e.g. Constitutional Amendment Election)
  - Any other countywide election held at county expense
- **City Secretary** (Sec. 83.005)
  - For an election ordered by an authority of a city
- **Early Voting Clerk Appointed by Authority Ordering Election** (Sec. 83.006)
  - For an election ordered by authority of a political subdivision other than a county or city



# Contracts and Joint Elections

The county clerk/elections administrator may be serving as the early voting clerk under a contract for election services or a joint election agreement.

- Main early voting polling place should be at county office building
- Main early voting polling place for joint election may be at location outside of the political subdivision's territory

[Chapters 31 and 271, *generally*]



# Early Voting Responsibilities



# Early Voting Period

## General Rule:

- Begins 17 days before election day
- Ends 4 days before election day
- Some exceptions:
  - May uniform election date
    - 12th day before election day to 4th day before election day
- Early voting for the November 2023 Uniform Election will begin Monday, October 23, 2023 and end Friday, November 3, 2023

[Sec. 85.001]



## Early Voting Hours

Polling place hours at the main early voting location will depend on who is designated by statute as the early voting clerk:

- County Election Officer (Sec. 83.002)
- City Secretary (Sec. 83.005)
- Other (Sec. 83.006)



# Dates & Times of Early Voting

If the EV clerk is...	Where?	When?	Hours?
<b>City Secretary</b>	Main Early Voting Polling Place	Weekdays during Early Voting Period that is not a legal state holiday	<p>If 1,000 registered voters or greater = At least <b>9 hours</b> each weekday of EV period.</p> <p>If less than 1,000 registered voters = At least <b>4 hours</b> each weekday of EV period.</p>
<b>County Election Officer</b>	Main Early Voting Polling Place	Weekdays during Early Voting Period that is not a legal state holiday	At least <b>9 hours</b> each day, but voting may not be conducted earlier than 6 a.m. or later than 10 p.m.
<b>Other EV clerk</b>	Main Early Voting Polling Place	Weekdays during early voting period that is not a legal state holiday	<p>If 1,000 registered voters or greater = At least <b>9 hours</b> each weekday of EV period.</p> <p>If less than 1,000 registered voters = At least <b>4 hours</b> each weekday of EV period.</p>

[Sec. 85.005]



# Extended Hours – Weekday

Primary, GESCO, Special Election Ordered by the Governor

## **NEW LAW: ALL Counties regardless of population size**

- Special election ordered by the Governor (November 2023 Constitutional Amendment Election):
  - The main early voting location must be **open for at least 12 consecutive hours for the last 2 days of early voting**
    - No earlier than 6 AM or later than 10 PM
- Primary election or the general election for state and county officers:
  - The main early voting location must be open for **at least 12 consecutive hours each weekday of the last week of early voting**
    - No earlier than 6 AM or later than 10 PM

[Sec. 85.005(c)]





# Extended Hours – Weekday

## Elections ordered by a city, school, or other political subdivision

- Cities are no longer required to conduct early voting at the main early voting polling place for 12 hours on two weekdays
- If cities, schools, or other political subdivisions wish to conduct extended early voting at the main early voting polling place, that information must be included in the original order and notice of election

[Sec. 85.005(b)]



# Extended Hours – Weekend

## Special Election Ordered by Governor and Other County Ordered Elections

- Special election ordered by the Governor (November 2023 Constitutional Amendment Election):
  - County Election Officer **may** order voting on a Saturday and/or Sunday at the main early voting location by written order
  - County Election Officer **must** order Saturday and/or Sunday early voting upon receipt of a petition submitted by at least 15 registered voters of the county requesting weekend hours
  
- Extended weekend hours not required unless a petition is received:
  - Petition is signed by at least 15 registered voters of the county
  - The authority ordering voting on a Saturday and/or Sunday must determine the hours during which voting is to be conducted
  - Written request must be submitted in time to enable compliance with Section 85.007. There is a 72 hour notice posting requirement if the early voting clerk receives a petition requesting these extended hours

