

# Local Elections for County Officials

35th Annual Election Law Seminar for Cities, Schools  
and Other Political Subdivisions



# Overview

- Introduction to Local Elections
- Duties of County Officials
- Contracting and Joint Elections
- Entities in More Than One County



# Introduction to Local Elections



# Intro to Local Elections

- Local entities have the option of conducting their elections in a few different ways:
  - On their own;
  - Contracting with one or more counties; or
  - Holding a joint election with the county and/or other entities holding elections on the same day
- Whether the county is contracting with a local entity to run their election or not, the county does have certain specific statutory duties for those local elections
  - Preparing a list of registered voters
  - Providing a list of annual ABBM voters
  - Renting voting system equipment



# Intro to Local Elections

- Local entity elections may have specific rules that differ from the rules governing county elections
  - Local elections held in May do not require the use of county election precincts
    - Local elections in November **do** require the use of county election precincts
  - Specific districts may have specific rules that govern the conduct of their elections
    - i.e. certain water districts, special law districts, etc.
    - The entity may need to consult their governing statutes to determine whether there are special requirements



# Intro to Local Elections

- In general, the responsibility for the conduct of an entity's election falls primarily on that entity.
- However, there are many things that the county can do to help facilitate those elections.
  - Consider maintaining a list of entities located within your territory.
  - Keep track of the general election schedule for your entities.
  - If you are planning to contract with your local entities, reach out to them before their election is ordered to begin coordinating the details of that election.
    - e.g. weekend EV, main EV location, ballot by mail, etc.



# Duties of County Officials



# Duties of County Officials

- While local entities are generally responsible for the conduct of their own elections, there are certain statutory duties placed on county officials with regard to local elections, including:
  - Web Posting Requirements
  - Preparing List of Registered Voters
  - Annual ABBM Voters and ID Verification
  - Rental of Voting System Equipment
  - EAs – Duty to Contract
    - Except for May, even-numbered years





# Duties of County Officials

## Web Posting Requirements

### Notice of Election (Sec. 4.008)

- Applies even if not contracting with entity
- Local entity must provide a copy of their notice of election to each county in which the entity is located
  - Must be delivered to county by 60th day before election day
  - County must post the entity's notice of election, including the location of each polling place, on county's website by 21st day before election day
- Entity should provide county with at least a general notice that they will be holding an election by the 60th day
- Entity should provide their notice of election (including polling places) to county as soon as it is available, but early enough for county to post on county website by 21st day



# Duties of County Officials

## Web Posting Requirements

### Information About Upcoming Elections (Sec. 4.009)

- Applies only if contracting with entity
- County must post the following info about each entity's election on the county's website:
  - Date of the election;
  - Location of each polling place;
  - Each candidate for an elected office on the ballot; and
  - Each measure on the ballot
- Must be posted by 21st day before election day
- These requirements can be met by posting the notice of election and a copy of the entity's sample ballot on the county's website



# Duties of County Officials

## Web Posting Requirements

### Election Results (Sec. 65.016)

- Applies only if contracting with entity
- County must post the following information for each local entity's election on the county's website:
  - Results of each election;
  - Total number of votes cast;
  - Total number of votes cast for each candidate and for/against each measure;
  - Total number of votes cast by:
    - Election Day
    - Early Voting in Person
    - Early Voting by Mail
  - Total number of counted and uncounted provisional ballots



# Duties of County Officials

## List of Registered Voters

- The county voter registrar is required to provide a list of registered voters for each local entity that is wholly or partly contained within the county. (Sec. 18.001)
- The local entity must furnish a map or a description of the territory that is in sufficient detail to allow the registrar to prepare a list of registered voters that is specific to the entity's territory.
  - Including boundary lines for single-member districts or other territorial units within the entity.



# Duties of County Officials

## List of Registered Voters

- Always request a new map or description from your entity for each election that you prepare a list.
- Verify with the entity that it is accurate.
  - Have there been any recent boundary changes due to redistricting or annexation/disannexation?
  - Confirm with the entity whether the entity is located in more than one county.



# Duties of County Officials

## Ballot By Mail

- At minimum, the county must provide a list of Annual ABBM voters to each entity with voters on the list. (Sec. 86.0015)
  - A voter who submits an Annual ABBM is entitled to vote by mail in all elections for which they are eligible in that calendar year
- If the county will be the early voting clerk under contract, then the county will be responsible for conducting ballot by mail.
- If the county will not be the early voting clerk for the entity's election, then you must provide them with a list of Annual ABBMs and may also need to assist the entity with certain aspects of the corrective action process



# Duties of County Officials

## Ballot By Mail

- The corrective action process requires the early voting clerk, signature verification committee, and/or early voting ballot board to review the ID information provided on the ABBM and carrier envelope to the ID information on the voter's registration record.
- The county will need to facilitate this process by assisting the local entity in comparing the information on the ABBM/carrier to the information on the voter's registration record.



