

# Duties of the Early Voting Clerk

Texas Secretary of State – Elections Division



# Who is the Early Voting Clerk?

- The **city secretary** for an election ordered by an authority of a city [Sec. 83.005]
- In an election ordered by authority of a political subdivision other than a county or city, the authority ordering the election appoints the early voting clerk [Sec. 83.006]
- The **county clerk/elections administrator** is the early voting clerk for the county in the general election for state and county officers and any other countywide election held at county expense, a primary election, and a special election ordered by the Governor [Sec. 83.002]



## 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 may be at location outside of your political subdivision

[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 – 12<sup>th</sup> day before election day to 4<sup>th</sup>
- Early voting for the 2023 May Uniform Election will begin Monday, April 24, 2023 and end Tuesday, May 2, 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</b> hours each weekday of EV period.</p> <p>If less than 1,000 registered voters = At least <b>4</b> hours each weekday of EV period.</p>
<b>County Elections Officer</b>	Main Early Voting Polling Place	Weekdays during Early Voting Period that is not a legal state holiday	At least 9 hours each weekday, 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</b> hours each weekday of EV period.</p> <p>If less than 1,000 registered voters = At least <b>4</b> hours each weekday of EV period.</p>

[Sec. 85.005]



# Extended Hours – Weekdays

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

- **NEW LAW:** 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(c)]





# Extended Hours - Weekends

- 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.
  - **NEW LAW:** 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.
  - 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. 85.005(c)]



# Extended Hours - Weekends

## Voter Petition for Weekend Voting:

- 15 registered voters
  - must order Saturday or Sunday early voting
  - may request Saturday or Sunday (or both) but not date or hours of early voting
- The petition has to be submitted prior to ordering the election.

[Secs. 85.006, 85.007]



# 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

- The entity 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!**



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

[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



# 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)]



# Temporary Branch Locations

## Location:

1. In territory served by Early Voting Clerk
2. In a stationary structure [Sec. 85.062(b)]
3. In a movable structure, for certain elections [Sec. 85.062(b)]
4. 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 - for Counties, and Entities in Counties, with a Population of 100,000 or More

- 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 other branch locations during the early voting period; however, once the branch location is open, it must remain open all the same weekdays as the main early voting location for at least 8 hours a day (3 hours if an 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 - for Counties, and Entities in Counties, with a Population of 100,000 or More

Hours:

- **For counties and cities:** Early voting at any temporary branch polling location **must** be conducted on the same **weekdays** as the main early voting location and must remain open for eight hours each day it is open.
  - **NOTE:** This means you may have a temporary branch location that is open for more hours than your main early voting location.

[Sec. 85.064]



# Temporary Branch Locations - for Counties, and Entities in Counties, with a Population of Under 100,000

- **NEW LAW** - 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 schedules for conducting voting are not required to be uniform among the temporary branch polling places.
- If the early voting clerk is a county election officer or city secretary, the early voting clerk must post notice for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted.

[Sec. 85.065]



# Notice of Branch Early Voting

- **When?** 5 days before early voting by personal appearance begins.
- **Where?** Bulletin board used for posting notices of meetings of the governing body. It is also recommended that notice be posted on the entity's website.
- **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]



# 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



# 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

## **NEW LAW:** HB 1622 (2021)

- 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]



# 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), 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]



# How does this help with voter confidence?

- The early voting clerk interacts with many people who are performing different functions (election workers, voters, etc.).
- Knowledge, confidence, and transparency in early voting clerk duties and responsibilities will go a long way in increasing voter confidence in the election.



# Any Questions?

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