[Sec. 85.006(b),(c), and(d)]



# Extended Hours – Weekend

## Primary and GESCO

### **NEW LAW: ALL Counties regardless of population size**

- Required weekend early voting for the primary election or the general election for state and county officers
  - At least 12 consecutive hours the last **Saturday** of early voting
    - No earlier than 6 AM or later than 10 PM
  - At least 6 consecutive hours the last **Sunday** of early voting
    - No earlier than 9 AM or later than 10 PM

[Sec. 85.006(e)]



# Extended Hours – Weekends

## Elections ordered by a city, school, or other political subdivision

- For cities, schools, and other political subdivisions, the authority ordering an election may order voting for a Saturday or Sunday (or both) at the main early voting location.
  - City secretaries do not have the authority to order Saturday or Sunday early voting 72 hours immediately preceding the first hour that voting will be conducted.
  - Voting on **ANY** Saturday/Sunday **MUST** be included in the **election order**. The order must include the dates and hours of Saturday and/or Sunday voting.

[Sec. 85.006(a)]



# Voting after the time the polls close

- A voter who has not voted before the scheduled time for closing a polling place during the early voting period is allowed to vote after that time if the voter is in line at the polling place by closing time.

[Sec. 85.005(d)]



# Notice Requirements for Weekend Voting

For cities, schools, and other political subdivisions:

- Notice shall be posted:
  - On the county’s website if the county maintains a site, OR
  - On bulletin board for posting notice of meetings **if** county does not maintain a website.
    - Best Practice: Post in both places!



# NOTICE REQUIREMENTS



# Notice of Election

Election Notice **must** state:

- The type and date of the election;
- 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;**
- The location of each polling place, **including the street address, room number, and building name;**
- The hours the polls will be open;
- The regular dates and hours for early voting by personal appearance;
- The dates and hours of any Saturday or Sunday early voting;
- 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;
- We ***recommend*** that the information regarding branch early voting locations be included as part of your notice; and
- Any other information required by other law.

Additionally, the notice **must** be posted on your website!

[Sec. 4.004]





# Notice of Election

- A local political subdivision that orders an election **MUST** deliver the notice of election to the county clerk/elections administrator and voter registrar of each county in which the political subdivision is located **not later than the 60<sup>th</sup> day before election day.**
- Section 4.003 requires that counties post on the county's 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!**



# Notice of Branch Early Voting

- **When?** 5 days before early voting by personal appearance begins.
- **Where?** On the county's website OR on bulletin board used for posting notices of meetings of the governing body. It is recommended to post the notice in both places.
- **What?** Notice **must** contain:
  1. The location of each branch polling place and the election precincts served by each branch.
  2. The dates and hours temporary branch voting will be conducted. (Sec. 85.067)

\*If the county clerk/elections administrator or city secretary is the early voting clerk, Saturday and Sunday hours can be posted in a separate notice for 72 hours [Sec. 85.068]



# Amending Notice of Branch Early Voting

## Amending the notice:

- May be amended after the 5th day before early voting begins to include notice of additional temporary branch.
- Notice of the amendment must be posted no later than the 5th day before voting will begin at the additional temporary branch. [Sec. 85.067]



## Sample Ballot Posting

- Any sample ballot prepared for a debt obligation election must be posted on a political subdivision's website if the entity maintains a site. The sample ballot must be posted during the 21 days before the election.

