

CHAPTER 211

S.B. No. 616

An Act relating to the adoption of an election code; making conforming amendments and repeals and coordinating provisions; providing penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. The Election Code is adopted to read as follows:

ELECTION CODE

TITLE 1. INTRODUCTORY PROVISIONS

- Chapter 1. General Provisions
- Chapter 2. Vote Required for Election to Office
- Chapter 3. Ordering Election
- Chapter 4. Notice of Election

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- Chapter 11. Qualifications and Requirements for Voting
- Chapter 12. Voter Registrar
- Chapter 13. Application for Registration; Initial Registration
- Chapter 14. Renewal of Registration
- Chapter 15. General Administration of Registration
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- Chapter 1. General Provisions
- Chapter 2. Vote Required for Election to Office
- Chapter 3. Ordering Election
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ELECTION CODE

TITLE 1. INTRODUCTORY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

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TITLE 1. INTRODUCTORY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

Sec. 1.001. SHORT TITLE. This code may be cited as the Election Code. (New.)

Sec. 1.002. APPLICABILITY OF CODE. (a) This code applies to all general, special, and primary elections held in this state.

(b) This code supersedes a conflicting statute outside this code unless this code or the outside statute expressly provides otherwise. (New.)

Sec. 1.003. CONSTRUCTION OF CODE. The Code Construction Act (Article 5429b-2, Vernon's Texas Civil Statutes) applies to the construction of each provision in this code, except as otherwise expressly provided by this code. (New.)

Sec. 1.004. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears. (New.)

Sec. 1.005. DEFINITIONS. In this code:

(1) "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. (New.)

(2) "County election precinct" means an election precinct established under Section 42.001. (New.)

(3) "County office" means an office of the county government that is voted on countywide. (New.)

(4) "District office" means an office of the federal or state government that is not voted on statewide. (New.)

(5) "Final canvass" means the canvass from which the official result of an election is determined. (New.)

(6) "General election" means an election, other than a primary election, that regularly recurs at fixed dates. (New.)

(7) "General election for state and county officers" means the general election at which officers of the federal, state, and county governments are elected. (V.T.E.C. Art. 1.01a(a)(23).)

(8) "Gubernatorial general election" means the general election held every four years to elect a governor for a full term. (New.)

(9) "Independent candidate" means a candidate in a nonpartisan election or a candidate in a partisan election who is not the nominee of a political party. (V.T.E.C. Art. 13.56(i).)

(10) "Law" means a constitution, statute, city charter, or city ordinance. (New.)

(11) "Local canvass" means the canvass of the precinct election returns. (New.)

(12) "Measure" means a question or proposal submitted in an election for an expression of the voters' will. (New.)

(13) "Political subdivision" means a county, city, or school district or any other governmental entity that:

(A) embraces a geographic area with a defined boundary;

(B) exists for the purpose of discharging functions of government; and

(C) possesses authority for subordinate self-government through officers selected by it. (New.)

(14) "Primary election" means an election held by a political party under Chapter 172 to select its nominees for public office. (V.T.E.C. Art. 1.01a(a)(42); Art. 13.01.)

(15) "Proposition" means the wording appearing on a ballot to identify a measure. (New.)

(16) "Registered voter" means a person registered to vote in this state whose registration is effective. (New.)

(17) "Residence address" means the street address and any apartment number, or the address at which mail is received if the residence has no address, and the city, state, and zip code that correspond to a person's residence. (New.)

(18) "Special election" means an election that is not a general election or a primary election. (V.T.E.C. Art. 1.01a(a)(52).)

(19) "Statewide office" means an office of the federal or state government that is voted on statewide. (New.)

(20) "Straight-party vote" means a vote by a single mark, punch, or other action by the voter for all the nominees of one political party and for no other candidates. (New.)

(21) "Uniform election date" means an election date prescribed by Section 41.001. (New.)

(22) "Voting station" means the voting booth or other place where voters mark their ballots or otherwise indicate their votes at a polling place. (New.)

(23) "Voting year" means the 12-month period beginning March 1 of each year. (V.T.E.C. Art. 1.01a(a)(60).)

Sec. 1.006. **EFFECT OF WEEKEND OR HOLIDAY.** If the last day for performance of an act is a Saturday, Sunday, or legal state or national holiday, the act is timely if performed on the next regular business day, except as otherwise provided by this code. (V.T.E.C. Art. 14.07(F); New.)

