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Jane Nelson
Secretary of State

ELECTION ADVISORY **NO. 2023-19**

TO: County Election Officials

FROM: Christina Worrell Adkins, Director of Elections *CWA*

DATE: October 16, 2023

RE: 2024 Opportunities to Use Countywide Polling Places and Countywide Polling Place Program FAQs

The purpose of this advisory is to answer general questions regarding the countywide polling place program ("the program") and to provide deadlines and other pertinent dates regarding the submission of county applications to participate in the program for the March 5, 2024 Primary Election Date, as well as the May 4, 2024 and November 5, 2024 Uniform Election dates.

Background: Under Section 43.007(i) of the Texas Election Code, the Secretary of State may select six counties with a population of 100,000 or more and four counties with a population of less than 100,000 for participation in the program for an election. The Secretary of State may determine that a county's participation in the program was "successful" following one election under the program. Once designated as "successful," that county may continue to use the program for subsequent elections. Note that counties that have previously participated in the program, but have not been formally granted a "successful" designation in writing by the Secretary of State, must reapply to use the program for each subsequent election.

Eligible counties may apply to use countywide polling places in the following elections: (1) any election required to be conducted by a county; (2) any election held as part of a joint election agreement with a county under Chapter 271 of the Texas Election Code; (3) any election held under contract for election services with a county under Subchapter D, Chapter 31 of the Code; (4) each primary election and runoff primary election; and (5) each election of a political subdivision located in the county that is held jointly with an election described by Subdivision (3) or (4). Please note that for each primary and runoff primary election, the county may establish countywide polling places if: (a) the county chair or county executive committee of each political party participating in a joint primary election under Section 172.126 of the Code agree to the use

of countywide polling places; or (b) the county chair or county executive committee of each political party required to nominate candidates by primary election agrees to use the same countywide polling places.

Program Frequently Asked Questions

Q: What is required to participate in the program?

A: At a minimum, each county selected to participate in the program must have the following:

- Use of traditional direct recording electronic (DRE) voting systems. Under Section 43.007(d), counties may also use ballot marking devices or hand-marked scannable paper ballots that are printed and scanned at the polling place. Pursuant to **Senate Bill 598** (87th Leg., R.S., 2021), beginning September 1, 2026, DRE voting systems may not be used if they do not contain a voter verifiable paper audit trail;
- Implementation of a computerized voter registration list that allows instantaneous verification that a voter has not already voted at another polling place; and
- If the county has not participated in one of the previous countywide polling place programs, it must hold a public hearing to inform and solicit opinions from voters, minority organizations, and other interested parties (e.g., political parties, political subdivisions within the county, and organizations representing the interests of voters with disabilities).

Please note that a county that was previously approved to use the countywide polling place program and that wishes to change the voting system configuration that the county was approved to use as part of the program must notify the Secretary of State in writing prior to making the change.

Q: If my county meets the minimum requirements, what is the next step of the process?

A: For tracking purposes, we request that counties file an intent to participate in the program (PDF) with the Secretary of State's office. However, filing an intent does not reserve a spot in the program, and a full application must be received by the Secretary of State's office by 5:00 p.m. on the deadline provided by the Secretary of State.

Q: What should be included in an application for participation in the program?

A: An application should include the following:

- A letter, addressed to the Secretary of State, detailing specifics for the implementation of a plan for countywide polling (required items are listed below) and requesting approval for the county to participate in the program. The letter must indicate the name and date of the election for which participation is being requested; and
- A letter signed by the County Judge indicating support of the county's plan and requesting approval for the county to implement countywide polling places throughout the county.

Q: What must the letter to the Secretary of State in the application address?

A: The letter to the Secretary of State in the application must cover the following:

