



Texas Secretary of State  
ELECTIONS DIVISION



# Contracting and Joint Elections

36th Annual Election Law Seminar  
for Cities, Schools and Other Political Subdivisions



- Three Ways to Conduct an Election
- Types of Agreements
  - Contract for Election Services
  - Joint Election Agreements
  - Lease of Voting System Equipment
- Separate or Joint Elections?
- Contracting in May Elections vs. November Elections
- Considerations for Entities in Countywide Counties
- Considerations for Entities in More Than One County



## Three Ways to Have an Election

- A city, school district, or other political subdivision can have an election:
  - By itself;
  - By contracting for election services with the county (Ch. 31); or
  - By holding a joint election (Ch. 271).



# Holding Your Own Election

- When holding your own election, you are responsible for each step involved in running the election, including:
  - Obtaining a list of registered voters for your election from the voter registrar of each county you are located in
  - Preparing your ballot and programming your voting system equipment
  - Obtaining your voting system equipment from the county or your vendor
    - Or using your own equipment, if you own equipment
  - Selecting polling places and hiring and training election workers
  - Sending, receiving, and reviewing ballots by mail
  - Conducting election day voting and early voting in person
  - Tabulation of results



# Contracting For Election Services

- If you are conducting an election, you can also request to contract with your county for the county election office to run your election for you
- This generally means your county will be responsible for running each part of your election, with some exceptions
  - You are still responsible for candidate applications, Title 15 filings, and office hours
- If you are located in multiple counties, you can contract with each county to run the part of your election that falls in each of those counties



## Contract For Election Services

- 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.).
- Governed by Chapter 31 of the Election Code



## Joint Elections

- If one or more entities are holding an election at the same time as your election, then you can choose to hold a joint election with those entities if you share some of the same territory
- The other entity (or entities) could be a county, or another local entity, or some combination of the two
- In a joint election, the entities agree to run their election together (typically with one entity performing the majority of the duties)
- The costs are split between the entities based on the terms of the agreement



## Joint Election Agreement

- 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.
- Governed by Chapter 271 of the Election Code





# Voting System Equipment

- Regardless of which path you choose, you can always contract to lease or purchase voting equipment from another entity or a voting system vendor
- Texas law requires entities to provide at least one accessible voting device at each polling place, but some exemptions exist based on the population size of the **county** that the entity is located in
  - Entities can still use hand-marked, hand-counted ballots as their primary method of voting, but must provide accessible equipment
  - Certain exemptions are available for entities located in counties with a population of 20,000 or less.
    - Deadline to Apply for May 3, 2025 election – February 3, 2025
  - [Advisory 2024-13 - Exemptions to Voting System Requirements](#)



# Lease of Voting System Equipment

- A political subdivision may lease election equipment from the county or may purchase or lease the equipment from any other source. (Sec. 123.032)
  - “Other source” typically means voting system vendor.
- Governed by Chapter 123 of the Election Code



## 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);
  - Preparing and ordering ballots;
  - Finding and setting up polling places;
  - Hiring and training workers (election day, early voting ballot board, central counting);
  - Publishing notice of election;
  - Conducting ballot by mail and in-person voting (election day and early voting);
  - Tabulating results.



## Practical Considerations

- There is no statutory deadline to enter into these agreements
- We suggest that local entities discuss this with their counties early in their election process so that your county has adequate notice and time to plan and allocate resources for the needs of the local entity's election
  - We suggest 4-6 months prior to election day



# Contracting vs. Joint Election

	Contract for Services	Joint Election Agreement
Parties	County, Political Subdivision	Two or more political subdivisions (including county)
Approval	<ul style="list-style-type: none"><li>County election officer <b>and</b> subdivision governing body.</li></ul>	<ul style="list-style-type: none"><li><b>Both</b> governing bodies.</li></ul>
Duty	<ul style="list-style-type: none"><li><b>Yes</b>, if elections administrator, <b>except</b> in May of even-numbered year.</li></ul>	<ul style="list-style-type: none"><li>Education Code requires school districts to have joint elections.</li></ul>



# Three Types of Agreements

- Contract for Election Services (Chapter 31)
- Joint Election Agreement (Chapter 271)
- Lease of Voting System Equipment (Chapter 123)



# Three Types of Agreements

- For each type of agreement, we'll discuss:
  - The parties to the contract;
  - Whether there is a duty to contract;
  - How to get approval for the agreement;
  - The contents of the agreement; and
  - How the agreement should handle compensation.