[Sec. 4.003]



# Early Voting Locations



# Fee for Use of Public Building

- If building is normally open on each day of early voting – may **not** be charged for use of public building as a polling place
- If building is not normally open – you **may** be charged **only** as reimbursement for *actual expenses* resulting from use of the building

[Sec. 43.033(a)]



# Accessibility

- *Remember* – like an election day polling place, early voting location **must** be accessible for the elderly and persons with physical disabilities

[Sec. 43.034(c); Ch. 469, Tex. Gov't. Code]



# Main Early Voting Location





# Main Early Voting Polling Location

Early Voting Clerk	Location of Main Early Voting Polling Place
<p><b>County Elections Officer</b> – (General Election for State and County Officers, primary election, special election ordered by Governor, countywide election held at county’s expense.)</p>	<p>In a building that hosts the main business office – can select any room.</p>
<p><b>County Elections Officer</b> – (Less than countywide election ordered by county at county’s expense, or election ordered by county authority NOT at county’s expense).</p>	<p>In territory that is covered by election OR main business office of county elections officer. This is determined by commissioners court.</p>
<p><b>City Secretary</b></p>	<p>In a building that hosts the main business office – can select any room.</p>
<p><b>Other Early Voting Clerk</b> (Not the county clerk or county elections officer)</p>	<p>Authority that appoints the clerk designates the location.</p>

[Sec. 85.002]



## What takes place at the main early voting location?

- Serves as a voting location for all voters
- Certain things can only occur at the main early voting location:
  - Limited ballots
  - Cancellation of mail ballots
  - Other special forms of early voting



# Branch Early Voting Polling Places



# Types of Branches

- Two types of branches:
  - Permanent Branches [Sec. 85.061]
  - Temporary Branches [Sec. 85.062, 85.064, 85.065]
- Requirements for establishing, notice, etc. differ based on type



# Permanent Branch Locations

- Branch offices that are regularly maintained for conducting general clerical functions of the county clerk/elections administrator are required to serve as permanent branch early voting locations.
- Used only in countywide election in which the **county clerk/elections administrator is the EV clerk** under Sec. 83.002.
- Days and Hours: These polling locations keep the same hours and days as the main early voting polling place. (Sec. 85.063)
- **Exception to Use of Permanent Branches:**
  - Governing body may establish a temporary branch polling location to be used instead of a permanent branch location. (Sec. 85.061)



# Temporary Branch Locations

- Entity may establish one or more temporary early voting polling places.
- Established by:
  - Commissioners court for an election in which the county clerk/elections administrator is the early voting clerk
  - Governing body of political subdivision for an election in which a person other than the county clerk/elections administrator is the early voting clerk

[Sec. 85.062(a)(2)]



# Required Use of Temporary Branch Locations

- Counties conducting a **primary election, general election for state and county officers, or a special election** to fill a vacancy in the legislature or Congress **MUST** establish temporary branch polling places as follows:
  - in a county with a population of 400,000 or more, the commissioners court must establish one or more temporary polling places, other than the main early voting polling place, in each state representative district containing territory covered by the election.
  - in a county with a population of 120,000 or more but less than 400,000, the commissioners court must establish one or more temporary polling places, other than the main early voting polling place, in each commissioners precinct containing territory covered by the election.
  - in a county with a population of 100,000 or more but less than 120,000, **the early voting clerk** must establish one or more early voting polling places in each commissioners precinct for which the early voting clerk receives a timely filed written request submitted by at least 15 registered voters of that precinct. The written request must be received in time to enable compliance with Section 85.067 of the Code.
    - The early voting clerk is the authority responsible for establishing temporary branch polling places.

[Sec. 85.062(d)]



# Temporary Branch Locations

## Location:

1. In territory served by Early Voting Clerk
2. Inside any building;
  - May not be located in a movable structure in the general election for state and county officers, general primary election, or runoff primary election
3. Cannot be in a candidate's (or relative of candidate's) home

**MUST** be “fixed at one place” for duration of period that voting is required to be conducted. [Sec. 85.062(c)]





# Temporary Branch Locations

- Entity may establish one or more temporary early voting polling places.
- Established by:
  - County Clerk/Elections Administrator as EV Clerk → Commissioners Court
  - Any other Early Voting Clerk → Governing Body of Political Subdivision (Sec. 85.062(a)(2))
- An entity may add additional branch locations during the early voting period. However, once the branch location is opened, it must remain open all the same weekdays as the main early voting location for at least 8 hours a day (3 hours if exception applies).
  - Must still meet the 5-day notice requirement for the additional branches. [Sec. 85.067]
  - It is NOT possible to remove branch locations at any time.



