

Demystifying the Election Code

Texas Secretary of State
42nd Annual Election Law Seminar
for County Election Officials



- Where to Find the Election Code
- General Tips for Navigating the Election Code
- Interpreting the Code
- Election Code by Topic
 - General Provisions
 - Voter Registration
 - Election Officers and Observers
 - Time and Place of Elections
 - Election Supplies
 - Conduct of Elections
 - Early Voting
 - Voting Systems
 - Candidates
 - Political Parties
 - Presidential Elections
 - Elections to Fill Vacancies in Office
 - Recounts
 - Election Contests
 - Regulating Political Funds and Campaigns
 - Miscellaneous Provisions



- Learning where to find things is the most important tool
 - Ex: Precincts are governed by Chapter 42
 - I want to know the rules for drawing precinct lines, so I look in Chapter 42
 - Once you know where to look, you know where to start your search
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- Use the structure of the Election Code and your table of contents to guide you to what you are looking for



Why Use the Code?

- It's the Law
- Forms and Advisories Can't Fully Capture the Code
- When in Doubt, Use Secondary Sources to Point You to the Code



- Available for free online:
 - <https://statutes.capitol.texas.gov/?link=EL>
- Available from various publishers in a physical or electronic format
- These resources are typically updated within a few weeks after the end of each legislative session



Use Both

- Paper Advantages

- See Structure, Architecture
- Adjacent Provisions
- Crash-Proof Technology

- Electronic Advantages

- Available across platforms
- Searchable



- Note that Section 1.005 provides definitions that apply **throughout** the Code.
- Section 121.003 also provides definitions that apply to voting system terms.
- There are other places where terms are defined, but these are a good place to start.
 - Example: "City secretary" includes a city clerk or, in a city that has no city secretary or clerk, the city officer who performs the duties of a city secretary. (1.005(1)).



- Note that the even though the Code has precise definitions, sometimes the same word can be used in different ways.
- “Precinct,” for example, can refer to at least four different units:
 - Commissioners Precincts: Territorial unit served by county commissioners.
 - Justice Precincts: Territorial unit served by Justices of the Peace and Constables.
 - County-Election Precincts: Created by order of commissioners court and is the basic unit of voter registration.
 - Election-Day Precincts: The area served on election day by a single polling place.
- Useful to know which kind of precinct you are referring to.



- No legal code, including TEC, can answer every question in advance.
- The Secretary of State's Office has a statutory mandate to help:
 - Sec. 31.003: The Secretary of State shall obtain and maintain **uniformity** in the application, operation, and interpretation of this code and of the election laws outside this code.
 - Sec. 31.004. The Secretary of State shall **assist and advise** all election authorities with regard to the application, operation, and interpretation of this code and of the election laws outside this code.



- Note that the power of elections officials comes from the authority of the Election Code and other sources of law.
- Therefore, for an election official's action to be authorized, it is not enough for the Code not to prohibit the action. The action must be within the general powers granted to the election officials by law.
 - Example: Sec. 32.071 GENERAL RESPONSIBILITY OF PRESIDING JUDGE. The presiding judge is . . . responsible for the management and conduct of the election at the polling place of the election precinct that the judge serves.



- Election officials do **not** have a broad mandate to change the law or exceed their powers.
- Sec. 276.019: A public official or election official may not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.
- This is why we are always looking to the Code.



- The Election Code has a very clear organizational structure:
 - Title -> Chapter -> Subchapter -> Section
- **Title** – Organizes very broad topics together
 - Title 3 - Election Officers and Observers
 - Title 2 - Voter Registration
- **Chapter** – Organizes more specific topics together
 - Chapter 32 - Election Judges and Clerks
 - Chapter 33 - Poll Watchers






- The Election Code has a very clear organizational structure:
 - Title -> Chapter -> Subchapter -> Section
- **Subchapter**– Organizes smaller topics within a chapter
 - Subchapter A - Appointment of Election Judges
 - Subchapter B - Appointment of Election Clerks
- **Section**– Outlines the rules that govern a specific issue
 - Section 32.002 - Judges for County Elections
 - Section 32.005 - Judges for Elections of Other Political Subdivisions




- The table of contents is your best friend!