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# Contract for Election Services





## Parties to the Contract

- The **county election officer**:
  - County Elections Administrator
  - County Tax Assessor-Collector (or deputy)
  - County Clerk (or deputy)
- The governing body of a political subdivision located wholly or partly in the county.

Sec. 31.092



## Duty to Contract

- If the county election officer is:
  - **County Clerk**
  - **County Tax Assessor-Collector**
- Then there is generally *no duty to contract* in the Code.

Sec. 31.093



## Duty to Contract

- If it's the **County Elections Administrator**:
  - They **must** contract to 'furnish services requested.'
  - Except:
    - Election on May uniform date in even-numbered year.
    - Training of election judges and clerks.

Secs. 31.093, 41.001(d)



## Duty to Contract

- What if the county election officer and the local political subdivision cannot agree on contract terms?
  - The Election Code does not address this issue.



## Approval of Contract

- Does **not** need to be submitted to the commissioners court for approval.
- The political subdivision will need to check its own laws/rules regarding contract approval.

Sec. 31.092



## Contents of Contract

- The contract may provide for the county election officer to perform or to supervise the performance of any or all of the duties that the officer performs in a countywide election ordered by the commissioners court.
- This may include testing and programming of election equipment as well as tabulating and reporting results.
- Sec. 31.094



## Contents of Contract

- 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.

Sec. 31.096



## Compensation in Contract

- The contract must include a cost schedule that is agreed to by both parties.
- 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.

Sec. 31.100





## Compensation in Contract

- The **county election officer** cannot:
  - Charge for duties that must be performed by law.
  - Be personally paid for services under contract.
- The **county election officer** can:
  - Charge up to 10% of the total amount of the contract for general supervision of the election.

Sec. 31.100



# Contracting with Countywide Counties

- It is important to know whether your counties use the countywide polling program, especially if you conduct your elections in November.
- If one or more of your counties uses the countywide polling place program and you are having a November election, then you will have to use every polling location in that county on election day.
  - This applies regardless of whether you are contacting with the county or not.
  - This also applies even if only a small part of your entity is in that county.
- If you are holding a May election and are located in a countywide county, then you and the county can choose whether or not to use the countywide polling place program for your May election.



# Contracting with Countywide Counties

- If you are located in a countywide county and are holding a November election, then you may wish to contract with that county to reduce costs and to ensure that you have enough voting system equipment for election day.
- If you are located in a countywide county, are holding a May election, and you decide to contract with your county, then you and the county can choose whether or not to use the countywide polling place program for your May election.



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# Joint Election Agreement



## Parties to the Contract

- **Two or more political subdivisions** can enter into a joint election agreement if the election:
  - Is held on the **same day**.
  - Is held in **all or part of same county**.
- The joint election only covers precincts that can be served by **common polling places**.

Sec. 271.002



## Parties to the Contract

- A **political subdivision** and **county** may hold a joint election if the county is holding an election that:
  - Is held on the **same day**.
  - Is held in **all or part of same county**.
- The joint election only covers precincts that can be served by **common polling places**.

Sec. 271.002



## Duty to Contract

- **School district** must have joint election with:
  - **City** in the district electing governing members;
  - **County** electing state and county officers;
  - **Public junior college district** that is electing board members, if school is in district;
  - **Hospital district** electing board members, possibly.

Education Code 11.0581



## Duty to Contract

- The **Election Code** does *not* require a joint election in any other circumstance.
- However, **other Codes and sources of law** *may* require a joint election.





## Approval of Contract

- The terms of a joint election agreement must be stated in an **order, resolution**, or other **official action** adopted by the governing body of each participating political subdivision.

