

TEXAS SECRETARY OF STATE

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Election Advisory No. 2019-01

To: County Clerks/Elections Administrators

From: Keith Ingram, Director of Elections



Date: January 2, 2019

RE: 2019 Opportunities to Use Countywide Polling Places

The purpose of this advisory is to answer general questions on the countywide polling place program ("the program") and to provide **deadlines and other pertinent dates** regarding the submission of county applications to participate in the program for the May 4, 2019 and November 5, 2019 Uniform Election dates.

Background: Under Section 43.007(i) of the Texas Election Code, the Secretary of State may select six counties with a population of 100,000 or more and four counties with a population of less than 100,000 for participation in the program for an election. The Secretary of State may determine that a county's participation in the program was "successful" following one election under the program. Once designated as "successful," that county may continue to use the program for subsequent elections. Note that counties that have previously participated in the program, but have not been formally granted a "successful" designation in writing by the Secretary of State, must reapply to use the program for each subsequent election.

Eligible counties may apply to use countywide polling places in the following elections: the primary election and primary run-off election, the general election for state and county officers, elections taking place on the uniform election date in May and any resulting runoffs, a constitutional amendment election, and joint elections when a county is holding any of the aforementioned elections with a local political subdivision (e.g., city, school district, etc.).

Program FAQs

Q: What is required to participate in the program?

A: At a minimum, each county selected to participate in the program must have the following:

- Exclusive use of traditional direct recording electronic (DRE) voting systems, or use of the Texas specific definition of a DRE system that is explained in [Advisory 2017-21](#) at all polling places on election day;
- Implementation of a computerized voter registration list that allows instantaneous verification that a voter has not already voted at another polling place; and
- If the county has not participated in one of the previous countywide election precinct programs, it must hold a public hearing to inform and solicit opinions from voters, minority organizations, and other interested parties (e.g., political parties, political subdivisions within the county, and organizations representing voters with disabilities).

Q: If my county meets the minimum requirements, what is the next step of the process?

A: For tracking purposes, we request that counties file an intent to participate in the program with the Secretary of State's Office ([PDF](#)). However, filing an intent does not reserve a spot in the program, and a full application must be received by the Secretary of State's office by 5:00 p.m. on the deadline provided by the Secretary of State.

Q: What should be included in an application for participation in the program?

A: An application should include the following:

- A letter, addressed to the Secretary of State, detailing specifics for the implementation of the plan (required items are listed below) and requesting approval for the county to participate in the program. The letter must indicate the name and date of the election for which participation is being requested; and
- A letter signed by the County Judge indicating support of the county's plan and requesting approval for the county to implement countywide polling places throughout the county.

Q: What must the letter to the Secretary of State in the application address?

A: The letter to the Secretary of State in the application must cover the following:

- The county's exclusive use of DRE voting systems on election day. Identify the vendor, quantity of voting machines and polling places to be used, and how long the county has conducted elections with exclusive use of DRE voting machines;
- The county's use of a computerized voter registration list that allows instantaneous verification that a voter has not already voted at another polling place. Identify steps taken to guarantee connectivity at each polling place and the county's plan for dealing with a loss of connectivity during an election;
- Information on the public hearing held, including date and time of the hearing, information that was provided in the hearing and feedback that was received. A video or audio copy of the hearing must be provided. If a video or audio copy of the hearing is not available, a paper transcript is acceptable;
- An explanation of the methodology that will be used to select the countywide polling locations. Include a map of the previous and new polling locations and information on the advisory committee used to select locations including names, organizations, positions and e-mail addresses;
- A statement that Election Judges and Alternate Election Judges will be assigned to countywide polling locations within a commissioners court precinct in the proportionate amount required by law (see below);
- A communication plan that explains how voters will be notified of the change to countywide polling places and new polling locations;

- A statement that all joint election issues have been resolved. Because political subdivisions holding joint elections with the county must have a presence at all countywide polling locations, a county must demonstrate that issues related to joint elections have been or will be resolved; and
- A demonstration that the commissioner's court and the county chairs have resolved how polling place officials will be appointed.

Q: Is there a notice requirement for the public hearing on use of the program?

A: The hearing is held by the commissioners court, which means that Chapter 551 of the Government Code applies. Specifically, the commissioners court must give written notice of the date, hour, place and subject of the meeting. Notice must be provided in a place readily accessible to the general public at all times and must be provided at least 72 hours before the scheduled time of the meeting.

Q: How many countywide polling places should my county have?

A: House Bill 1735 (85th Legislature, RS, 2017) adds Section 43.007(m) to the Texas Election Code which requires a county participating in the countywide polling place program to have at least one countywide polling place in each commissioners court precinct. Additionally, the number of countywide polling places within a commissioners court precinct may not exceed more than twice the number of countywide polling places located in any other commissioners court precinct.

In addition to these requirements, during the first year in which a county participates in the program, the total number of countywide polling places may not be less than 65% of the number of precinct polling places that would otherwise be located in the county for that election. After this, that number drops to no less than 50% of the number of precinct polling places that would otherwise be located in the county for that election.

Q: Who determines where the countywide polling places will be located?

A: In an election under the program, a county must adopt a methodology for determining where each polling place will be located. Some factors to consider in this process include: availability of public transportation to a polling location, population size near the polling location, and availability of a suitable building for a polling place. In addition, the establishment of polling places under the program should not result in the dilution of voting strength or representation of any group covered by the federal Voting Rights Act. For this reason, the Secretary of State strongly encourages counties to form vote center advisory committees to obtain feedback on voting locations.

Q: Who would serve on a vote center advisory committee?

A: The vote center advisory committee would consist of members from local political subdivisions, precinct officials and organizations that represent minority voters and voters with disabilities.