- Information regarding the county's use of voting systems on election day. The letter must identify the vendor, quantity of voting machines and number of polling places to be used, and how long the county has conducted elections with use of voting machines;
- The county's use of a computerized voter registration list that allows instantaneous verification that a voter has not already voted at another polling place. Identify steps taken to guarantee connectivity at each polling place and the county's plan for dealing with a loss of connectivity during an election;
- Information on the public hearing held, including date and time of the hearing, information that was provided in the hearing, and any feedback that was submitted to the county. A video or audio copy of the hearing must be provided. If a video or audio copy of the hearing is not available, a paper transcript is acceptable;
- An explanation of the methodology that will be used to select the countywide polling locations. Include a map of the previous and new polling locations and information on the vote center advisory committee used to select locations including names, organizations, positions and e-mail addresses (see below);
- A statement that Election Judges and Alternate Election Judges will be assigned to countywide polling locations within a commissioners court precinct in the proportionate amount required by law (see below);
- A communication plan that explains how voters will be notified of the change to countywide polling places and new polling locations;
- A statement that all joint election issues have been resolved. Because political subdivisions holding joint elections with the county must have a presence at all countywide polling locations, a county must demonstrate that issues related to joint elections have been or will be resolved;
- A demonstration that the commissioner's court and the county chairs have resolved how polling place officials will be appointed;
- A statement confirming that the commissioners court reviewed the county election precinct boundaries in March or April 2023 pursuant to Section 42.031 of the Election Code and that the county election precincts are in compliance with Section 42.005 of the Code (officer line rule), Section 42.006 of the Code (population rule), and Section 42.007 of the Code (combining incorporated and unincorporated territory). County election precincts are created by order of commissioners court and constitute the basic unit of voter registration. If the commissioners court did not review the county election precinct boundaries in March or April 2023, the application must contain a statement indicating when the county most recently reviewed the county election precinct boundaries pursuant to Section 42.031 of the Code. The statement must also confirm whether the county election precincts are in compliance with Sections 42.005, 42.006, and 42.007 of the Code.
- Information regarding the total number of county election precincts within the county and the total number of registered voters within each county election precinct. The total

number of registered voters within each county election precinct must include a breakdown of the total number of suspense and non-suspense voters.

For additional information regarding the certification procedures for electronic pollbooks, please see our advisory here: Tex. Sec'y of State Election Advisory No. 2023-12 - Texas Certification Procedures for Electronic Pollbooks.

Please also see our voting system advisory here: Tex. Sec'y of State Election Advisory No. 2019-23 - Electronic Voting System Procedures Advisory.

Q: Is there a notice requirement for the public hearing on use of the program?

A: The hearing is held by the commissioners court, which means that Chapter 551 of the Government Code applies. Specifically, the commissioners court must give written notice of the date, hour, place and subject of the meeting. Notice must be provided in a place readily accessible to the general public at all times and must be provided at least 72 hours before the scheduled time of the meeting. A copy of the notice provided for the public hearing(s) should be included in the county's application.

Q: How many countywide polling places should my county have?

A: County election precincts must be in compliance with Section 42.005 (officer line rule), Section 42.006 (population requirements), and Section 42.007 of the Code (combining incorporated and unincorporated territory). Chapter 43 of the Election Code governs the selection of polling places. Generally, Section 43.001 of the Code dictates that each election day precinct established for an election shall be served by a single polling place located within the boundary of the precinct.

The number and location of polling places need to adequately serve the voters so that the county is in compliance with the Voting Rights Act. When making a designation regarding the location of a polling place, the commissioners court of a county with a population of more than 175,000 may not designate a location as a polling place that would require a voter in the precinct to travel more than 25 miles from the voter's residence to the polling place.

NEW LAW: Senate Bill 924 (88th Leg., R.S.) amended Section 42.0051 of the Code, effective September 1, 2023, to provide that election precincts may only be combined in counties with a population of less than 1.2 million that are not participating in the countywide polling place program. **Thus, counties that participate in the countywide polling place program under Section 43.007 of the Code may no longer combine election precincts. See Tex. Sec'y of State Election Advisory No. 2023-11.**

County election precincts may be consolidated for special elections under Section 42.008 and for primary elections under Section 42.009 of the Code. County election precincts may not be consolidated for the general election for state and county officers.

Section 43.007(m) of the Election Code requires a county participating in the countywide polling place program to have at least one countywide polling place in each commissioners court precinct. Additionally, the total number of polling places open for voting in a commissioners court precinct may not exceed more than twice the number of countywide polling places located in any other commissioners court precinct.

In addition to these requirements, during the first year in which a county participates in the program, the total number of countywide polling places may not be less than 65% of the number of precinct polling places that would otherwise be located in the county for that election. After this, that number drops to no less than 50% of the number of precinct polling places that would otherwise be located in the county for that election.

As explained above, counties that participate in the countywide polling place program under Section 43.007 of the Code may no longer combine election precincts. Previously, our office advised counties that participate in the countywide polling place program that the percentage for the minimum number of required countywide polling places could take into account combined precincts for an election. However, since counties that participate in the countywide polling place program can no longer combine precincts, those counties must now determine the percentage for the minimum number of required countywide polling places using the total number of **uncombined** precinct polling places that would have otherwise been used for that election.