# Temporary Branch Locations

## **NEW LAW: ALL Counties regardless of population size**

- Voting at a temporary branch polling place must be conducted on the days that early voting is required to be conducted at the main early voting polling place and remain open for at least **8 hours** each day.
- Extended ***weekend*** voting at temporary branch locations:
  - Primary election, the general election for state and county officers, or a special election to fill a vacancy in the legislature or congress: the early voting clerk **MUST** order weekend early voting at each mandatory temporary branch (branches established under Sec. 85.062(d)).
  - Special election ordered by the governor and other county ordered elections: the early voting clerk may order Saturday or Sunday early voting at any one or more temporary branch locations by written order.
    - » Notice of the days and hours of Saturday or Sunday early voting must be posted for at least 72 hours immediately preceding the first hour that voting will be conducted.



# Temporary Branch Locations

## Local Political Subdivisions

- If the county clerk/election administrator or city secretary is NOT serving as the early voting clerk **AND** the territory has fewer than 1,000 registered voters:
  - then voting at a temporary branch polling place must be conducted on the days that early voting is required to be conducted at the main early voting polling place and remain open for at least **3 hours** each day

[Sec. 85.064]



# Use of Chapter 19 Funds

- **NEW LAW:** House Bill 1217 amended Section 19.004 to authorize the use of Chapter 19 funding in a county with a population of less than 55,000 to defray the cost to the county of keeping polling places in the county open during the early voting period as required under:
  - Section 85.005(c) (extended weekday early voting),
  - Section 85.006(e) (extended weekend early voting), and
  - Section 85.064(d) (voting hours at temporary branch polling places).
- Questions about Chapter 19 funding should be directed to the Election Funds Management team.



# Early Voting Procedures



**Any** voter can vote at any early  
voting location!



## Polling Place Procedures

- Generally, the early voting procedures related to qualifying a voter are the same as election day procedures.
- There are a few key differences....



# Ballots

- Early Voting Clerk's Initials –
  - On the back of each paper ballot to be used at the early voting location.
- DREs: There is no requirement for initials on these voting system ballots.
  - The printed cast vote record should contain the initials on the back of the ballot.
- Ballot Marking Devices:
  - The printed ballot should contain the initials on the back of the ballot.
  - A jurisdiction can comply with this requirement by pre-signing or initialing ballots before distributing the ballot stock to the voters or before placing the blank ballot stock in the printer tray used by the ballot marking device.

[Sec. 85.0311]





# Ballot Box Security

- Double-locked (two locks with two different keys) and numbered, tamper-evident seal
  - Early Voting clerk keeps key to one lock
  - Key to second lock – goes to person who gets the keys to ballot boxes used on Election Day
    - (county elections – usually the sheriff)
    - (city elections – chief of police or city marshal)
    - (the constable of the JP precinct or sheriff if the office of constable is vacant – elections for other political subdivisions)
- **Must not** be unlocked until after delivery to early voting ballot board.

[Secs. 66.060, 85.032, 85.033]



# Ballot Box Security

- **Overnight** – must be kept in a safe place
  - Voting machine must be secured at close of each day's early voting
- *Recommended* – ballot box and voting machine be sealed with tamper-evident or tamper-resistant seal each night & record kept of such seals

[Secs. 85.032, 85.033]



# Ballot Box Security

## End of Early-Voting-In-Person

- Ballot boxes and voting machines
  - Sealed with tamper-evident or tamper-resistant seals
  - Transported to main early voting location (if somewhere other than early voting clerk's office); and
  - Secured in early voting clerk's office or other secure location