Q: How should my county notify voters of the change in polling locations?

A: At a minimum, an election day notice indicating the location of the nearest countywide polling place must be posted at each precinct polling place that was used in the last general election for state and county officers but will not be used in the election under the program. In addition, the notice of election should identify the Election Day polling places in the county.

Q: How are judges and clerks appointed for countywide polling locations?

A: House Bill 1735 (85th Legislature, RS, 2017) amended Section 32.002 of the Code to provide a procedure for the selection of presiding and alternate judges for a countywide polling place. Under the amended section, the county chairs shall submit a list of names of persons eligible for appointment as election judges to the county commissioners court. The commissioners court must apportion the number of judges for countywide polling places in direct proportion to the percentage of election precincts located in each county commissioners precinct won by each party in the last gubernatorial election.

For example, if the county has 10 county election precincts located in county commissioner precinct #1 and one party won 6 of those 10 precincts in the last gubernatorial election while the other party won 4 of those 10 precincts, there would be a 60% to 40% split of the county election precincts in that county commissioner precinct for the two parties. This means that if the county plans to have five countywide polling places in county commissioner precinct #1, the commissioners court must appoint a presiding judge from the list of the party who won 60% of the county election precincts to three of those five countywide polling places in county commissioner precinct #1 and a presiding judge from the list of the party who won 40% of the county election precincts to the remaining two of the five countywide polling places in county commissioner precinct #1. This is because 60% of five polling places is equal to three polling places and 40% of five polling places is equal to two polling places.

In cases where the application of percentages for countywide polling place judges does not result in a whole number, our office recommends that a county attempt to get as close to the percentages as possible and uniformly apply any resolution method.

Q: Are judges and clerks for countywide polling places required to be registered voters of the county election precinct where that countywide polling place is located?

Presiding and alternate judges for countywide polling places are not required to be qualified voters of any particular election precinct, but they must be qualified voters of the county. Additionally, a presiding or alternate judge for a countywide polling place does not have to reside in the election precinct where the countywide polling place is located, and more than one presiding or alternate judge from the same election precinct may be selected to serve on election day.

Q: If the election for my county is cancelled, does notice need to be posted at all countywide polling locations?

A: Yes. Under the Election Code, if an election is not held, notice should be posted on election day at each polling location that would have been used for that election. Under the program, this would mean that notice would be posted at each countywide polling location on election day in the event the election is cancelled.

Q: How does my county apply for “successful” status?

A: Following one election under the program, a county may apply for “successful” status with the Secretary of State and continue to use countywide election precinct polling places in subsequent elections. To apply for “successful” status, the Secretary of State must not have received any complaints that have been supplemented with evidence with respect to the county using countywide precincts in an election. The county commissioners court must then hold a public hearing on the use of countywide precincts. Notice of the meeting must be provided to all county

party chairs, local political subdivisions and affected public interest groups. A recording or transcript of the hearing must be provided to the Secretary of State. The county judge will submit a letter requesting “successful” designation to the Secretary of State along with the recording or transcript of the public hearing. The Secretary of State will review the transcript or recording as well as reports of the county’s elections using the program to confirm the county met the requirements of the Code. Voter turnout data for elections using the program will be compared with turnout in previous elections without use of the program to determine whether use of the program caused a substantial reduction in voter turnout.

Deadlines and Other Pertinent Dates

Q: What are the deadlines and key dates for implementing the countywide polling place program for the May 4, 2019 uniform election date?

A: The schedule for implementing the countywide polling place program for the May 4, 2019 uniform election date is as follows:

- **Monday, February 18, 2019** — Deadline for counties to submit their proposed plan (detailing the county’s ability to comply with Section 43.007 of the Texas Election Code) to Secretary of State. Note that counties that have participated in previous countywide election precincts programs are not required to hold a public hearing under Section 43.007(b), though we urge that they do so. Counties that have not previously participated in a countywide program will have to include a recording of the public hearing as part of the proposed plan which will necessitate more lead time for the process which may require them to initiate the process earlier than previously participating counties.
- **Monday, March 11, 2019** — Deadline for Secretary of State to approve proposed local plans for the program and provide detailed guidance on the information that will be requested from the Secretary of State and that will be included in the final legislative report. The counties will be required to submit this information to the Secretary of State no later than 30 days after the election.
- **Monday, June 3, 2019** — Deadline for county clerk/elections administrator to submit election report to Secretary of State.

Q: What are the deadlines and key dates for implementing the countywide polling place program for the November 5, 2019 uniform election date?

A: The schedule for implementing the countywide polling place program for the November 5, 2019 uniform election date is as follows:

- **Thursday, August 22, 2019** — Deadline for counties to submit their proposed plan (detailing the county’s ability to comply with Section 43.007 of the Texas Election Code) to Secretary of State. Note that counties that have participated in previous countywide election precincts programs are not required to hold a public hearing under Section 43.007(b), though we urge that they do so. Counties that have not previously participated in a countywide program will have to include a recording of the public hearing as part of the proposed plan which will necessitate more lead time for the process which may require them to initiate the process earlier than previously participating counties.
- **Thursday, September 12, 2019** — Deadline for Secretary of State to approve proposed local plans for the program and provide detailed guidance on the information that will be requested from the Secretary of State and that will be included in the final legislative report.

The counties will be required to submit this information to the Secretary of State no later than 30 days after the election.

- **Thursday, December 5, 2019** — Deadline for county clerk/elections administrator to submit election report to Secretary of State.

If you are interested in participating in the program or need more information, please email our office at elections@sos.texas.gov or call our office toll-free at 1-800-252-2216.

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