Sec. 271.002



## Contents of Contract

- **Polling places:**
  - County polling place can be used as common polling place.
  - An entity may use a common polling place located outside their own territory if adequately and conveniently serves affected voters **and** facilitates orderly election.
- **Election officers:**
  - If they are eligible to serve as election workers for **one** entity, they can serve **all** participating entities.

Secs. 271.003, 271.005



## Contents of Contract

- **Early voting:** Decide whether doing it jointly.
  - If jointly:
    - Appoint **one** early voting clerk as **joint** early voting clerk.
    - Must keep normal early voting locations and hours.
    - Regular early voting clerks must get **apps** for mail ballot.
    - Other mail voting procedures can be done by **either**:
      - The entity's regular early voting clerk; or
      - The joint early voting clerk.

Sec. 271.006



## Contents of Contract

- **Early voting:** Decide whether doing it jointly.
  - If **not** jointly:
    - Normal early voting laws apply.
    - Except: Early voting at common polling places.

Sec. 271.006



## Contents of Contract

- **Ballots:**
  - Can have a joint ballot.
  - But have separate ballots available to avoid ineligible voting or facilitate provisional voting.
- **Form and records:**
  - Can combine in any manner convenient and adequate to record and report results of election.

Secs. 271.007, 271.008, 271.009



## Compensation in Contract

- The expenses of a joint election are **allocated as provided** by the joint election agreement.

Sec. 271.004



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# Lease of Voting System Equipment



## Parties to the Contract

- 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





## Parties to the Contract

- 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



## Approval of Contract

- 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



## Approval of Contract

- 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
- Ensures the system and equipment comply with important requirements.

Sec. 123.035



## Contents of Contract

- If leasing from a county, the terms of the lease must be **mutually agreed to**.
- We also **recommend** the lease address:
  - Who will program and pay for programming
  - Who will test and pay for testing
  - Who will tabulate votes and accumulate vote totals

Sec. 123.032



## 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



## Practical Considerations

- All three types of agreements discussed today must be **in writing**.
  - Clear inference: Secs. 31.099, 123.033, 172.126.
- There's **no standard** form or document for any of these agreements.



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Separate or Joint Election?



- Local entities generally have the option to hold their election separately or to hold the election as a joint election with another entity holding their elections on the same date
- If you are holding your election separately, you can still contract with the county to run your separate election, or you can choose to run it all on your own
- Some entities are required to hold joint elections or to contract with the county (i.e. ISDs under Education Code 11.0581 or certain entities subject to Election Code 31.0925)





- If you hold your election jointly with your county or other entities, you can use a joint ballot, with one single set of election workers and voting system equipment at shared polling places
- If you contract to run a separate election with your county, then you can set up separate check-in stations and use a separate set of election workers and voting system equipment
  - You would still need to use the county's regular polling places for an election held on the November uniform election date
- These are not all-or-nothing options, and you can decide what parts of your election will be held jointly vs. separately
  - For example, you could use a joint set of election workers at a shared polling place with separate ballots
  - However, separate ballots will most likely require you to use separate voting machines as well



## Factors to Consider

- In deciding whether to hold your election as a separate election or jointly with another entity, consider:
  - Availability of election workers and equipment
  - Costs of running election separately vs jointly
  - Voter convenience
  - Requirement for local entities to use county election precincts in November elections



## Factors to Consider (Cont.)

- In deciding whether to hold your election as a separate election or jointly with another entity, consider:
  - Size of polling place
  - Whether your county uses the countywide polling place program
  - Preference of local entity
  - Whether you are required by law to hold a joint election (i.e. ISDs under Texas Education Code 11.0581)



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# Contracting for May Elections vs. November Elections



## Election Day Polling Place Rules

- In May elections, local entities generally have the ability to draw their own precinct lines and select their own polling place locations
- In November elections, the local entity **must** use the county's election precincts and must use the county's polling places that correspond to those precincts that include the entity's voters
  - If the county uses the countywide polling place program, this means that a local entity located wholly or partly in that county **must use every single one of the county's polling places on election day**