# Curbside Voting

- If a voter is physically unable to enter the polling place without personal assistance or likelihood of injuring the voter's health, then an election officer shall deliver a ballot or voting machine to the voter at the polling place entrance or curb on the voter's request
- Curbside voting must be provided at all election day and early voting locations
- Must provide the same procedures and accommodations to curbside voters as are provided for voters inside the polling place
  - Including the use of electronic voting systems and electronic pollbook systems

(Sec. 64.009)



# Curbside Voting - NEW LAW – SB 477

- Each polling place and early voting location must provide a reserved area for curbside voting
  - May not be smaller than one parking space
  - Curbside voting area must be separated from designated accessible parking spaces for the building
- Designated area must be marked with a sign indicating that the space is reserved for curbside voting
- Designated area must provide one of the following options:
  - Displaying a phone number that the voter may call or text to request curbside voting assistance at the polling location; OR
  - Providing a button or intercom in the designated area that the voter may use to request curbside voting assistance at the polling location
- County election officer's website must provide a description of all procedures and accommodations available for voters with disabilities, including the procedures for curbside voting.

(Sec. 64.009)



# Voting Order Priority – NEW LAW – SB 477

- SB 477 amended Section 63.0015 to provide that voting order priority for a person with a mobility problem is no longer a discretionary decision by the election officer
- If a voter with a mobility problem requests voting order priority, the presiding judge must provide them that priority
- **NOTE** – Language of the voting order priority notice was also updated as a result of SB 477
  - Please be sure to use the latest version of the notice form that contains the updated language rather than old versions of the notice

(Sec. 63.0015)



# Web Posting Requirements on Accessibility

## NEW LAW – SB 477

- County election officer's website must provide a description of all procedures and accommodations available for voters with disabilities, including:
  - Curbside voting procedures
  - Voting order priority
  - Ballot by mail procedures
  - Accessible voting system equipment information
  - Pollbook accessibility features, if any
  - Witnesses, Assistants, and Interpreters
  - Procedures for a voter who is unable to sign the pollbook or combination form
  - Requirements relating to accessible polling places
  - Reasonable accommodations under Sec. 1.022
  - Any other procedures or accommodations available to voters with disabilities

(Sec. 64.009)



# Election Records





# Ballots at Branch Locations

Two options for a branch location:

1. May retain voted ballots at branch location in locked room that is accessible only to election officials; or
2. May be delivered by election officers or law enforcement officers to the main early polling place at the end of each day's voting.

[Sec. 85.071]



# Election Records – Branch Daily Register

Branch daily register (functionally, this is the combination form/poll list) must be kept for each branch.

- Must show name, address, VR number, and precinct number for each voter who voted at the branch that day.
- Must be delivered to early voting clerk at the end of each day.
- Must be preserved for period retaining election records.
- Copy must be kept at branch location.

[Sec. 85.072]



# Early Voting Roster

EV clerks shall maintain roster for each election listing who votes early in person, and who is mailed a ballot by mail.

- Roster must be updated daily.

## Roster must include:

- Name, address, VUID
- Voter's county election precinct of registration
- Date of voting by personal appearance or date ballot was mailed to the voter
- **Recommendation:** We recommend that you create two rosters for your mail ballots—one for ballots that have been mailed but not returned, and a separate list of ballots by mail that have been received.

[Sec. 87.121]



# Early Voting Roster

Information on the roster for:

- A person who votes an early voting ballot by personal appearance must be made available for public inspection not later than 11:00 a.m. on the day after the date the information is entered on the roster
- A person who votes an early voting ballot by mail must be made available for public inspection not later than 11:00 a.m. on the day following the day the EV clerk receives a ballot voted by mail
- If the CC/EA is the early voting clerk, the information above must be posted on the county's website or, if none, on the bulletin board

[Sec. 87.121]



# Early Voting Roster

- 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]



# Election Day Rosters

- The early voting clerk must also prepare a roster for election day voters in county elections
  - Must include the following information:
    - Name, address, VUID, precinct number, and date of voting or date that the ballot was requested/returned by the voter
  - Must be posted on the entity's website by 11 AM on the day after election day
    - Must also be provided to SOS for posting on the SOS website

