

# Elections for City Attorneys



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# Topics Covered

- Resources
- Elections in General
- Candidacy Issues
- Oaths
- Post-Election Duties



# RESOURCES



# Secretary of State



- Chief Election Officer
- Official Forms
- Uniformity
- Assistance and Advice
- Voting Rights Hotline
- Referral of Criminal Complaints to OAG



# Conducting Your Elections

www.sos.state.tx.us/elections/laws/citylaws.shtml

TEXAS SECRETARY OF STATE  
CARLOS H. CASCOS

Search

About the Office | Election Information | Business Filings | Notary Public & Statutory | State Rules & Open Meetings | Uniform Commercial Code | Border & International

Don't have a photo ID for voting? [Election Identification Certificates](#) are available from [DPS offices](#).

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**Elections And Voter Information**

**Laws and Procedures Pertaining to Cities**

2015 Election Advisories and Memos

- New** [Partial Manual Count after the November 3, 2015 Uniform Election Date](#)
- New** [Precinct by Precinct Report for November 3, 2015 Election](#)
- New** [No. 2015-14](#) - May 7, 2016 Election Law Calendar
- New** [No. 2015-13](#) - Certain Activities in Vicinity of Polling Places
- New** [No. 2015-12](#) - Post-Election Procedures and Qualifying for Office
- New** [No. 2015-11](#) - Recount Deadlines for the November 3, 2015 Elections of Cities, School Districts and Other Political Subdivisions
- [No. 2015-10](#) - New Laws and Procedures for ABBMs due to passage of HB 1927
- [No. 2015-08](#) - DPS Web Portal
- [No. 2015-07](#) - 2015 Legislative Summary
- [No. 2015-04](#) - November 3, 2015 Election Law Calendar
- [Precinct-by-Precinct Reports for May 9](#)
- [Partial Manual Count – May 9 Uniform Election](#)
- [No. 2015-03](#) - Post-Election Procedures and Qualifying for Office for the May 9, 2015 Uniform Election
- [No. 2015-02](#) - Recount Deadlines for the May 9, 2015 Elections of Cities, School Districts and Other Political Subdivisions
- [Exemptions to Voting System Accessibility Requirements](#)

2014 Election Advisories and Memos

- [No. 2014-25](#) May 9, 2015 Election Law Calendar
- [No. 2014-23](#) - Recount Deadlines for the November 4, 2014 Elections of Cities, School Districts and Other Political Subdivisions
- [No. 2014-22](#) - Post-Election Procedures and Qualifying for Office
- [Joint Elections and Polling Places FAQs](#)
- [Election Advisory No. 2014-21](#) - Certain Activities in Vicinity of Polling Places
- [Waiver of Partial Manual Count for the November 4, 2014 Elections](#)
- [Exemptions to Voting System Accessibility Requirements](#)
- [No. 2014-20](#) - Processing and Counting Write-In Votes Cast on Electronic Voting Systems
- [No. 2014-19](#) - Manual/Hand Counting Rules for Paper and Optical Scan Ballots

**Online Poll Worker Training**

**Voting Systems**

- Information pertaining to examination, certification and accessibility of [Voting Systems](#).
- Revised:** [Voting Accessibility Exemptions](#)

**General Election Information**

- [Mandatory ISD Joint Elections FAQ](#)
- [Election Glossary](#)
- [Important 2011 Election Dates](#)
- [Important 2012 Election Dates](#)
- [Important 2013 Election Dates](#)
- [Important 2014 Election Dates](#)
- [Important 2015 Election Dates](#)
- New** [Important 2016 Election Dates](#)
- [Offices up for Election in 2016](#)

**Election Procedures**

- New** [March 1, 2016 Dear Voter Letter \(PDF\) | Spanish \(PDF\)](#)
- New** [Poll Watcher's Guide 2015 \(PDF\)](#)
- [Precinct by Precinct Reporting](#)
- [Handbook Request Form](#)
- Revised:** [Election Judges and Clerks Handbook 2016 \(PDF\)](#) *Current for the March 1, 2016 Primary elections*
- Revised:** [Early Voting Ballot Board Handbook \(PDF\)](#)
- [Forms Manual](#)

