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Texas Secretary of State Phil Wilson

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May 10, 2008 Election Law Calendar

Please note that this calendar is the short May Calendar. A long May calendar will be available soon on our [website](#).

NOTE ON CAMPAIGN INFORMATION

Under Title 15 of the Election Code, candidates must file campaign contribution and expenditure reports. For further information and all questions about such disclosure filings, campaign finance, and political advertising, please contact the Texas Ethics Commission at 201 E. 14th, 10th Floor, Austin, Texas 78701 (or call toll-free at 1-800-325-8506 or visit their website at

www.ethics.state.tx.us). Candidates filing for federal offices should contact the [Federal Elections Commission](#) toll-free at 1-800-424-9530 or visit their website.

NOTE ON SUBMISSIONS TO THE U.S. DEPARTMENT OF JUSTICE

The federal Voting Rights Act of 1965 requires that any change in any "standard, practice, or procedure with respect to voting" be submitted to the U.S. Department of Justice for preclearance. Changes in election precincts, polling places, and various other actions require preclearance. Under Section 5, any change in a voting practice or procedure is legally unenforceable until the U.S. Attorney General (or a federal court in the District of Columbia) determines that the change does not have the purpose, or will not have the effect, of discriminating against racial or language minority group members.

The Attorney General of the U.S. Department of Justice has 60 days in which to interpose an objection to a submitted change affecting voting. Therefore, if the county executive committee has not already reviewed actions since the last primary elections to see if any changes must be submitted for preclearance, this should be done as soon as possible. If changes need to be made at the last minute, the Justice Department may be able to give the submission expedited consideration. Rules for submissions under Section 5, Voting Rights Act, are contained in 28 C.F.R. §§ 51.20-51.28.

Send your submissions to the following address:

For All U.S. Postal Service Mail:

CHIEF, VOTING SECTION
CIVIL RIGHTS DIVISION
ROOM 7254-NWB
DEPARTMENT OF JUSTICE
950 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20530

For All Overnight Express Services:

CHIEF, VOTING SECTION
CIVIL RIGHTS DIVISION
ROOM 7254-NWB
DEPARTMENT OF JUSTICE
1800 G STREET, N.W.
WASHINGTON, D.C. 20006

**The envelope and first page of any submission must be clearly marked as follows:
SUBMISSION UNDER SECTION 5, VOTING RIGHTS ACT.**

The Department of Justice toll-free number is: 1-800-253-3931 or call direct (202) 307-2767. Their fax numbers are: (202) 307-3961 or (202) 616-9514.

NOTE ON STATUTORY REFERENCES

Unless otherwise indicated, all references are to the Texas Election Code.

NOTE ON EFFECTS OF HOUSE BILL 1, 79TH LEGISLATURE, THIRD CALLED SPECIAL SESSION

House Bill 1, Third Called Session, 2006, made several election-related changes. School districts must now have joint polling places on election day with either a city (located wholly or partly within the school district), or the county in November of even-numbered years. For purposes of this calendar, we will continue to use separate subheads for Cities and School Districts when their rules are different. However, many of you will be working out joint election agreements.

House Bill 1 also granted school districts a waiver from the requirement to use accessible voting systems only for trustee elections from the effective date of the Act through December 31, 2007. What this means for May of 2008 is that a school district has to use an accessible voting system (like a DRE) to conduct its trustee elections unless they are qualified to opt out under Section 61.013.

NOTE ON NOTICE OF ELECTIONS

Political subdivisions other than cities and schools may have specific statutory notice requirements. In the absence of specific statutory requirements, such political subdivisions must post a notice on or before the 21st day before the election. (Sec. 4.003(b)). For the Saturday, May 10, 2008 election, this notice must be posted on or before Monday, April 21, 2008.* The general rule is that notice must be given in one of the following manners:

- A. By posting a notice in each election precinct in which the election is to be held on or before the 19th day before the election, Monday, April 21, 2008. (Secs. 1.006, 4.003(a)(2)).*
- B. By publishing the notice at least once between the 30th day and the 10th day before the election, Thursday, April 10, 2008 – Wednesday, April 30, 2008. (Sec. 4.003(a)(1)).
- C. By mailing a copy of the notice to each registered voter of the territory covered by the election, not later than the 10th day before election day, Wednesday, April 30, 2008. (Sec. 4.003(a)(3)).