# Duties of County Officials

## Verifying ID Information on ABBMs / FPCAs

### For Annual ABBM Voters:

- County will only forward accepted Annual ABBMs to local entities, meaning the ID information was verified.
- County should prepare a certification confirming that the information on the application matched the information on the voter's record.
- Certification should be provided with the list of Annual ABBM voters.
- If the entity's EVC does not want to rely on the county's certification, they must arrange a date and time with the county to go to the county's office to validate the information on the voter's registration record against the application.





# Duties of County Officials

## Verifying ID Information on ABBMs/FPCAs

### For ABBMs Submitted to Entity's EVC:

- The entity's EVC must arrange a date and time with the county to validate the information on the voter's registration record against the application.
- Validation can be performed with the county and entity over the phone or in-person.
- Entity's EVC should make a notation on the ABBM or a separate document indicating that the verification occurred and including the date of verification



# Duties of County Officials

## Verifying ID Information on Carrier Envelopes

### For EVC / SVC / EVBB Review of Carrier Envelopes:

- If the ID numbers on the carrier match the numbers on the voter's ABBM/FPCA (which was previously validated by the EVC), then the EVC/SVC/EVBB can accept that information as validated for purposes of the carrier envelope.
- If the ID numbers on the carrier do not match the numbers on the voter's ABBM/FPCA, then the entity's EVC/SVC/EVBB must arrange a date and time with the county to validate the information on the voter's registration record against the carrier envelope.
  - Validation can be performed with the county and entity over the phone or in-person.
  - Entity's EVC/SVC/EVBB should make a notation on the carrier or a separate document indicating that the verification occurred and including the date of verification.



# Duties of County Officials

## Ballot by Mail Tracker

- The ballot by mail tracker is managed through the TEAM system, which is not accessible to local entities.
- Counties who are contracting to serve as the EVC for a local entity's election will use the ballot by mail tracker for that election.
- Counties who are not contracting with the local entity may enter into a limited contract to allow the entity to use the ballot by mail tracker.
  - This would require the county and entity to coordinate regarding the reporting of ballot by mail activity in the TEAM system throughout the election.



# Duties of County Officials

## Rental of Voting System Equipment

- If a local entity requests voting system equipment from a county and the county has the requested equipment, then the county must lease the equipment to the local entity.
  - Alternatively, the local entity may lease from the vendor.
- Except, the commissioners court may impose reasonable restrictions on leasing the equipment to:
  - Ensure the availability of the equipment for a county election; or
  - Protect the equipment from misuse or damage.
- The maximum amount that may be charged to lease voting system equipment is 10% of the purchase price of the equipment for each day the equipment is leased.

(Sec. 123.032)



# Duties of County Officials

## Duty to Contract

- If a local entity requests a contract for election services with a county elections administrator (EA), then the EA must contract with the entity.
  - County Clerks/Tax Assessor-Collectors may contract with local entities, but are not required to do so.
  - Duty to contract does not apply to an election held on the May uniform date in an even-numbered year.

(Sec. 31.093)



# Contracting and Joint Elections



# General Considerations

- Entity must consider whether they have the resources to conduct their own election or if they want to rely on the county.
- No specific deadline to enter into agreement, but recommend doing so 4 – 6 months before election day.



# Three Types of Agreements

- Three types of agreements:
  - Contract for Election Services (Ch. 31)
  - Joint Election Agreement (Ch. 271)
  - Lease of Election Equipment (Ch. 123)





## *Contract for Election Services*

### General Considerations

- Contract between the county election officer and the governing body of the entity.
  - EA has a duty to contract, except in May of even-numbered years
  - No duty to contract for County Clerk/Tax Assessor
  - Does not require commissioners court approval
- County election officer may perform all duties normally performed by the officer in a county election.