[Sec. 87.121]



# Special Forms of Early Voting



# Special Forms of Early Voting

- Late Voting
  - Disabled Voter – Chapter 102
  - Death in Immediate Family – Chapter 103
  - Disabled Voter on Election Day – Chapter 104
- Military Personnel and Overseas Voters – Chapter 105
- Voting by Persons on Space Flight – Chapter 106
- Limited Ballot – Chapter 112





## Limited Ballots- When Are They Used?

- Limited ballots are used when a voter has a registration in a county **other than** their new county of residence
- Limited ballots are **only** an option during **early voting** – they **cannot** be used on election day
- Limited ballots are used **only** at the main EV location [Chapters 111 and 112]



# Limited Ballots- Who Can Use One?

To vote a limited ballot, a voter must:

- Be eligible to vote in the county of registration if they still lived there;
- Be registered to vote in the county of former residence at the time the person:
  - offers to vote in the new county of residence, or
  - submitted a voter registration application in the county of new residence; and
- Their registration will not be effective in their new county of residence by election day.
- A mail voter can also vote a limited ballot
  - However, they **must** meet other requirements to vote by mail under Chapter 82

[Sec. 112.002]



# Mail Ballot Cancellation During EV

- Generally the process depends on what the voter has (or doesn't have)
- Also depends on when the voter requests cancellation

[Sec. 84.032]



# Election Day Responsibilities as Early Voting Clerk



# Hours

- Must keep Early Voting Clerk's office open from 7 a.m. – 7 p.m. on election day.
- Must deliver supplies to polling places.
  - Must securely transport voting systems to polling place and securely store equipment in polling place before voting begins.
  - Must deliver other supplies-forms, booths, etc.

[Secs. 83.011, 51.004]



# In-Person Delivery

- A voter may deliver a marked ballot in person to the early voting clerk's office only while the polls are open on election day.
- Must show acceptable form of photo ID (List A) or complete RID and show supporting ID (List B), and sign the Roster for Voters Hand-Delivery Carrier Envelope when delivering ballot to early voting clerk.

[Sec. 86.006(a-1)]



## By Mail Ballots

- There are later deadlines for receipt of by-mail ballots (by 5 p.m. the day after election day, 5<sup>th</sup> day after election day, or 6<sup>th</sup> day after election day, depending on various factors)

**NOTE: A ballot received by 7:00 pm on election night must be counted that night.**

- The EV clerk shall check for returned ballots, at least once before the deadlines, after the normal delivery time on the last day at the place at which the carrier envelopes are deposited.

[Sec. 86.007]



# Notice of Rejected Ballot

The EV clerk shall, not later than the 30<sup>th</sup> day after election day, deliver notice to the Attorney General, including certified copies of the carrier envelope and corresponding ballot application, of any ballot rejected because:

- 1) the voter was deceased;
- 2) the voter already voted in person in the same election;
- 3) the signatures on the carrier envelope and ballot application were not executed by the same person;
- 4) the carrier envelope certificate lacked a witness signature;
- 5) the carrier envelope certificate was improperly executed by an assistant; or
- 6) the EVBB or SVC determined that another violation of the Election Code occurred.

For questions, you may contact: [mailinballotreporting@oag.texas.gov](mailto:mailinballotreporting@oag.texas.gov).

[Sec. 87.0431]





# Ballot by Mail



# Ballot by Mail

- The early voting clerk is also responsible for receiving and reviewing applications for ballot by mail and sending ballots by mail to qualified voters
- The early voting clerk will receive the returned ballots by mail and deliver those materials to the early voting ballot board for review
- For more information on the procedures applicable to ballots by mail, please review our presentations on those topics here on our website:
  - <https://www.sos.state.tx.us/elections/laws/education-resources.shtml>



# Any Questions?

[Elections@sos.texas.gov](mailto:Elections@sos.texas.gov)