*Since the 21st day falls on a Saturday, the deadline is extended. (Sec. 1.006).

This notice must include:

1. The type and date of the election;
2. The location of each polling place;
3. The hours the polls will be open;
4. The location of the main early voting polling place;
5. The regular dates and hours for early voting by personal appearance;
6. The dates and hours of any Saturday or Sunday early voting, if any; and
7. The early voting clerk's mailing address.

Note for Cities and School Districts: Cities and School Districts are required to publish their notice in a newspaper in accordance with Section 4.003(a)(1) (See B, above) and may also give any additional notice. (Sec. 4.003(c)).

Note for Home Rule Charter Cities: Home-rule Cities MUST also give notice as provided in their charters.

Note for Cities: Cities must choose two weekdays to be open for 12 hours during the regular early voting period. The city council must choose the two weekdays. (Sec. 85.005(d)).

Note for All Political Subdivisions, Except Counties & Cities: Voting on ANY Saturday or Sunday must be included in the order and notice of election. (Secs. 85.006 & 85.007).

Note for All Political Subdivisions, Except Counties: The governing body of a political subdivision must deliver notice of the election to the county clerk of each county in which the political subdivision is located not later than the 60th day before election day, Tuesday, March 11, 2008. (Sec. 4.008)

Notice of Change of Polling Place Location: For elections ordered by the governor or county judge only, if the location of the polling place changes after notice has been given under Section 4.003, and the county clerk maintains a website to inform voters about elections, the notice of the change must be posted on the website. The notice on the website must be given not later than the earlier of 24 hours after the location was changed or 72 hours before the polls open on election day. (Sec. 43.061). If the county elections officer is conducting a legislative vacancy election, the candidates listed on the ballot are entitled to receive notice directly from the county judge.

Notice of Previous Polling Place: If a different polling place is being used than at the previous election held by the same authority, notice must be posted at the entrance of the previous polling place informing voters of the current polling place location, if possible. (Sec. 43.062).

NOTE ON TESTING TABULATING EQUIPMENT

The automatic tabulating equipment used for counting ballots at a central counting station must be tested three times for each election before the early voting period begins and before election day. We recommend you test the equipment as soon as possible; however, the first test must be conducted at least 48 hours before the automatic tabulating equipment is used to count ballots voted in the election. The second test shall be conducted immediately before the counting of ballots with the equipment begins. The third test shall be conducted immediately after the counting of ballots with the equipment is completed. Please note that the custodian of the automatic tabulating equipment shall publish notice of the date, hour, and place of the first test in a newspaper at least 48 hours before the date of the test. The automatic tabulating equipment may not be used to count ballots voted in the election until a test is successful. For more information on testing tabulating equipment, please see Chapter 127, Subchapter D of the Texas Election Code.

CALENDAR OF EVENTS

Saturday, February 9, 2008 (91st day before election day)

Cities and Schools (including junior colleges) only: First day to file an application for a place on the ballot. (Secs. 1.006 & 143.007, Election Code; 11.055 & 130.082(g), Education Code).

Note: The 91st day before election day falls on a Saturday, but since the first day to apply is not a deadline, Section 1.006 does not apply, and the first day to apply does not move to the next business day. Your office is not required to be open on Saturday.

All Other Districts: There is no "first" day to file.

FAQ NOTE: We are often asked how filing can begin if you have not yet ordered the general election. You do not need to order your general (regularly occurring) election in order for the filing period to begin.

Tuesday, March 4, 2008 (67th day before election day)

5 p.m. - Last day to file for a place on the ballot in a special election to fill a vacancy, IF the special election is ordered on or before the 70th day before election day, Saturday, March 1, 2008. (Sec. 201.054).

Note: Section 201.054 provides for three possible times to order a special election to be held on the May uniform date, each triggering a different filing deadline. The three ordering "deadlines" are: on or before the 70th day before election day (67th day deadline), the 36th day

before election day (31st day deadline), and the 30th day before election day (deadline depends on factors in Section 201.054). This is the "first" of the three possible filing deadlines. For your future reference, please note that these deadlines are not the same for elections held on the November date in an even-numbered year.

Saturday, March 8, 2008 (63rd day before election day)

If a candidate dies on or before this date, his or her name is not placed on the ballot, if the filing deadline is Monday, March 10, 2008. Please note this deadline is not affected by Section 1.006. (Sec. 145.094(a)(1)).