Sec. 1.007. **DELIVERING, SUBMITTING, AND FILING DOCUMENTS.** (a) When this code provides for the delivery, submission, or filing of an application, notice, report, or other document or paper with an authority having administrative responsibility under this code, a delivery, submission, or filing with an employee of the authority at the authority's usual place for conducting official business constitutes filing with the authority.

(b) The authority to whom a delivery, submission, or filing is required by this code to be made may accept the document or paper at a place other than his usual place for conducting official business.

(c) A delivery, submission, or filing of a document or paper under this code may be made by personal delivery, mail, or any other method of transmission.

(d) Any other provision of this code supersedes this section to the extent of any conflict. (New.)

Sec. 1.008. **TIMELINESS OF ACTION BY MAIL.** When this code requires an application, notice, report, or other document or paper to be delivered, submitted, or filed within a specified period or before a specified deadline, a delivery, submission, or filing by first-class United States mail is timely, except as otherwise provided by this code, if:

(1) it is properly addressed with postage prepaid; and

(2) it bears a post office cancellation mark indicating a time within the period or before the deadline, or if the person required to take the action furnishes satisfactory proof that it was deposited in the mail within the period or before the deadline. (V.T.E.C. Art. 14.07(F); New.)

Sec. 1.009. **TIME OF RECEIPT OF MAILED DOCUMENT.** (a) When this code provides that an application, notice, or other document or paper that is delivered, submitted, or filed by mail is considered to be delivered, submitted, or filed at the time of its receipt by the appropriate authority, the time of receipt is the time at which a post office employee:

(1) places it in the actual possession of the authority or his agent; or

(2) deposits it in the authority's mailbox or at the usual place of delivery for the authority's official mail.

(b) If the authority cannot determine the time at which a deposit under Subsection (a)(2) occurred or whether it occurred before a specified deadline, the deposit is considered to have occurred at the time the mailbox or usual place of mail delivery, as applicable, was last inspected for removal of mail. (New.)

Sec. 1.010. **AVAILABILITY OF OFFICIAL FORMS.** (a) The office, agency, or other authority with whom this code requires an application, report, or other document or paper to be submitted or filed shall make printed forms for that purpose, as officially prescribed, readily and timely available.

(b) The authority shall furnish forms in a reasonable quantity to a person requesting them for the purpose of submitting or filing the document or paper.

(c) The forms shall be furnished without charge, except as otherwise provided by this code. (V.T.E.C. Art. 5.05, Subdiv. 2(a); Art. 5.13a, Subdiv. 1; Art. 5.18c, Subdiv. 4; Art. 13.08a(g); Art. 14.13(G)(3); New.)

Sec. 1.011. **SIGNING DOCUMENT BY WITNESS.** (a) When this code requires a person to sign an application, report, or other document or paper, except as otherwise provided by this code, the document or paper may be signed for the person by a witness, as provided by this section, if the person required to sign cannot do so because of a physical disability or illiteracy.

(b) The person who cannot sign must affix his mark to the document or paper, which the witness must attest. If the person cannot make the mark, the witness must state that fact on the document or paper.

(c) The witness must state on the document or paper the name, in printed form, of the person who cannot sign.

(d) The witness must affix his own signature to the document or paper and state his own name, in printed form, near the signature. The witness must also state his residence address unless he is an election officer, in which case he must state his official title.

(e) The procedure prescribed by this section must be conducted in the presence of the person who cannot sign. (V.T.E.C. Art. 5.05, Subdiv. 2(a); Art. 5.13a, Subdiv. 2; New.)

Sec. 1.012. PUBLIC INSPECTION OF ELECTION RECORDS. (a) Subject to Subsection (b), an election record that is public information shall be made available to the public during the regular business hours of the record's custodian.

(b) For the purpose of safeguarding the election records or economizing the custodian's time, the custodian may adopt reasonable rules limiting public access. (V.T.E.C. Art. 5.05, Subdiv. 11(c); Art. 5.05d.)

Sec. 1.013. DESTRUCTION OF RECORDS. After expiration of the prescribed period for preserving voted ballots, election returns, other election records, or other records that are preserved under this code, the records may be destroyed or otherwise disposed of unless, at the expiration of the preservation period, an election contest or a criminal investigation or proceeding in connection with an election to which the records pertain is pending. In that case, the records shall be preserved until the contest, investigation, or proceeding is completed and the judgment, if any, becomes final. (V.T.E.C. Art. 8.29b(c); Art. 8.32.)