Please note that Section 85.062(f-1) provides that the location of temporary branch polling places in an election in which countywide polling places are used must be determined with the same methodology that is used for the location of countywide polling places.

For additional information, please see our presentation regarding [precincts and polling places \(PDF\)](#).

Q: Who determines where the countywide polling places will be located?

A: In an election under the program, a county must adopt a methodology for determining where each polling place will be located. Some factors to consider in this process include: availability of public transportation to a polling location, population size near the polling location, and availability of a suitable building for a polling place. In addition, the county election authority is advised to consult with the county attorney to ensure compliance with the Voting Rights Act. For this reason, the Secretary of State strongly encourages counties to form vote center advisory committees to obtain feedback on voting locations.

Q: Who would serve on a vote center advisory committee?

A: The vote center advisory committee would consist of members from local political subdivisions, precinct officials and organizations that represent minority voters and voters with disabilities.

Q: How should my county notify voters of the change in polling locations?

A: Pursuant to Section 4.004 of the Code, the notice of election must identify the Election Day polling places in the county. Section 1.021 of the Code requires that any notice of polling locations, which includes the notice of election, must include more detailed information regarding the polling locations, including: the polling location's street address, any applicable suite or room number, and any applicable building name.

For counties participating in the countywide polling place program, each countywide polling place location in a county must post a notice of the four nearest countywide polling place locations by driving distance pursuant to Section 43.007 of the Code. Additionally, if there is a court order extending voting hours past 7:00 p.m. in a given county, all countywide polling places located in that county shall remain open for the length of time dictated in the court order. Please note, our office created a form that your entity may use as a [sample \(PDF\)](#) when posting the information required by Section 43.007.

Q: How are judges and clerks appointed for countywide polling locations?

A: Section 32.002 of the Code provides a procedure for the selection of presiding and alternate judges for a countywide polling place. Under this section, the county chairs shall submit a list of names of persons eligible for appointment as election judges to the county commissioners court. The commissioners court must apportion the number of judges for countywide polling places in direct proportion to the percentage of election precincts located in each county commissioners precinct won by each party in the last gubernatorial election.

For example, if the county has 10 county election precincts located in county commissioner precinct #1 and one party won 6 of those 10 precincts in the last gubernatorial election while the other party won 4 of those 10 precincts, there would be a 60% to 40% split of the county election precincts in that county commissioner precinct for the two parties. This means that if the county plans to have five countywide polling places in county commissioner precinct #1, the commissioners court must appoint a presiding judge from the list of the party who won 60% of the county election precincts to three of those five countywide polling places in county commissioner precinct #1 and a presiding judge from the list of the party who won 40% of the county election precincts to the remaining two of the five countywide polling places in county commissioner precinct #1. This is because 60% of five polling places is equal to three polling places and 40% of five polling places is equal to two polling places.

In cases where the application of percentages for countywide polling place judges does not result in a whole number, our office recommends that a county attempt to get as close to the percentages as possible and uniformly apply any resolution method.

Q: Are judges and clerks for countywide polling places required to be registered voters of the county election precinct where that countywide polling place is located?

A: Presiding and alternate judges for countywide polling places are not required to be qualified voters of any particular election precinct, but they must be qualified voters of the county. Additionally, a presiding or alternate judge for a countywide polling place does not have to reside in the election precinct where the countywide polling place is located, and more than one presiding or alternate judge from the same election precinct may be selected to serve on election day.

Q: If the election for my county is cancelled, does notice need to be posted at all countywide polling locations?

A: Yes. Under the Election Code, if an election is not held, notice should be posted on election day at each polling location that would have been used for that election. Under the program, this would mean that notice would be posted at each countywide polling location on election day in the event the election is cancelled.

Q: How does my county apply for “successful” status?

A: Following one election under the program, a county may apply for “successful” status with the Secretary of State and continue to use countywide polling places in subsequent elections. In reviewing an application for “successful” status, the Secretary of State may consider any complaints that have been supplemented with evidence with respect to the county using countywide precincts in an election. The county commissioners court must hold a public hearing on the use of countywide precincts. Notice of the meeting must be provided to all county party chairs, local political subdivisions and affected public interest groups. A recording or transcript of the hearing must be provided to the Secretary of State, along with a copy of the notice of hearing. The county must also provide a copy of the order or resolution passed by the commissioners court approving continued participation in the program.