Monday, March 10, 2008 (61st day before election day)

Regular Filing Deadline

5:00 p.m. - Except as otherwise provided by this code, the deadline to file an application for a place on the ballot. (Secs. 143.007(a) & 144.005(a), Election Code; and 11.055, Education Code, Chapter 286, Health & Safety Code).

Deadline to Order General Election

Last day for political subdivisions to order a general election to be held on Saturday, May 10, 2008, unless otherwise provided by the Election Code. (Sec. 3.005).

The order must include:

1. The date of the election;
2. The offices or measures to be voted on;
3. The location of the main early voting polling place;
4. The dates and hours for early voting (it is recommended that this information be included in the order for counties and cities, but it must be included for all other entities) (Cities must include the two designated weekdays for which early voting will be held for 12 hours);
5. The dates and hours of any Saturday and Sunday early voting (if applicable, it is recommended that this information be included in the order for counties and cities, but it must be included for all other entities); and
6. The early voting clerk's official mailing address.

Important Note for City offices with four-year terms: if no candidate files for a particular office by the deadline, the deadline is extended to 5:00 p.m. on Friday, March 14, 2008 (57th day before election day). (Sec. 143.008).

Important Note for School Districts: Even if it is spring break, if a candidate attempts to file at the correct place and no filing official is there, the candidate may have legal grounds to go to court in a mandamus action to compel the school district to accept the application later. For this reason, we strongly recommend having someone available at the place of business on a filing deadline, especially from 2:00 p.m. to 5:00 p.m. (This guideline is based on the office-hour rule that starts later.) Even if you also accept applications by mail and fax, if you do not have someone there at 5:00 p.m., you will have no reliable witness to say who has met the deadline.

Note on Candidate's Application Filed by Mail: an application by mail is considered to be filed at the time of its receipt by the appropriate filing authority. (Secs. 143.007(b) & 144.005(b)).

Recommended date to order the lists of registered voters from the county voter registrar. The list should include both the voters' residences and mailing addresses in order to conduct early voting by mail. (Sec. 18.006).

Recommended date to confirm telephone number for the county voter registrar's office on election day.

Recommended date to order election supplies.

Recommended date to appoint presiding and alternate judges. Currently, the Election Code does not establish a deadline for appointing election officials; there is only a notification deadline. For further information concerning procedures for appointing judges and their alternates, see Sections 32.005, 32.008, and 32.011. General eligibility requirements are found in Subchapter C, Chapter 32. In addition to appointing a judge and alternate judge for each election precinct pursuant to Sections 32.001 and 32.005, the governing body must allow the judge to appoint no less than two clerks; however, the alternate judge must serve as one of the clerks as a matter of law. The presiding judge then appoints an additional clerk(s), but not more than the maximum set by the governing body. (Sec. 32.033). Presiding judges and their alternates must be given notice of their appointments not later than the 20th day after the appointment is made. (Sec. 32.009). This notice may be combined with the writ of election pursuant to Section 32.009, which is required in accordance with Section 4.007 to be delivered to each presiding judge not later than the 15th day before the election, Friday, April 25, 2008. If the notices are combined, both must be delivered by the date required in the earlier notice.

Tuesday, March 11, 2008 (60th day before election day)

First day to accept regular applications for early voting ballots by mail for any May 10, 2008 election. (Sec. 84.007). (Reminder: FPCA's that were previously filed on or after 9/1/05 are good for the period of two federal elections for all elections.)

Last day for the governing body of a political subdivision to deliver notice of the election to the county clerk/elections administrator of each county in which the political subdivision is wholly or partly located. (Sec. 4.008).

Monday, March 17, 2008 (5th day after the regular filing deadline, deadline extended since regular deadline falls on weekend)

5:00 p.m. - Deadline for write-in candidates to file declarations of write-in candidacy for city, school district, library district, junior college district, hospital district, common school districts, Chapter 36 and 49 Water Code districts, and other political subdivision elections, unless otherwise provided by law. (Sec. 146.054, Election Code; Secs. 11.056, 11.304, & 130.0825, Education Code; Secs. 326.0431 & 326.0432, Local Government Code; Secs. 36.059, 49.101, & 63.0945, Water Code; and Section 285.131, Health and Safety Code).