Sec. 1.014. ELECTION EXPENSES. (a) Except as otherwise provided by law, the expenses incurred in the conduct of a general or special election shall be paid by the political subdivision served by the authority ordering the election.

(b) Each county in the territory covered by an election ordered by the governor shall pay the expenses incurred in that particular county in the conduct of the election. (V.T.E.C. Art. 7.12; Art. 7.13; New.)

Sec. 1.015. RESIDENCE. (a) In this code, "residence" means domicile, that is, one's home and fixed place of habitation to which he intends to return after any temporary absence.

(b) Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by this code.

(c) A person does not lose his residence by leaving his home to go to another place for temporary purposes only.

(d) A person does not acquire a residence in a place to which he has come for temporary purposes only and without the intention of making that place his home.

(e) A person who is an inmate in a penal institution or who is an involuntary inmate in a hospital or eleemosynary institution does not, while an inmate, acquire residence at the place where the institution is located. (V.T.E.C. Art. 5.08.)

Sec. 1.016. COMPUTATION OF AGE. A person attains a specified age on the day before the anniversary of the person's birthday. (V.T.E.C. Art. 5.13a, Subdiv. 4.)

CHAPTER 2. VOTE REQUIRED FOR ELECTION TO OFFICE

SUBCHAPTER A. ELECTION BY PLURALITY

Sec. 2.001. PLURALITY VOTE REQUIRED

Sec. 2.002. TIE VOTE

[Sections 2.003-2.020 reserved for expansion]

SUBCHAPTER B. RUNOFF ELECTION

Sec. 2.021. RUNOFF ELECTION REQUIRED

Sec. 2.022. CONFLICTS WITH OTHER LAW

Sec. 2.023. RUNOFF CANDIDATES

Sec. 2.024. ORDERING RUNOFF

Sec. 2.025. RUNOFF ELECTION DAY

Sec. 2.026. NOTICE OF RUNOFF

Sec. 2.027. CERTIFICATION OF RUNOFF CANDIDATES

Sec. 2.028. TIE VOTE IN RUNOFF

CHAPTER 2. VOTE REQUIRED FOR ELECTION TO OFFICE

SUBCHAPTER A. ELECTION BY PLURALITY

Sec. 2.001. **PLURALITY VOTE REQUIRED.** Except as otherwise provided by law, to be elected to a public office, a candidate must receive more votes than any other candidate for the office. (V.T.E.C. Arts. 8.36, 8.39.)

Sec. 2.002. **TIE VOTE.** (a) Except as provided by Subsection (f), in an election requiring a plurality vote, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held.

(b) Not later than the fifth day after the date the final canvass for the first election is completed, the authority responsible for ordering the first election shall order the second election. The second election shall be held not earlier than the 20th day or later than the 30th day after the date the final canvass for the first election is completed.

(c) The names of the tying candidates only shall be printed on the ballot for the second election. Write-in votes are not permitted. If either of the candidates is a party nominee, the title of the office shall be listed on the ballot in a vertical column with the name of each candidate listed below the office title with each candidate's political party alignment next to the name.

(d) The order of the candidates' names on the ballot shall be determined by a drawing in accordance with Section 52.094.

(e) Notice of the second election shall be given in accordance with Chapter 4 except that a notice under Section 4.003(a)(2) or (b) must be posted not later than the 15th day before election day.

(f) The tying candidates may agree to cast lots to resolve the tie. The agreement must be filed with the authority responsible for ordering the election. That authority or, if the authority is a body, the body's presiding officer, shall supervise the casting of lots.

(g) This section does not apply to elective offices of the executive department specified by Article IV, Section 1, of the Texas Constitution. (V.T.E.C. Art. 4.08; New.)

[Sections 2.003-2.020 reserved for expansion]

SUBCHAPTER B. RUNOFF ELECTION

Sec. 2.021. **RUNOFF ELECTION REQUIRED.** If no candidate for a particular office receives the vote necessary to be elected in an election requiring a majority vote, a runoff election for that office is required. (V.T.E.C. Art. 4.11, Subdiv. 1; Art. 4.12, Subdiv. 1; Art. 13.03; New.)

Sec. 2.022. **CONFLICTS WITH OTHER LAW.** A law outside this subchapter supersedes this subchapter to the extent of any conflict. (New.)

