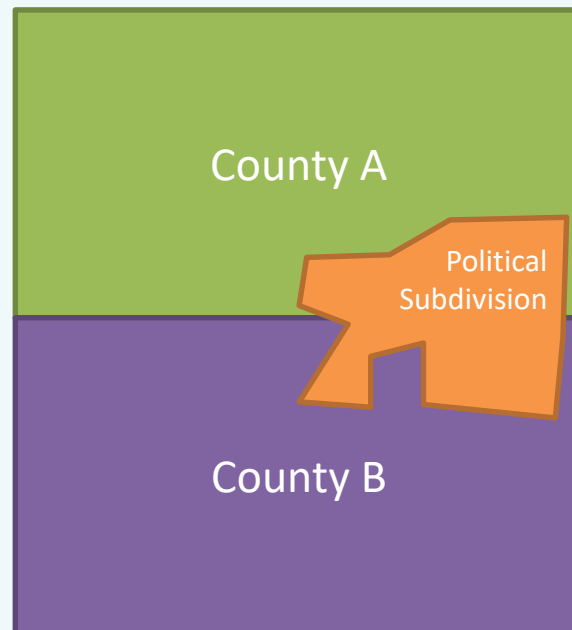


# Elections for Entities in More than One County



Texas Secretary of State – Elections Division



# Different Ways The Election Can be Handled

- 1. The political subdivision conducts its own election**
- 2. The political subdivision contracts or conducts the election jointly with one county**
- 3. The political subdivision contracts or conducts the election jointly with each county**



Whatever you decide...let the  
counties know!



# Practical Considerations

- The local entity must decide whether they have the time, manpower, and expertise to conduct their own election.
  - **Consider**: Equipment (obtaining, programming, testing); ordering ballots; hiring and training workers (election day, early voting ballot board, central counting); publishing notice of election; tabulating results and canvassing election; etc.



# Contract for Election Services

## Ch. 31

- A *contract for election services* is a contract between the political subdivision holding an election in the county and the **county election officer** for specific election services that the county election officer would perform in a countywide election (equipment, ballot programming, etc.).



# Joint Election Agreement

## Ch. 271

- A ***joint election agreement*** is when two political subdivisions, who are holding elections on the same day in the same county, jointly hold their elections in common precincts. The joint election agreement must be approved by the governing bodies of all participating political subdivisions.



# Contracting vs. Joint Elections

- Who has a duty to contract?
  - EA County – if requested by the political subdivision, the county elections administrator SHALL enter into a contract to furnish election services requested
    - Exception – 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
  - County Clerk/Tax Assessor County – a county clerk/tax assessor county is not required by law to contract



# Countywide

- Is the political subdivision located in any county that is part of the countywide polling place program?
  - If yes, **and the county is using countywide for the election**, the entity should consider contracting or conducting a joint election with the county
    - Political subdivisions holding joint elections with a countywide county must have a presence at ALL countywide polling locations – this includes polling locations outside the footprint of the political subdivision
  - Note for Runoffs – if a political subdivision holds an election jointly with a countywide county, the entity is not required to use countywide for the runoff and may instead use only the polling places located in the territory of the political subdivision





# Nontransferable Functions

- An election services contract may NOT change:
  - The authority with whom applications of candidates for a place on a ballot are filed;
  - The authority with whom documents are filed under Title 15;
  - The political subdivision's requirement to maintain office hours

[Sec. 31.096]



# May vs. November

- May Uniform Election Date
  - Section 42.061 allows the political subdivision to draw their own election precincts
- November Uniform Election Date
  - Section 42.0621 requires political subdivisions to use the county's election precincts
    - Section 85.010 states the political subdivision may not designate as an early voting polling place a location other than an eligible county polling place unless each eligible county polling place located in the political subdivision is designated as an early voting place by the political subdivision



# Who is the Early Voting Clerk?

- **If the political subdivision is running the election, then the early voting clerk is:**
  - Cities: City secretary [Sec. 83.005]
  - Other political subdivisions: the person appointed by the authority ordering the election [Sec. 83.006]
- **If the political subdivision contracts or conducts the election jointly with one county:**
  - Appoint **one** early voting clerk as joint early voting clerk.
  - Regular early voting clerks must continue accepting applications for ballot by mail.
- **If the political subdivision contracts or conducts the election jointly with each county:**
  - An early voting clerk must be appointed for each joint agreement in which the entities have agreed to run early voting together.
  - Regular early voting clerks must continue accepting applications for ballot by mail.



# Voter Registration

- **If the political subdivision is running the election:**
  - Must gather a list of registered voters in the territory from each county in which the political subdivision is wholly or partly located.
- **If the political subdivision contracts or conducts the election jointly with one county:**
  - The early voting clerk will have to obtain a list of registered voters from the county that is not involved in conducting early voting for the political subdivision, so that the clerk has the entire list of registered voters in the political subdivision, from both County A and County B. [Sec. 18.001]
- **If the political subdivision contracts or conducts the election jointly with each county:**
  - Each county would maintain its own list of registered voters, sign-in sheets, ballots, early voting rosters, etc., for its portion of the election.