Tuesday, March 18, 2008 (53rd day before election day)

5:00 p.m. - Last day for a candidate to withdraw in an election for which the filing deadline is the 62nd day before election day (March 10, 2008). If a candidate withdraws or is declared ineligible by this date, his or her name is omitted from the ballot. (Secs. 145.092(b) and 145.094(a)(3)).

Wednesday, March 26, 2008 (45th day before election day)

Early voting clerk may begin mailing early voting ballots to applicants as soon as ballots are available, but we strongly recommend that ballots be mailed no later than the 45th day before the election, if possible. (Sec. 86.004). Reminder: the early voting clerk must mail a ballot not later than the 7th day after the later of the date the early voting clerk has accepted a voter's application for a ballot by mail or the date the ballots become available for mailing. However, if the 7th day falls earlier than the 45th day before election day, the voter's mail ballot must be mailed no later than the 38th day before election day. Please note this deadline is not extended under Section 1.006. (Sec. 86.004).

Friday, April 4, 2008 (36th day before election day)

Deadline to order a special election to fill a vacancy if ordered after the 70th day before the election (if authorized by law to order such an election) in order to have an April 9, 2008 candidate application deadline. (Also see entry at 67th day, March 4, 2008)

Wednesday, April 9, 2008 (31st day before election day)

5:00 p.m. - Last day to file for a place on the ballot in a special election to fill a vacancy, if the special election is ordered after the 70th day but by April 4, 2008, the deadline of the 36th day before election day. (Sec. 201.054(a)(2)).

Thursday, April 10, 2008 (30th day before election day)

Last day to register to vote for the Saturday, May 10, 2008 election. (Sec. 13.143).

Last day for a voter to make a change of address that will be effective for the election. (Sec. 15.025).

"Third" and final deadline to order a special election to fill a vacancy (if authorized by law to order such an election). (Sec. 201.052). If an election is ordered between the 35th day before election day and this date, see Section 201.054(a)(2) for possible candidate filing deadline dates.

Monday, April 14, 2008 (26th day before election day)

5:00 p.m. - Last day to file declaration of write-in candidacy for special election to fill a vacancy, if the filing deadline for a place on the ballot is April 9, 2008. (Secs. 146.051, 146.054, and 201.054, Election Code; and Sec. 11.056, Education Code).

Saturday, April 26, 2008 (2nd day before early voting period)

5 p.m. - Last day candidate may withdraw and have name removed from ballot if the filing deadline was after the 61st day before election day (i.e., a deadline later than the regular filing deadline of Monday, March 10, 2008). (Sec. 145.092(a)).

Monday, April 28, 2008 (12th day before election day)

First day to vote early in person. (Sec. 85.001(e)).

Note for Cities: Cities must choose two weekdays to be open for 12 hours during the regular early voting period. The city council must choose the two weekdays. (Sec. 85.005(d)).

Friday, May 2, 2008 (8th day before election day)*

Last day to receive FPCA or an application for a ballot to be voted by mail. (Sec. 84.007).

*Since the 7th day before election day falls on Saturday, May 3, 2008, the deadline is moved to the first preceding regular business day. (Sec. 84.007(c)).

Tuesday, May 6, 2008 (4th day before election day)

Last day to vote early by personal appearance. (Sec. 85.001(e)).

5:00 p.m. - Requests for election inspectors for Saturday, May 10, 2008 elections must be received by the Secretary of State on or before this date. (Sec. 34.001).

Saturday, May 10, 2008 - Election Day

7:00 a.m. to Polls open. (Sec. 41.031).

7:00 p.m. -

7:00 a.m. to Voter registrar's office is open. (Sec. 12.004(c)).

7:00 p.m. -

7:00 a.m. to Early voting clerk's office is open for early voting activities. (Sec. 83.011).

7:00 p.m. -

7:00 a.m. to Sick and disabled persons may vote at the main early voting polling place if electronic voting systems are used at regular polling place(s) on election day. (Sec. 104.003).

7:00 p.m. -

5:00 p.m. - Deadline for receiving applications for late ballots to be voted by persons who became sick or disabled on or after Friday, May 2, 2008. (Sec. 102.003(b)).

7:00 p.m. - Deadline for receiving early voting ballots by mail and late ballots cast by voters who became sick or disabled on or after Friday, May 2, 2008. (Secs. 86.007(a), 102.006(c)).

Note on Manual Examination of Ballots Before Processing on Automatic Counting

Equipment: The central counting station manager shall direct the manual examination of all electronic voting system ballots to ascertain whether the ballots can be processed in the usual manner or if the ballots need to be duplicated to clearly reflect the voter's intent. (Sec. 127.125).