**Voter Information**

**VOTETEXAS.GOV**

- About the Elections Division
- Conducting Your Elections
- Candidate Information
- Election Officials and Officeholders
- Election Results
- Election Administration
- Help America Vote Act (HAVA) Funding to Counties
- Election Funds Management, (HAVA, Chapter 19 & Primary Finance)
- Project V.O.T.E. for Teachers, Educators and Students
- Voting Systems
- Forms, Resources & Legal Library
- Frequently Asked Questions (FAQs)
- Contact Us

<http://www.sos.state.tx.us/elections/laws/citylaws.shtml>



# Forms, Resources and Legal Library

- Links to—
  - Forms Manual
  - Handbooks
  - Advisories



# Election Law Calendars

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Election Outlook: Early voting for the March 1, 2016 Primary Election runs Tuesday, February 16 – Friday, February 26 | Last day to apply for ballot by mail (received, not postmarked) is Friday, February 19, 2016 | What's on the Ballot | Voter information | Don't have a photo ID for voting? Elections are available from 2DS offices

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Links to Calendars on Main Election Page

**May 7, 2016 Election Law Calendar**  
Released: October 30, 2015, Updated: November 12, 2015

- Downloadable PDF Calendar
- Download Calendar for Windows
- Downloadable Calendar for Mac

The uniform election date in May of an even-numbered year is a date in which many local political subdivisions, calendar is required to meet the needs of many diverse governmental bodies. If there are questions about the a

DECEMBER 2015							S	M
S	M	T	W	T	F	S	S	M
6	7	8	9	10	11	12	3	4
13	14	15	16	17	18	19	10	11
20	21	22	23	24	25	26	17	18
27	28	29	30	31			24	25
							31	

  

MARCH 2016							S	M
S	M	T	W	T	F	S	S	M
6	7	8	9	10	11	12	3	4
13	14	15	16	17	18	19	10	11
20	21	22	23	24	25	26	17	18
27	28	29	30	31			24	25

  

JUNE 2015							S	M
S	M	T	W	T	F	S	S	M
6	7	8	9	10	11	12	3	4
13	14	15	16	17	18	19	10	11
20	21	22	23	24	25	26	17	18
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Election Outlook: Secretary Pablos Wants Texans To Be Ready To Vote | More about Identification Requirements for Voting | Monday, February 5, 2016 was the last day to register to vote in person in the March 6, 2016 Primary Election | Early voting takes place from Tuesday, February 20, 2016 – Friday, March 2, 2016 | Last day to apply for ballot by mail (received, not postmarked) is Friday, February 23, 2016 | What's on the Ballot | Voter information | Voting Issues for Texas Primary Elections

**About the Elections Division**

**Election Outlook**

**VOTER I.D. FAQs**

- Review Acceptable Forms of Identification (PDF)
- Template Photo Release (English) | (Spanish)
- Notice of Acceptable Identification Poster (English) & (LA) (PDF) | (11x17) (PDF) | (24x36) (PDF)
- Notice of Acceptable Identification Poster (Spanish) & (LA) (PDF) | (11x17) (PDF) | (24x36) (PDF)
- Forms – Voter Registration

**March 6, 2016 Primary Election**

- New Democratic Party, Samuels Ballot (PDF)
- New Republican Party, Samuels Ballot (PDF)

**Election and Candidate Information**

- New Important 2016 Election Dates
- Important 2017 Election Dates
- Review 2016 Voter Registration (PDF)
- Review Election Inspector Handbook (PDF)
- Primary Finance
- New 2016 Primary Election Public Office Candidate Listing
- New 2016 County and Precinct Color Sampling Listing
- New 2016 County and Precinct Chair Listing

**Election Law Calendars**

- New May 5, 2016 Election Law Calendar
- New March 6, 2016 Primary Law Calendar
- New Appearances, March 6, 2016 Primary Election Day Calendar
- November 7, 2017 Election Law Calendar
- May 8, 2017 Election Law Calendar

From upcoming election information to registering to vote, VoteTexas.gov makes sure you count.