# 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 the county 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 requirement applies regardless of whether the county is contracting with the entity!**



# 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

- Cities and other political subdivisions **MUST** include the days and hours of any extended weekday or weekend early voting in the original order and notice of election.
  - NOTE: If the entity is contracting with the county or conducting a joint election with the county, and the county orders extended weekday or weekend early voting after the deadline to order an election, then the entity may amend the order and notice of election to reflect the county's voting hours.



# Notice of Election

If a political subdivision is located in a county that is part of the Countywide Polling Place Program, the entity's Notice of Election needs to include – at ***a minimum*** – a list of polling places located in the footprint of the territory and a link to where voters can find a complete list.





# Election Workers – Early Voting

- **If the political subdivision is the early voting clerk:**
  - The early voting clerk may appoint deputy early voting clerks that meet the eligibility requirements for a presiding judge.
    - The person must be a qualified voter of the territory covered by the election, unless
    - If the person is a permanent employee of the authority holding the election, then they must be a qualified voter of any territory. [Secs. 83.032, 83.033]
- **If the political subdivision contracts or conducts the election jointly with a county also conducting a county election:**
  - If the county is the early voting clerk, then the county may appoint permanent deputies as deputy early voting clerks. In addition to permanent deputy early voting clerks, the County Clerk/EA or City Secretary may appoint temporary early voting clerks that meet the eligibility requirements for a presiding judge, except that:
    - The person must be a qualified voter of the city, if appointed by City Secretary; or county if appointed by County Clerk/EA; but
    - If the person is a permanent employee, they must only be a qualified voter of any territory.
- **If the political subdivision contracts with a county NOT conducting a county election:**
  - If the county is the early voting clerk, then the county may appoint permanent deputies as deputy early voting clerks. In addition to permanent deputy early voting clerks, the County Clerk/EA may appoint temporary early voting clerks that meet the eligibility requirements for a presiding judge, except that [Sec. 31.097]:
    - The person must be a qualified voter of the territory covered by the election, unless
    - If the person is a permanent employee of the authority holding the election, then they must be a qualified voter of any territory. [Secs. 83.032, 83.033]



# Election Workers – Election Day

- **If the political subdivision is running the election:**
  - Presiding Judge – must be a qualified voter of the election precinct they are working.
    - If unable to locate an eligible qualified voter of the precinct, may use a person who meets the qualifications for an election clerk.
  - Election Clerk – must be a qualified voter of the political subdivision.
- **If the political subdivision contracts or conducts the election jointly with a county also conducting a county election:**
  - The joint election agreement must address how the appointments of election precinct presiding and alternate judges will be made.
    - November 2023 – county must use list procedure under Section 32.002.
- **If the political subdivision contracts with a county NOT conducting a county election:**
  - Presiding Judge – must be a qualified voter of the election precinct they are working.
    - If unable to locate an eligible qualified voter of the precinct, may use a person who meets the qualifications for an election clerk.
  - Election Clerk – must be a qualified voter of the political subdivision.



# Polling Locations – Early Voting

## Main Early Voting Polling Place

- **If the political subdivision is running the election:**
  - The authority appointing the early voting clerk shall designate the location of the main early voting polling place.
    - Cities – main early voting polling place must be located in any room in the building that houses the main business office of the city secretary.
- **If the political subdivision contracts or conducts the election jointly with one county:**
  - Joint early voting: If the county is acting as the early voting clerk, then the main early voting polling place would be the county election office.
  - No joint early voting: The authority appointing the early voting clerk shall designate the location of the main early voting polling place.
- **If the political subdivision contracts or conducts the election jointly with each county:**
  - Joint early voting: If the county is acting as the early voting clerk, then the main early voting polling place would be the county election office.
    - Will have more than one main early voting polling place.
  - No joint early voting: The authority appointing the early voting clerk shall designate the location of the main early voting polling place.



# Polling Locations – Early Voting

- In May elections, local entities generally have the authority to decide where to place each of their early voting locations
- In November elections, the local entity **must** use at least one of the county's early voting locations contained in their territory, **if any**
  - The entity may choose to designate one of the county's temporary branch locations as the entity's main early voting polling place
  - If the entity wishes to have their own main early voting location, then they would need to have at least one temporary branch location that is shared with the county

[Sec. 85.010]



## Limited Ballots

- 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]



# Polling Locations – Early Voting

## Temporary Branch Polling Places

- Entities 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, if the sum of the populations of the counties is 100,000 or more
  - 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 and **MUST** remain open for at least **eight** hours each day
    - Exception: Political subdivision other than city or county - if 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
- Entities in a county with a population **less than 100,000**
  - In an election in which the territory served by the early voting clerk is situated in more than one county, if the sum of the populations of the counties is less than 100,000
  - 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
  - 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

[Secs. 85.064 and 85.065]