Note on Receipt of Mail Ballots: All marked early voting ballots sent by mail from inside the United States must arrive before the time the polls are required to close on election day. If the early voting clerk cannot determine whether a ballot arrived before the deadline, the ballot is considered to have arrived at the time the place at which the carrier envelopes are deposited was last inspected for removal of returned ballots. (Sec. 86.007(a)). The early voting clerk must check the mailbox for early voting mail ballots at least once after the time for regular mail delivery. (Sec. 86.007(b)). A marked ballot that is not timely returned may not be counted unless the ballot may be counted late, pursuant to Section 86.007(d), which applies to ballots mailed from outside of the United States.

Note on Delivery of Early Voting by Personal Appearance and Mail Ballots: The early voting clerk delivers the voted ballots, the key to the double-locked ballot box, etc., to the early voting ballot board at the time or times specified by the presiding judge of the early voting ballot board, during

the hours the polls are open or as soon after the polls close as practicable. (Sec. 87.022). The custodian of the key to the second lock of the double-locked early voting ballot box delivers his or her key to the presiding judge of the early voting ballot board on request of the presiding judge. (Secs. 85.032(d) and 87.025). The custodian is the sheriff for county elections; the chief of police or city marshal for city elections; and the constable of the justice precinct in which the political subdivision's main office is located (or the sheriff, if there is no constable), for other political subdivision elections. (Sec. 66.060).

Note on Delivery of Early Voting Ballots to Early Voting Ballot Board Before Election Day:

Early voting ballots may be delivered to the early voting ballot board at any time after early voting by personal appearance ends. Ballots may be qualified and prepared for counting before election day, but they may not be counted until election day; however, counties with a population of 100,000 or more or entities contracting or having joint elections with counties with a population of 100,000 or more may process the ballots as early as the 8th day before election day, May 2, 2008, but the results may not be released until the polls close on election day. (Secs. 87.023, 87.024, 87.0221, 87.0222, 87.0241(b)). If ballots are to be delivered before election day, the early voting clerk must post notice at least 24 hours before each delivery at the main early voting polling place. (Secs. 87.023(b), 87.024(b), 87.0221(b)).

Precinct election returns are delivered to the appropriate authorities after completion. (Sec. 66.053(a)).

Monday, May 12, 2008 (2nd day and 1st business day after election day)

The general custodian of election records must deliver the ballot box(es) or transfer case(s) containing the provisional ballots, along with the Summary of Provisional Ballots and the List of Provisional Voters to the county voter registrar by this day. The general custodian of election records makes this delivery to the voter registrar during the voter registrar office's regular business hours.

Tuesday, May 13, 2008 (3rd day after election day)

The first possible day to conduct official local canvass of returns by governing authority of the political subdivision. HOWEVER, the canvass may not be conducted until the ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election, AND counted all timely received ballots cast from addresses outside the United States (see entry at May 15th), if a ballot by mail was provided to a person outside of the United States. (Sec. 67.003). Notice of canvass must be posted at least 72 hours continuously before the canvass is conducted.

Thursday, May 15, 2008 (5th day after election day)

Last day to receive carrier envelopes placed in the mail by 7:00 p.m. on election day, May 10, 2008, from voters who are voting outside the United States. (Sec. 86.007(d)(3)).

Friday, May 16, 2008 (6th day after election day)

First day that newly-elected officers of Type A general law city may qualify and assume duties of office.

Type A City Council members may take office any time following the canvass. (Section 22.006 of the Texas Local Government Code Section states that a newly-elected municipal officer may exercise the duties of office beginning on the fifth day after the date of the election, excluding

Sundays. Section 22.036 of the Texas Local Government Code further requires that the newly-elected governing body of the municipality "meet at the usual meeting place and shall be installed.")

Wednesday, May 21, 2008 (11th day after election day)

Last day for official canvass of returns by governing authority of political subdivision. (Sec. 67.003).

Monday, June 9, 2008 (30th day after election day)

Last day to file electronic precinct-by-precinct returns with Secretary of State. (Sec. 67.017).

Wednesday, July 9, 2008 (60th day after election Day)

First day that ballot box(es) may be unlocked and its voted ballots be transferred to another secure container for the remainder of the preservation period. HB 1446, 80th Legislative Session.

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