- Voter ID Requirements
- Am I Registered to Vote?
- How to Register to Vote
- Military/Overseas Voters
- Student Voters
- Voters With Special Needs
- Early Voting
- FAQ

**VOTETEXAS.GOV**  
POWERED BY THE TEXAS SECRETARY OF STATE

The Secretary of State is the chief election officer for the State of Texas. The Secretary of State's Elections Division provides assistance and advice to election officials on the proper conduct of elections. This includes hosting seminars and elections schools, providing calendars, ballot

[En Español](#)  
 Please Take our Survey  
[Order Regarding Agreed Interim Plan for Elections \(PDF\)](#)  
[Archived Court Orders](#)

**Points of Interest**  
**Online Poll Worker**  
**Training**  
 Online Poll Worker Training Memo  
 Cancellation Trend Reports  
 Frequently Asked Questions Regarding the Census and Redistricting  
 Report to the 80th Legislature on Section 101.004 of the Texas Election Code Relating to a Program Allowing Certain Military Voters an Active Duty Overseas to Cast a Ballot Electronically  
 Report to the 80th Legislature Under Section 43.007(j), Texas Election Code Relating to the Countywide Polling Place Program  
 Report to the 84th Legislature Relating to the Countywide Polling Place Program  
 Report to the 83rd Legislature Relating to the Countywide Polling Place Program

<https://www.sos.state.tx.us/elections/laws/may-5-election-calendar-2018.shtml>



# Contacting the SOS

## Phone numbers

1.800.252.VOTE (8683)

512.463.5650

Option 3 for receptionist

Or

1.800.252.2216

Option 2 for legal

## Physical Location

Rudder Building

1019 Brazos

Austin, Texas 78701

PO BOX 12060

Austin, Texas 78711

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





# ELECTIONS IN GENERAL



# Types of Elections

- **General Elections**

- Regular Council Member elections (for full term of office)
- General Election for State and County officers
- Presidential Election

- **Special Elections**

- Special Election to fill a Vacancy
- Tax Ratification Elections (TREs)
- Bond Elections
- Local Option Liquor Elections

- **Runoff Election**



# Plurality v. Majority

- **Plurality:** A candidate must receive more votes than any other candidate for the office.
- **Majority:** A candidate must receive more than 50% of the total vote.
  - **Runoff Election:** If no candidate received the vote necessary to be elected in an election requiring a majority vote, a runoff election is required. (2.021)
- **Elections that Require a Majority Vote**
  - Election for an office of a city with a population of 200,000 or more.
  - **City that has increased the term of its elected officials to more than two years (Article XI, Section 11)**
  - Otherwise provided by law – (Education, Water Code, etc.)



# Local Election Officials

- **Duties of Local Election Official (City Secretary/City Clerk)**
  - Accepting and reviewing candidate applications & certifying candidates for a place on the ballot
  - Early Voting Clerk
  - Procuring, Ordering and Delivering Supplies
  - Preparing Ballots
  - Procuring Polling Places
  - Procuring and Training Election Judges
  - Election Night Duties, including Unofficial Vote Tallies
  - Maintaining Office Hours before and after election
  - Preparing and Delivering certain reports to SOS
  - Custodian of Election Records
- **All of these duties can be contracted away, except duty to accept and review candidate applications, certify candidates for a place on the ballot, and serving as custodian of election records.**



# Contracts/Joint Elections

- Joint Elections

- If two or more entities are holding an election on the same day in a particular territory, then they may enter into a joint election agreement and share precincts, workers, and/or equipment, etc. (Chapter 271)
- City should be aware that a School District **MUST** hold joint election with a city (if there is one with overlapping territory) for the regular board member election

- Contract for Election Services

- Contract between county election officer and entity holding election for various election services including the leasing of voting system equipment. (31.092)



# CANDIDACY



# Filing for Public Office- Deadlines

- **First Day to File**
  - General Elections (Uniform Election Date)
  - 30 days before filing deadline.
    - [Notice of Deadline to File Applications for Place on the Ballot](#)
      - Must be Posted 30 days before 1<sup>st</sup> day to file
- **Filing Deadline**
  - General Elections (Uniform Date)
    - Regular Candidates:
      - 5:00 pm, 78<sup>th</sup> day before election day.
    - Write-in Candidate Deadline
      - 5:00 pm, 74<sup>th</sup> day before election day.
- Applications can be delivered **in person, by mail, or fax.**



# Method of Filing

- Applications can be delivered **in person, by mail, or fax.**
  - If by mail, must look at time of receipt **NOT** postmark.
    - Receipt = actual possession of filing authority or agent, or time deposited in the authority's mail box.
  - Can't submit via fax if application requires a filing fee. SOS recommends not using fax if application contains petition.
  - E-mail submission is **NOT** permitted under the Election Code.