Secs. 31.092, 31.093



## *Contract for Election Services* Non-Transferrable Functions

- The contract may **not** change:
  - The filing authority for candidate applications;
  - The filing authority for Title 15 documents;
  - Or, a political subdivision's requirement to maintain office hours under 31.122.
    - Political subdivisions, **including cities**, may contract for the county to be the custodian of voted ballots.
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Sec. 31.096



# Contract for Election Services Compensation

- The contract must include a cost schedule that is agreed to by both parties.
- Contract Fund (Sec. 31.100, 1 TAC 81.161)
  - The county may only use funds for expenses **directly attributable** to the contract.
  - Any advance funds over the actual expenses must be **refunded** to the political subdivision.
- County election officer:
  - Cannot charge for duties that must be performed by law, and cannot be personally paid for contract services
  - Can charge a fee for general supervision of the election
    - Up to 10% of the total amount of the contract



# *Joint Election Agreement*

## General Considerations

- Entered into by the governing body of two or more participating entities
  - May include county, but not required to if county is not holding an election
- May agree to share various aspects of the election
  - Common polling places
  - Joint ballots
  - Joint early voting / ballot by mail
  - Shared election officers
- Counties and local entities have broad latitude to design their joint election agreement according to the needs of the participating entities.

(Chapter 271, Election Code)



# *Joint Election Agreement*

## Compensation

- Costs of the joint election are allocated according to the terms of the joint election agreement.
  - Terms must be outlined in writing and indicate how the costs will be split amongst the parties
  - This gives broad latitude to establish cost-sharing guidelines
    - e.g. percentage-based assignments, allocation based on number of registered voters, etc.

(Sec. 271.004)



## *Acquisition of Election Equipment* General Considerations

- A political subdivision may lease equipment from a **county** in which it is wholly or partly situated.
- If the county doesn't have the **desired equipment**, the political subdivision may acquire certified voting system equipment by any other means from **any other source**.

Sec. 123.032



# *Acquisition of Election Equipment*

## Duty to Contract

- If a political subdivision located wholly or partly within a county wishes to lease election equipment owned by the county, then the county must lease the equipment under the terms agreed to by both parties.
- However, county may impose **reasonable restrictions** for:
  - Ensuring the **availability** of the equipment for an election for which the county adopted it.
  - **Protecting** the equipment from misuse or damage.

Sec. 123.032



# *Acquisition of Election Equipment*

## Approval of Contract

- Written Approval from SOS
  - Before the governing body may enter into a contract for voting system equipment from a source other than the county, the contract must be approved by the SOS.
    - The local entity doesn't need approval for a contract with the county because that equipment has already been approved by SOS.
- Adoption Action
  - The governing body of a political subdivision must adopt the election equipment for use by **resolution, order, or other official action**.
  - Must do so **regardless** of whether the equipment is being obtained by sale or lease.

Sec. 123.032





## *Acquisition of Election Equipment* Compensation in Contract

- The county may charge the subdivision a **fee for leasing** the equipment.
- The fee **may not exceed 10%** of the purchase price of the equipment for each day of use.

Sec. 123.032



# Entities in More Than One County



## Entities in More Than One County

- Whenever you are conducting an election for an entity, it is important to know the entity's **exact** territory lines.
  - Make sure the entity will provide the most up-to-date and accurate map or specific territory description to your county so you can get them an accurate list of registered voters.
  - Most importantly, you need to know if they are located in more than one county.
- If the entity is located in more than one county, then the entity must make specific plans to address voters in both counties.
  - The entity must at least obtain a list of registered voters and a list of Annual ABBM from each county.
  - If you are holding a November election, this will also require them to set up polling locations in each county.



## Entities in More Than One County

- Entities in more than one county have a few different options for how to conduct their election:
  - Contract with one county to have that county conduct the election in both counties
  - Contract with both counties to have each county conduct the portion of the election in their own county
  - Contract with one county to have that county conduct the portion of their election that falls within that county, and conduct the election on their own in the other county
  - Conduct the election on their own in both counties.
- Make sure you know which option your entities have chosen, for your county and for any other counties they are located in.



# Entities in More Than One County

## May vs. November

- **May Elections**

- Voters may cross county lines to vote in local entity elections in May.

- **November Elections**

- Voters **cannot** cross county lines to vote in local entity elections in November.
  - In November, voters are required to vote by county election precincts. Voters must vote at their precinct polling place on election day.
  - If your county has one or more early voting locations in the entity's territory, they must use at least one of those locations for the entity's own election.
  - The local entity's election must be set up to report their results by county election precinct.



## Entities in More Than One County

### Things to Consider

- **If you are contracting with an entity...**
  - Communicate!
    - Talk to your entities, and make sure that they have developed a plan for each of the counties they are located in.
    - Talk to the other counties to make sure that they are aware of the entity's election and are aware of the entity's plan for their county's voters.
- **If you are not contracting with an entity...**
  - Communicate with the entity and any counties they are contracting with to make sure they have a plan for your voters.
  - Make sure to provide the entity with a list of registered voters and a list of Annual ABBM voters for your county.
  - If they are holding a November election, make sure they are sharing election day polling places and early voting locations in their territory with your county.



Questions?

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