## Early Voting Polling Place Rules

- In May elections, local entities generally have the ability 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
  - 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



# Contracting in November – Things to Consider

- If you hold your elections in November, then you will need to use the county's election day locations and share at least one of their EV locations
  - This means that you will want to communicate with your county election officials early in the election window and regularly about your plans for holding your election in that county
- If you are located in multiple counties, make sure you have a plan to set up at the required polling places in each county, and determine whether you are located in any counties that use the countywide polling place program
- If you are holding a joint election and sharing a ballot with your county, make sure they have an accurate map for your entity and that you review all the joint ballot styles that include your entity's races to catch any errors before ballots are prepared and before the equipment is programmed



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# Entities in More Than One County





## General Considerations

- Whenever you are conducting an election, it is important to know your **exact** territory lines
  - You need to know all of the counties you are located in.
  - You need to be able to provide a map or specific territory description to your counties to get an accurate list of registered voters.



## General Considerations

- If you are located in more than one county, then you will need to make specific plans to address your voters in both counties.
  - This will always require you to get a list of registered voters from each county.
  - If the county is not running your election, you will also need to get a list of Annual ABBM voters from each county that is not running your election.
  - If you are holding a November election, this will also require you to set up polling locations in each county.
  - If you are contracting with multiple counties, have a plan to aggregate your election results from each county.



# May Elections vs. November Elections

## May Elections

- Voters may cross county lines to vote in local entity elections in May.
- You will still need to request a list of registered voters from each county you are located in.



# May Elections vs. November Elections

## 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 your territory, you must use at least one of those locations for your own election.
  - Your election must be set up to report your results by county election precinct.
- You will need to request a list of registered voters from each county you are located in.



## Things to Consider

- **If you are contracting with a county...**
  - Communicate!
    - Speak to all the counties you are located in to discuss your plans to handle each portion of your election that falls within each county.
    - Tell your county what other counties you are located in, so that they can coordinate with the other counties.
    - Make sure you have a plan in place for your voters in each county, and communicate that plan to any and all counties you are contracting with.



## Things to Consider

- **If you are not contracting with a county...**
  - Set up an organized plan for each portion of your election
    - Make sure you get a list of registered voters from each county you are located in.
    - Make sure you get a list of annual ABBM voters from each county.
    - If you are holding a November election, make sure you are sharing election day polling places and early voting locations in your territory with each county



# Things to Consider

- **Remember:**
  - **You are the expert on your entity's territory.**
    - Don't assume that your county will know what your territory lines are, or that they have the most current maps.
    - Give your county the most recent version of your entity's map before each election, and communicate with them about the other counties you are located in.



# Things to Consider

- **Remember:**
  - **May Elections and November Elections have different rules, especially for entities in more than one county.**
    - Voters cannot cross county lines in November, but they can in May
    - Voters must vote at their county polling place on election day in November, so you need to set up at those locations.
    - In November, entities must share at least one of the county's early voting locations located in their territory - if you are in multiple counties, this means at least one for each county
    - In November, results must be reported by county election precinct. When you are programming your election, be sure to set it up with those precincts.





## Best Practices

- Consider reaching out to the office that will be handling the election contract process at least 4-6 months in advance from the election date.
- Be considerate of the time it takes to prepare for an election. (Notice of election, Ballot preparation, Equipment Preparation, L&A testing, etc.). Be available.
- Communication is key in having a successful election.
- The earlier you know what is required, the better. It allows time for other legal requirements and deadlines.
- Proofing recommendations. Put all confirmation of changes, corrections or approvals in writing.
- Time is critical in Elections!



## Closing Reminders

- All agreements or contracts **MUST** be reviewed by your entity's legal counsel.
- All agreements **MUST** be in writing to define the key terms, responsibilities, and deadlines.
- Our office cannot review contracts or agreements for you, but we can advise you on the statutory requirements for these agreements that we've discussed in this presentation.
- Start the contracting process early, and be sure to talk to every county you are located in about your plan for each part of your election.



## Available Support



**WEBINARS**



**TRAINING**



**RESOURCES**

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

800-252-VOTE • 512-463-5650

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