# Candidate Application

- [Application for Place on General Election Ballot](#)  
(AW 2-21)
- [Application for Place on Special Election Ballot](#)  
(AW 2-22)
- [Declaration of Write-in Candidacy](#)  
(AW 2-23)



# Review of Candidate Application

- **Form, Content, and Procedure**
  - Review must be completed no later than 5<sup>th</sup> day after application is received (unless there is a petition).
  - Accepting application does not preclude a later determination that there is a deficiency in the application.
  - If rejecting, must do so **immediately** and deliver to candidate **written notice of rejection**.
  - **NEW LAW: (SB 44, 2017, RS)** Cannot challenge after the day before any ballot by mail is mailed for the election.



# Review of Accompanying Petition

- **Sec. 141.032 REVIEW OF APPLICATION; NOTICE TO CANDIDATE**
  - Petition is part of application and review should be completed as soon as practicable.
  - Deficiency in petition can't be cured with information provided in application.
  - **Unless the petition is challenged, the authority is only required to review the petition for facial compliance with the applicable requirements as to form, content, and procedure.**
- **Sec. 141.034. LIMITATION ON CHALLENGE OF APPLICATION.**
  - “Form, content and procedure” requirements may not be challenged after the day before any ballots by mail have been mailed.
  - Challenge must state with specific how the application does not apply.
  - Authority's review of challenge is limited to specific items challenged. Challenged candidate can file response with the authority.
  - This section does not apply to a determination of a candidate's eligibility



# Review of Accompanying Petition

## Sec. 141.065. AFFIDAVIT OF CIRCULATOR.

- May rely on affidavit of circulator to determine validity of petition.
- **A single notarized affidavit by any person who obtained signatures is valid for all signatures gathered by the person if the date of notarization is on or after the date of the last signature obtained by the person.**
- In Re Pena – found there was insufficient proof that the challenged signatures were not of registered voters



# Challenging Petition Contents

- Challenge should be made in writing.
- Challenge must specify each signature challenged and reason for challenge.
- Filing Authority should notify candidate whose petition is challenged, preferably in writing.
- Filing authority considers evidence presented by challenging individual and any response submitted by challenged applicant.
- Deadline to make challenge and for challenge to be decided is day before 1<sup>st</sup> ballot has been mailed. Challenge made or decided after that date has no legal effect.
  - Challenger who waits until deadline to make the challenge will likely miss the window.



# Administration Declaration of Ineligibility

- **Eligibility**

- MAY administratively declare candidate ineligible if:
  - Information on candidate application indicates ineligible for office, OR
  - Conclusive public record shows ineligible.

**NOTE:** There is NO public record that conclusively establishes residency.

- Candidate must be given written notice of the declaration of ineligibility.



# Administrative Declaration of Ineligibility

- Candidate MAY be declared ineligible:
  - By filing authority before early voting in person begins, OR
  - By presiding officer of final canvassing authority after polls close and before certificate of election is issued.
- Candidate must be given written notice of the declaration of ineligibility.



# Withdrawal

- To be effective, withdrawal **MUST** be:
  - In writing, signed, and notarized, AND
  - Timely filed with the filing authority [Sec. 145.092(f) and 145.094(a)(4)].
    - Uniform Election Dates: 5 pm, 71<sup>st</sup> day before election day (Friday, February 23, 2018 for May 5, 2018 election date).
    - Runoff Elections: 5 pm, third day after canvass of main election
    - Other elections: 5 pm, fifth day after application deadline.