# Polling Locations – Election Day

- May Election – must have a polling place in each election day precinct established by the authority of the political subdivision [Sec. 42.062]
  - A political subdivision may establish only one election precinct if the polling place would adequately serve the voters
    - Best practice - a voter should not have to drive more than 25 miles to get to a polling place
- November Election – political subdivision must use county election day precincts and have a polling place in each precinct [Sec. 42.0621]



# Polling Locations – Election Day

- **If the political subdivision contracts or conducts the election jointly with one county:**
  - The early voting clerk would serve the entirety of the political subdivision
    - May Election – a voter could go to any voting site run by County A, regardless of whether that site was physically located in County A or County B, and regardless of whether the voter was registered in County A or County B, as long as the individual was a registered voter of the political subdivision
    - November Election – a voter could only vote in County B, and County A would have to establish a polling place in County B
- **If the political subdivision contracts or conducts the election jointly with each county:**
  - Voter may only vote on the political subdivision's ballot in the county in which the voter is registered (County A voter = County A only)





# Voting Equipment

- As a general rule, a county or a political subdivision **MUST** provide **at least one** accessible voting machine in each early voting and election day polling place [Sec. 61.012]
- However, for all elections in which a federal office is NOT on the ballot, a county or a political subdivision located within a county with a population less than 20,000 may qualify for an exemption
  - Deadline is 90 days before the election
    - Deadline for May 2023 election is February 6, 2023

For more information please see our [2021-02 Advisory](#)



# Voting Equipment

- **If the political subdivision is running the election:**
  - A political subdivision may lease election equipment from the county or may purchase or lease the equipment from any other source. [Sec. 123.032]
    - If purchasing equipment, the contract must be approved by our office.
- **If the political subdivision contracts or conducts the election jointly with one county:**
  - Assuming County A has enough voting system equipment to cover such an expanded territory
    - May - County A could set up in County B, if needed to best serve voters.
    - November – County A would **need** to set up voting equipment in County B polling locations.
- **If the political subdivision contracts or conducts the election jointly with each county:**
  - Each county would set up equipment at polling locations.



# Early Voting Ballot Board

- **If the political subdivision is running the election:**
  - The political subdivision would establish its own EVBB to qualify and count mail ballots
- **If the political subdivision contracts or conducts the election jointly with one county:**
  - Joint early voting: The county's EVBB would qualify (and count if applicable) all mail ballots for the political subdivision
  - No joint early voting: the political subdivision would establish its own EVBB to qualify and count mail ballots
- **If the political subdivision contracts or conducts the election jointly with each county:**
  - Joint early voting: Each county's EVBB would qualify (and count if applicable) mail ballots for the portion of the political subdivision located in their county
  - No joint early voting: the political subdivision would establish its own EVBB to qualify and count mail ballots



# Early Voting Roster

- Best practice for entities:
  - **If not contracting with the county** – the early voting roster must be posted on the entity's website.
  - **If contracting with the county** – the early voting roster must be posted on the county's website and the entity should provide a link to that list on the entity's website.



# Election Results

- **NEW LAW:** A county that holds an election or provides election services for an election for a public entity must post certain information on the county's website.
- A city or independent school district that holds an election and maintains an Internet website **MUST** also post certain information on its website related to election results even if the county is 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 (two click rule)

[Sec. 65.016]



# Election Results

- **Required information on websites:**
  - 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.
- 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.



# Canvassing

- The canvass must be conducted at an open meeting of the governing body.
- The political subdivision **MUST** canvass their election.
  - The county cannot canvass an election for a political subdivision even if the political subdivision contracts or conducts the election jointly with one or more county(s).
  - Exception: unless the joint election agreement designates a joint canvassing authority. [Sec. 271.011]



# Records Retention

- **If the political subdivision is running the election:**
  - The secretary of the political subdivision is the general custodian of election records and would retain records in accordance with the retention schedule. [Sec. 66.001]
- **If the political subdivision contracts or conducts the election jointly with one county:**
  - Can have a joint custodian, so county can retain voted ballots and other election records.
  - Election results would remain with the political subdivision.
  - Candidate applications would remain with the political subdivision.
- **If the political subdivision contracts or conducts the election jointly with each county:**
  - Can have a joint custodian, so county can retain voted ballots and other election records.
  - Election results would remain with the political subdivision.
  - Candidate applications would remain with the political subdivision.





# Partial Manual Count

- **If the political subdivision is the general custodian of election records:**
  - The political subdivision is responsible for completing the partial manual count.
- **If the political subdivision contracts or conducts the election jointly with a county also conducting a county election:**
  - The partial manual count conducted by the county can serve as the partial manual count for the political subdivision.
    - No need to count the same ballots twice.
- **If the political subdivision contracts with a county NOT conducting a county election:**
  - Either the county or the political subdivision can conduct the partial manual count; this issue should be included in the contract for election services.

See most recent Partial Manual Count email/advisory for details!



# Any Questions?

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