Sec. 2.023. **RUNOFF CANDIDATES.** (a) Except as provided by Subsections (b) and (c), the candidates in a runoff election are the candidates who receive the highest and second highest number of votes in the main election or who tie for the highest number of votes.

(b) If more than two candidates tie for the highest number of votes in the main election, the tied candidates shall cast lots to determine which two are to be the runoff candidates.

(c) If two or more candidates tie for the second highest number of votes in the main election, the tied candidates shall cast lots to determine which one is to be the second candidate in the runoff election.

(d) The presiding officer of the final canvassing authority for the election shall supervise the casting of lots under this section. (V.T.E.C. Art. 4.11, Subdiv. 1; Art. 4.12, Subdiv. 1; Art. 7.16, Sec. 1; Art. 13.03; Art. 13.07; New.)

Sec. 2.024. **ORDERING RUNOFF.** Not later than the fifth day after the date the final canvass of the main election is completed, the authority responsible for ordering the main election shall order the runoff election. (V.T.E.C. Art. 4.11, Subdiv. 1; Art. 4.12, Subdiv. 1; Art. 7.16, Sec. 1.)

Sec. 2.025. **RUNOFF ELECTION DAY.** A runoff election shall be held not earlier than the 20th day or later than the 30th day after the date the final canvass of the main election is completed. (V.T.E.C. Art. 4.11, Subdiv. 1; Art. 4.12, Subdiv. 1; Art. 7.16, Sec. 1; New.)

Sec. 2.026. **NOTICE OF RUNOFF.** Notice of a runoff election shall be given in accordance with Chapter 4 except that a notice under Section 4.003(a)(2) or (b) must be posted not later than the 15th day before election day. (New.)

Sec. 2.027. **CERTIFICATION OF RUNOFF CANDIDATES.** The presiding officer of the final canvassing authority shall certify in writing for placement on a runoff election ballot the names of the runoff candidates and shall deliver the certification to the authority responsible for having the official ballot prepared. (V.T.E.C. Art. 4.11, Subdiv. 4; Art. 4.12, Subdiv. 3.)

Sec. 2.028. **TIE VOTE IN RUNOFF.** (a) If the candidates in a runoff election tie, they shall cast lots to determine the winner.

(b) The presiding officer of the final canvassing authority shall supervise the casting of lots under this section. (V.T.E.C. Art. 7.16, Sec. 1.)

CHAPTER 3. ORDERING ELECTION

- Sec. 3.001. ORDER REQUIRED
- Sec. 3.002. CONFLICTS WITH OTHER LAW
- Sec. 3.003. ELECTION ORDERED BY GOVERNOR
- Sec. 3.004. ELECTION OF POLITICAL SUBDIVISION
- Sec. 3.005. TIME FOR ORDERING ELECTION
- Sec. 3.006. CONTENTS OF ELECTION ORDER
- Sec. 3.007. FAILURE TO ORDER GENERAL ELECTION
- Sec. 3.008. PRESERVATION OF ELECTION ORDER

CHAPTER 3. ORDERING ELECTION

Sec. 3.001. ORDER REQUIRED. Each general and special election shall be ordered as provided by this chapter. (New.)

Sec. 3.002. CONFLICTS WITH OTHER LAW. A law outside this chapter supersedes this chapter to the extent of any conflict. (New.)

Sec. 3.003. ELECTION ORDERED BY GOVERNOR. (a) The governor shall order:

(1) each general election for officers of the state government, members of the United States Congress, and electors for president and vice-president of the United States;

(2) each election on a proposed constitutional amendment; and

(3) each special election to fill a vacancy in the legislature or in congress.

(b) The order shall be made by proclamation.

(c) Not later than the 36th day before election day, a copy of the proclamation ordering an election shall be mailed to the county judge of each county wholly or partly in the territory covered by the election. (V.T.E.C. Art. 4.01.)

Sec. 3.004. ELECTION OF POLITICAL SUBDIVISION. (a) The following authority shall order an election:

(1) the county judge, for the general election for officers of the county government;

(2) the mayor, for the general election for city officers; and

(3) the governing body of a political subdivision, other than a county or city, that has elective offices, for the general election for those officers.

(b) If a law providing for an election relating to the affairs of a political subdivision does not designate the authority responsible for ordering the election, the governing body of the political subdivision shall order the election. (V.T.E.C. Arts. 4.02, 4.06; New.)