# Withdrawal

- If withdrawal submitted too late, candidate's name remains on ballot and withdrawal has no effect.
  - **EXCEPTION:** NEW LAW, HB 1661 (2017), Untimely withdrawal can still remove name from ballot if ballots have not been prepared at the time candidate files withdrawal.
  - May allow **cancellation** of election if candidate unopposed and other requirements met.



# Cancellation

Cancellation outline:

<http://www.sos.state.tx.us/elections/laws/cancellation.shtml>

Call us!



# OATHS



# Oaths

- **Statement of Officer/Constitutional Oath of Office, (Article XVI, Section 1)**
- **Statutory Oath of Office (62.003)**
- **NEW Oath for Early Voting Ballot Board/Central Counting Station (87.006, 127.0015)**

Advisory:

<http://www.sos.state.tx.us/elections/laws/advisory2017-10.shtml>



# Oaths

- **Statement of Officer/Constitutional Oath of Office,**
  - Texas Attorney General Opinion, [KP-140 \(PDF\)](#).
  - All presiding judges, alternate judges and early voting clerks must complete the statement of officer and take the constitutional oath of office.
  - Nepotism Implications
- **NEW Oath for Early Voting Ballot Board/Central Counting Station (87.006, 127.0015):** HB 1735 (85th Legislature, RS, 2017)
  - All members of the Early Voting Ballot Board and the Central Counting Station.

**Advisory:** <http://www.sos.state.tx.us/elections/laws/advisory2017-10.shtml>



# POST-ELECTION PROCEDURES



# Post-Election Procedures

- Canvass
  - Qualifying for Office
    - Certificate of Election (67.016)
    - Statement of Elected Officer (Art XVI, Sec. 1, Tex. Const.)
    - Oath of Office, Chapter 602, Texas Government Code
- Filed locally.

Form 1236 Rev. 10/2011

In the name and by the authority of  
**The State of Texas**  
 THIS IS TO CERTIFY, that at a general election held on  
 Any Day, Any Month, Any Year  
**JOHN DOE**  
 was duly elected  
**ANY OFFICER**

In testimony whereof, I have hereunto signed my name and caused the Seal of \_\_\_\_\_ to be affixed at the City of \_\_\_\_\_ this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signature of Presiding Officer of Canvassing Authority

Form 1236 Rev. 10/2011

This space reserved for officer use

Submit to:  
 SECRETARY OF STATE  
 Government Filings Section  
 P O Box 12887  
 Austin, TX 78711-2887  
 512-463-6334  
 512-463-5969 Fax  
 Filing Fee: None

**STATEMENT OF OFFICER**

**Statement**  
 I, \_\_\_\_\_ do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, conditioned, or promised to condition any money or thing of value, or promised any public officer or employee for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

Position to Which Elected Appointed: \_\_\_\_\_  
 City and/or County: \_\_\_\_\_

**Execution**  
 Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated therein are true.  
 Date: \_\_\_\_\_  
 Signature of Officer: \_\_\_\_\_

Form 1236 2

Form 1236 Rev. 10/2011

This space reserved for officer use

Submit to:  
 SECRETARY OF STATE  
 Government Filings Section  
 P O Box 12887  
 Austin, TX 78711-2887  
 512-463-6334

**OATH OF OFFICE**

Filing Fee: None

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS,  
 I, \_\_\_\_\_ do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

Signature of Officer: \_\_\_\_\_

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 I appear to and subscribe before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signature of Notary Public or Other Officer Administering Oath: \_\_\_\_\_  
 Printed or Typed Name: \_\_\_\_\_

Form 1236 3



# Post-Election Procedures

- Recounts (Title 13, Election Code)
  - Petition for a Recount
  - Automatic Recount
  - [www.sos.state.tx.us/elections/laws/recounts.shtml](http://www.sos.state.tx.us/elections/laws/recounts.shtml)
- Election Contests (Title 14, Election Code)
  - Action occurs in district court.
  - Losing candidate files suit against the winning candidate.





# Reports to SOS

- Precinct by Precinct Report
- Partial Manual Count
- Annual Voting Systems Report



# Websites

[www.sos.texas.gov /elections](http://www.sos.texas.gov/elections)

[www.votetexas.gov](http://www.votetexas.gov)

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