▣ TITLE 3. ELECTION OFFICERS AND OBSERVERS


▣ CHAPTER 31. OFFICERS TO ADMINISTER ELECTIONS   


▣ CHAPTER 32. ELECTION JUDGES AND CLERKS   


▣ SUBCHAPTER A. APPOINTMENT OF ELECTION JUDGES 

Sec. 32.001. PRESIDING JUDGE AND ALTERNATE FOR EACH ELECTION PRECINCT 

Sec. 32.002. JUDGES FOR COUNTY ELECTION 

Sec. 32.003. JUDGES FOR CONSOLIDATED COUNTY ELECTION PRECINCTS 

Sec. 32.004. JUDGES FOR OTHER ELECTIONS ORDERED BY COUNTY AUTHORITY 

Sec. 32.005. JUDGES FOR ELECTIONS OF OTHER POLITICAL SUBDIVISIONS 

<https://statutes.capitol.texas.gov/?link=EL>



- The Election Code is divided up into specific topics
- Once you know the topic, and know how to navigate the Election Code, you can find the rule for your situation
- You can use the Title -> Chapter -> Subchapter -> Section to start with broad categories and work your way to specific rules
- We will identify specific topics and categories that are frequently useful for county officials



Introductory Provisions - Title 1

- Sets out general rules for Texas Elections (Chapter 1)
 - Definitions for important Election Code terms
 - Delivery of documents, public inspection, election expenses, and other basic issues
- Rules for Specific Kinds of Elections (Chapter 2)
 - Runoff elections, majority vote requirements, and tie vote procedures
 - Unopposed candidates and cancelling elections
- Rules for Order and Notice of Election (Chapters 3 and 4)
 - Contents of order and notice
 - Methods of providing notice



Voter Registration - Title 2

- Title 2 of the Election Code governs the voter registration process in Texas
- This covers several different subjects, including the voter registrar's responsibilities, the requirements for voter registration, and list maintenance procedures
- Like most of the Election Code, these topics are broken out into specific chapters that deal with specific subjects



Voter Registration - Title 2

- Establishes the requirements to be eligible for registration to vote and to vote in a Texas election (Chapters 11 and 13)
- Outlines the duties and responsibilities of the voter registrar (Chapter 12)
- Provides the requirements for an application for voter registration (including deadlines) and outlines the procedure for review of applications (Chapter 13)
- Provides the procedures for routine list maintenance by registrars (Chapter 16)



Voter Registration - Title 2

- Other topics include:
 - Requirements for Volunteer Deputy Registrars and High School Deputy Registrars (Chapter 13)
 - Sources of data for list maintenance activities (Chapter 16)
 - Reinstatement procedures (Chapter 16)
 - Voter registration challenge procedures (Chapter 16)
 - Voter registration certificates (initial, renewal, and replacements) (Chapters 13, 14, 15)
 - Requirements for storage of VR records (Chapters 13 and 15)
 - Lists of registered voters, including local entity lists and public information requests (Chapter 18)
 - Chapter 19 Funding requirements (Chapter 19)
 - Voter registration agencies (Chapter 20)



Election Officers and Observers - Title 3

- Title 3 of the Election Code outlines the rules for election officers, watchers, and inspectors
- Includes rules governing the SOS and county election officers (Chapter 31)
- Provides the rules and allowable expenses for election services contracts (Chapter 31)
- Outlines appointment procedures and eligibility requirements for election day workers (Chapter 32)
- Contains rules for poll watchers and inspectors (Chapters 33 and 34)



Time and Place of Elections - Title 4

- Title 4 of the Election Code outlines the rules for the date of elections and for precincts and election day polling places
- Includes the uniform election date requirement and the exceptions (Chapter 41)
- Basic rules for designing precinct lines, and for combining and consolidating precincts in specific situations (Chapter 42)
- Contains rules for election day polling places for precinct-based voting and countywide polling place program (Chapter 43)



Election Supplies - Title 5

- Title 5 of the Election Code outlines the rules for election supplies and the formatting requirements for ballots
- Requirements for acquiring and distributing election supplies (Chapter 51)
- Outlines the rules for the county election board (Chapter 51)
- Basic rules for ballots, including ballot instructions, ballot numbering, order of candidates on the ballot, and required number of ballots for an election (Chapter 52)



Conduct of Elections - Title 6

- Title 6 of the Election Code covers several topics, many of which are the most important procedures for the process of running an election at a polling place
- Polling place setup and posting of notices (Chapters 61 and 62)
- Check-in procedures for voters at the polling place, including Voter ID, combination forms and rosters, oaths, and other paperwork (Chapter 63)
- Procedures for voters to mark and cast ballots (Chapter 64)