Sec. 3.005. TIME FOR ORDERING ELECTION. An election ordered by an authority of a political subdivision shall be ordered not later than the 45th day before election day. (New.)

Sec. 3.006. CONTENTS OF ELECTION ORDER. In addition to any other elements required to be included in an election order by other law, each election order must state the date of the election and the offices or measures to be voted on at the election. (V.T.E.C. Art. 4.02.)

Sec. 3.007. FAILURE TO ORDER GENERAL ELECTION. Failure to order a general election does not affect the validity of the election. (V.T.E.C. Art. 4.04.)

Sec. 3.008. PRESERVATION OF ELECTION ORDER. (a) The authority ordering an election shall preserve the order, proclamation, or other document ordering the election for the period for preserving the precinct election records.

(b) For an election ordered by an authority of a political subdivision, the date and nature of each election shall be entered in the official records of the political subdivision's governing body. For an election on a measure, the entry must include a description of the measure. (New.)

CHAPTER 4. NOTICE OF ELECTION

- Sec. 4.001. NOTICE REQUIRED
- Sec. 4.002. AUTHORITY RESPONSIBLE FOR GIVING NOTICE
- Sec. 4.003. METHOD OF GIVING NOTICE
- Sec. 4.004. CONTENTS OF NOTICE
- Sec. 4.005. RECORD OF NOTICE

Sec. 4.006. FAILURE TO GIVE NOTICE OF GENERAL ELECTION

Sec. 4.007. NOTICE TO ELECTION JUDGE

CHAPTER 4. NOTICE OF ELECTION

Sec. 4.001. NOTICE REQUIRED. Notice of each general and special election shall be given as provided by this chapter. (V.T.E.C. Arts. 4.05, 4.06.)

Sec. 4.002. AUTHORITY RESPONSIBLE FOR GIVING NOTICE. Except as otherwise provided by law, the following authority shall give notice of an election:

(1) the county judge of each county wholly or partly in the territory covered by the election, for an election ordered by the governor;

(2) the presiding officer of the governing body of a political subdivision, for an election ordered by the presiding officer or the governing body; and

(3) the authority ordering the election, for an election ordered by any other authority. (V.T.E.C. Art. 4.05, Subdiv. 1; Art. 4.06; New.)

Sec. 4.003. METHOD OF GIVING NOTICE. (a) Except as provided by Subsection (c), notice of an election must be given by any one or more of the following methods:

(1) by publishing the notice at least once, not earlier than the 30th day or later than the 10th day before election day:

(A) in a newspaper published in the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice; or

(B) in a newspaper of general circulation in the territory if none is published in the jurisdiction of the authority responsible for giving the notice;

(2) by posting, not later than the 21st day before election day, a copy of the notice at a public place in each election precinct that is in the jurisdiction of the authority responsible for giving the notice; or

(3) by mailing, not later than the 10th day before election day, a copy of the notice to each registered voter of the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice.

(b) In addition to any other notice given for an election under Subsection (a), not later than the 21st day before election day, the authority responsible for giving notice of the election shall post a copy of the notice on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision that the authority serves.

(c) In addition to any other notice given, notice of an election ordered by a commissioner's court or by an authority of a city or school district must be given by the method prescribed by Subsection (a)(1).

(d) If other law prescribes the method of giving notice of an election, that law supersedes this section, except that Subsection (c) applies regardless of the notice requirements prescribed by other law with respect to an election covered by that subsection. (V.T.E.C. Art. 4.05, Subdivs. 1, 3; V.T.C.S. Art. 29e; New.)

Sec. 4.004. CONTENTS OF NOTICE. (a) The notice of a general or special election must state:

(1) the nature and date of the election;

(2) except as provided by Subsection (c), the location of each polling place;

(3) the hours that the polls will be open; and

(4) any other information required by other law.

(b) The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. This subsection does not apply to an election on a proposed constitutional amendment.

(c) If notice of an election is given by posting the notice in the various election precincts, the notice posted in a precinct is not required to state the location of the polling places in other precincts. (V.T.E.C. Art. 4.05, Subdiv. 2.)

Sec. 4.005. RECORD OF NOTICE. (a) If notice of an election is given by publication, the authority responsible for giving the notice shall retain a copy of the published notice that contains the name of the newspaper and the date of publication.