The county judge will submit a letter requesting “successful” designation to the Secretary of State along with the recording or transcript of the public hearing. The letter requesting “successful” status must also include information regarding how the county plans to account for possible population growth and an increase in registered voters within the county as it pertains to the number of polling places available for future elections. The Secretary of State will review the transcript or recording of the hearing, as well as reports of the county’s elections using the program, to confirm the county met the requirements of the Code. Voter turnout data for elections using the program will be compared with turnout in previous elections without use of the program to determine whether use of the program caused a substantial reduction in voter turnout.

The Secretary of State reserves the right to withdraw a county’s “successful” status via written notification to the county elections officer and county judge, if the circumstances establish that the county’s program does not comply with Section 43.007 of the Texas Election Code.

Deadlines and Other Pertinent Dates

Q: What are the deadlines and key dates for implementing the countywide polling place program for the March 5, 2024 primary election date?

A: The schedule for implementing the countywide polling place program for the March 5, 2024 primary election date is as follows:

- **Monday, November 27, 2023** – Deadline for counties to submit their proposed plan (detailing the county’s ability to comply with Section 43.007 of the Texas Election Code) to Secretary of State. Note that counties that have participated in previous countywide programs are not required to hold a public hearing under Section 43.007(b) of the Code, though we urge that they do so. Counties that have not previously participated in a countywide program will have to include a recording of the public hearing as part of the proposed plan which will necessitate more lead time for the process which may require them to initiate the process earlier than previously participating counties.
- **Wednesday, December 27, 2023** – Deadline for Secretary of State to approve proposed local plans for the program and provide detailed guidance on the information that will be requested from the Secretary of State and that will be included in the final legislative report. The counties will be required to submit this information to the Secretary of State no later than 30 days after the election.
- **Thursday, April 4, 2024** – Deadline for county clerk/elections administrator to submit election report to Secretary of State.

Q: What are the deadlines and key dates for implementing the countywide polling place program for the May 4, 2024 uniform election date?

A: The schedule for implementing the countywide polling place program for the May 4, 2024 uniform election date is as follows:

- **Thursday, January 25, 2024** – Deadline for counties to submit their proposed plan (detailing the county’s ability to comply with Section 43.007 of the Texas Election Code) to Secretary of State. Note that counties that have participated in previous countywide programs are not required to hold a public hearing under Section 43.007(b) of the Code, though we urge that they do so. Counties that have not previously participated in a countywide program will have to include a recording of the public hearing as part of the proposed plan which will necessitate more lead time for the process which may require them to initiate the process earlier than previously participating counties.
- **Monday, February 26, 2024** – Deadline for Secretary of State to approve proposed local plans for the program and provide detailed guidance on the information that will be requested from the Secretary of State and that will be included in the final legislative report. The counties will be required to submit this information to the Secretary of State no later than 30 days after the election.

- **Monday, June 3, 2024** – Deadline for county clerk/elections administrator to submit election report to Secretary of State.

Q: What are the deadlines and key dates for implementing the countywide polling place program for the November 5, 2024 uniform election date?

A: The schedule for implementing the countywide polling place program for the November 5, 2024 uniform election date is as follows:

- **Monday, July 29, 2024** – Deadline for counties to submit their proposed plan (detailing the county's ability to comply with Section 43.007 of the Texas Election Code) to Secretary of State. Note that counties that have participated in previous countywide programs are not required to hold a public hearing under Section 43.007(b) of the Code, though we urge that they do so. Counties that have not previously participated in a countywide program will have to include a recording of the public hearing as part of the proposed plan which will necessitate more lead time for the process which may require them to initiate the process earlier than previously participating counties.
- **Wednesday, August 28, 2024** – Deadline for Secretary of State to approve proposed local plans for the program and provide detailed guidance on the information that will be requested from the Secretary of State and that will be included in the final legislative report. The counties will be required to submit this information to the Secretary of State no later than 30 days after the election.
- **Thursday, December 5, 2024** – Deadline for county clerk/elections administrator to submit election report to Secretary of State.

If you are interested in participating in the countywide polling place program or need more information, please contact **Andre Montgomery** or call our office toll-free at 1-800-252-2216.

CA:HM:AM