Conduct of Elections - Title 6

- Other topics include:
 - Electioneering rules and general conduct rules at polling places (Chapter 61)
 - Rules for who is allowed to be present in the polling place (Chapter 61)
 - Assistance and interpreter procedures (Chapters 61 and 64)
 - Procedures for conducting a hand-count (Chapter 65)
 - Delivery rules for ballots, paperwork, and other election supplies after the polls have closed (Chapter 66)
 - Canvassing procedures and deadlines (Chapter 67)
 - Procedures for reporting results to SOS (Chapter 68)



Conduct of Elections - Title 6

- Note that Title 6, and the Code generally, default to hand-counted ballots.
- This can create confusion, because the rules governing electronic-voting systems are contained in Title 8, and the rules must be read together.



Early Voting - Title 7

- Title 7 outlines the rules for early voting in person and ballots by mail
- For early voting in-person, many of the rules that govern election day in Title 6 also apply to early voting, but Chapter 85 contains some specific rules for early voting
- Includes the rules for submitting and reviewing applications for ballot by mail
 - These rules are split between Chapter 84 and Chapter 86, so check both!
- Outlines the rules for the EVBB and SVC and the corrective action process (Chapter 87)



Early Voting - Title 7

- Other topics include:
 - Timelines for the EVBB and SVC to meet (Chapter 87)
 - Timelines for the CCS to meet, depending on county population (Chapter 87)
 - Specific rules for FPCAs (Chapters 101, 114)
 - Limited Ballots (Chapter 112)
 - Other special forms of early voting, like emergency late voting by disabled voters or voters with a recent death in the family, presidential ballots, and voters in space (Chapters 102, 103, 105, 106, 113)



Voting Systems - Title 8

- Title 8 outlines the rules for voting systems, including the requirements for certification and general requirements for acquisition, use, and security
- Outlines the legal standards for certification of a voting system and the procedures followed by SOS to examine those systems for certification (Chapters 121 and 122)
- Sets out basic requirements for counties and entities who purchase equipment from vendors and who lease equipment to entities (Chapter 123)
- Sets out the procedures for running a central counting station and counting ballots at the CCS (Chapter 127)



Voting Systems - Title 8

- Other topics include:
 - Procedures for dealing with voting system issues at polling places (Chapter 125)
 - Voting system security requirements (Chapters 125 and 129)
 - Procedures for logic and accuracy testing and tabulation testing for voting systems (Chapters 127 and 129)
 - Ballot format requirements for voting system ballots (Chapter 124)
 - Procedures for the partial manual count (Chapter 127)

Note: Many of these provisions provide broad standards that are flushed out and made more specific in the Electronic Voting System Procedures Advisory

- Current Version – [Advisory 2019-23](#)

See also: [Central Counting Station Handbook](#)



Candidates - Title 9

- Title 9 outlines the rules for candidates, including basic eligibility requirements, candidate filing procedures, and the review of candidate applications
- Basic candidate eligibility requirements, including residency and voter registration requirements and felony conviction restrictions (Chapter 141)
- Requirements for candidate applications and petitions (Chapter 141)
- Designates the filing authority and filing deadline for candidate applications for independent candidates, write-in candidates, and local entity elections (Chapters 142, 143, 144, 146)
 - **NOTE:** This does not include Primary election candidate filing requirements (Chapter 172)



Candidates - Title 9

- Other topics include:
 - Death, Withdrawal, and Ineligibility of Candidates (Chapter 145)
 - Procedures for political parties to make replacement nominations and nominations to fill vacancies for the general election ballot (Chapter 145)
 - Public availability of candidate applications and petitions (Chapter 141)
 - Refunds of filing fees in certain circumstances (Chapter 141)

Note: Primary elections have their own specific candidate rules in Title 10, but there is some overlap with these procedures and requirements



Political Parties - Title 10

- Title 10 outlines the rules for political parties, including the rules for party executive committees and primary elections
- Outlines specific rules and procedures for primary elections, including the candidacy process, primary-specific polling place procedures, and affiliation rules (Chapters 162 and 172)
- Sets out the organizational structure for political parties (rules and exec committees) (Chapter 171)
- Outlines the basic rules for primary finance (Chapter 173)
 - **Note:** The Texas Administrative Code has additional rules for this process



Political Parties - Title 10

- Other topics include:
 - Eligibility requirements for party offices (Chapters 161 and 171)
 - Death, Withdrawal, and Ineligibility of Primary Election Candidates (Chapter 172)
 - Procedures for convention party candidates (Chapters 181 and 182)
 - Formation of new political parties (Chapter 182)
 - Procedures for party conventions (Chapter 174)

Note: Primary elections have their own specific candidate rules in Title 10, but there is some overlap with the procedures and requirements in Title 9



Presidential Elections - Title 11

- Title 11 outlines the rules for presidential candidates and electors
- Outlines the rules for parties to nominate presidential candidates (Chapters 191 and 192)
- Provides candidacy requirements for independent and write-in candidates for president (Chapter 192)
- Establishes procedures for conducting the meeting of the electoral college after the presidential election (Chapter 192)



Elections to Fill Vacancies in Office - Title 12

- Title 12 outlines basic procedures and timelines associated with vacancies in office
- Establishes basic rules for determining whether a vacancy occurred and the date it occurred (Chapter 201)
- Provides a timeline for conducting special elections to fill vacancies (Chapter 201)
- Outlines procedures for placing an unexpired term of an office of state or county government on the ballot in the November general election (Chapter 202)



Elections to Fill Vacancies in Office - Title 12

- Other topics include:
 - Candidate filing deadlines and ordering deadlines for special elections to fill vacancies (Chapter 201)
 - Procedures for filling vacancies in Congress or in the Texas Legislature (Chapters 203 and 204)

Note: Local political subdivisions have their own specific rules for how vacancies in office are filled. Most of those rules come from provisions outside the Election Code, but the Election Code sets general rules for the timing of an election when the law requires a vacancy to be filled by special election.



Recounts - Title 13

- Title 13 outlines the procedures for requesting and conducting a recount
- Designates the officers who are responsible for receiving a recount petition and conducting a recount (Chapters 211 and 212)
- Provides the requirements for conducting a recount, including manual recounts, electronic recounts, and automatic recounts (Chapters 213 and 214)
- Outlines the costs that can be assessed when conducting a recount (Chapter 215)

Note: For more information on recounts, see the [Recounts Outline](#)



Election Contests - Title 14

- Title 14 outlines the procedures for filing an election contest and other election lawsuits
- Outlines the deadlines and procedures for filing election contests for offices and measures (Chapters 221, 231, 232, 233)
- Provides specific procedures for filing contests relating to specific types of offices (Chapters 241, 242, 243)
- For more information on election contests, we recommend that candidates and counties work with their legal counsel on the procedures relating to those lawsuits



Regulating Political Funds and Campaigns - Title 15

- Title 15 establishes rules governing campaign finance and political advertising
- Title 15 is regulated by the Texas Ethics Commission
- For more guidance on these requirements, please contact the Texas Ethics Commission



Miscellaneous Provisions - Title 16

- Title 16 includes several different provisions that are important to the election process but that do not fall neatly within any of the other categories
- Contains provisions governing joint elections held by two or more entities (which may include a county) (Chapter 271)
- Outlines requirements relating to bilingual election materials in English and Spanish, and other requirements for counties and entities with additional required languages (Chapter 272)



Miscellaneous Provisions - Title 16

- Contains procedures for reporting criminal conduct relating to an election to local prosecutors (Chapter 273)
- Includes additional statutes that prescribe specific criminal offenses relating to various issues like election fraud or unlawful distribution of ABBMs (Chapter 276)
- Outlines the general requirements for a petition that is authorized by a law outside the Election Code (Chapter 277)
- For more information on petitions outside the Election Code, see our [Petitions Outline](#)



Miscellaneous Provisions - Title 16

- Other topics include:
 - Election procedures for cities with a population of 200,000 or more (Chapter 275)
 - Procedures for constitutional amendment elections (Chapter 274)
 - Cybersecurity requirements (Chapter 279)



Local Option Liquor Elections - Title 17

- Title 17 is dedicated to one specific type of election – local option liquor elections
 - These elections to legalize or prohibit alcoholic beverages have very specific requirements relating to the petition process and the timing to order the election that are unique
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- Only one chapter – Chapter 501
 - For more information, see our [Local Option Liquor Election Outline](#)



Summary

- The key to understanding the Election Code is knowing where to find things
- Use the structure of the Election Code to help guide you to the topic you want
 - Title -> Chapter -> Subchapter -> Section
- Use resources like these slides or your table of contents to guide you to the topic you want to find
- If you have any questions, feel free to contact us!



Questions?

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