(b) For each notice posted under Section 4.003(a)(2), the person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the authority responsible for giving the election notice after the last posting is made.

(c) If notice of an election is given under Section 4.003(a)(3), the authority responsible for giving the notice shall:

(1) retain a copy of the notice and enter on the copy the date or dates the mailing occurred; and

(2) prepare a list of the names and addresses of the persons to whom the notice was mailed.

(d) The authority responsible for giving the election notice shall preserve the records required by this section for the period for preserving the precinct election records.

(e) If other law prescribes the method of preserving the notice of an election, that law supersedes this section. (V.T.E.C. Art. 4.05, Subdiv. 4; New.)

Sec. 4.006. FAILURE TO GIVE NOTICE OF GENERAL ELECTION. Failure to give notice of a general election does not affect the validity of the election. (V.T.E.C. Art. 4.04.)

Sec. 4.007. NOTICE TO ELECTION JUDGE. Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the authority responsible for giving notice of the election shall deliver to the presiding judge of each election precinct in which the election is to be held in the authority's jurisdiction a written notice of:

(1) the nature and date of the election;

(2) the location of the polling place for the precinct served by the judge;

(3) the hours that the polls will be open;

(4) the judge's duty to hold the election in the precinct specified by the notice; and

(5) the maximum number of clerks that the judge may appoint for the election. (V.T.E.C. Art. 4.03; New.)

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TITLE 2. VOTER QUALIFICATIONS AND REGISTRATION

CHAPTER 11. QUALIFICATIONS AND REQUIREMENTS FOR VOTING

Sec. 11.001. ELIGIBILITY TO VOTE. Except as otherwise provided by law, to be eligible to vote in an election in this state, a person must:

(1) be a qualified voter as defined by Section 11.002 on the day the person offers to vote;

(2) be a resident of the territory covered by the election for the office or measure on which the person desires to vote; and

(3) satisfy all other requirements for voting prescribed by law for the particular election. (V.T.E.C. Art. 5.02(a).)

Sec. 11.002. QUALIFIED VOTER. In this code, "qualified voter" means a person who:

(1) is 18 years of age or older;

(2) is a United States citizen;

(3) has not been determined mentally incompetent by a final judgment of a court;

(4) has not been finally convicted of a felony or, if so convicted, has:

(A) received a certificate of discharge by the Board of Pardons and Paroles or completed a period of probation ordered by a court and at least two calendar years have elapsed from the date of the receipt or completion; or

(B) been pardoned or otherwise released from the resulting disability to vote;

(5) is a resident of this state; and

(6) is a registered voter. (V.T.E.C. Arts. 5.01, 5.02(a); New.)

Sec. 11.003. **PLACE FOR VOTING.** Except as otherwise provided by this code, a person may vote only in the election precinct in which the person resides. (V.T.E.C. Art. 2.06; Art. 5.02(a); Art. 5.16a, Subdiv. 2.)

Sec. 11.004. **VOTING IN PRECINCT OF FORMER RESIDENCE.** A registered voter who changes residence to another election precinct in the same county, if otherwise eligible, may vote a full ballot in the election precinct of former residence through the 90th day after the date of the change of residence or until the voter's registration becomes effective in the new precinct, whichever is earlier, in an election in which the ballot contains an office or proposition stating a measure on which the qualified voters of both the former and new precincts are eligible to vote. (V.T.E.C. Art. 5.18a, Subdiv. 2.)

Sec. 11.005. **EFFECT OF VOTE BY VOTER REGISTERED IN WRONG PRECINCT.** If a voter who is erroneously registered in an election precinct in which he does not reside is permitted to vote by an election officer who does not know of the erroneous registration, the votes for the offices and measures on which the voter would have been eligible to vote in his precinct of residence are valid unless the voter intentionally gave false information to procure the erroneous registration. (V.T.E.C. Art. 5.16a, Subdiv. 2.)

CHAPTER 12. VOTER REGISTRAR

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[Sections 12.007-12.030 reserved for expansion]

SUBCHAPTER B. COUNTY CLERK AS VOTER REGISTRAR

Sec. 12.031. **DESIGNATION OF COUNTY CLERK AS VOTER REGISTRAR**

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CHAPTER 12. VOTER REGISTRAR

SUBCHAPTER A. VOTER REGISTRAR

Sec. 12.001. **DESIGNATION OF VOTER REGISTRAR.** The county tax assessor-collector is the voter registrar for the county unless the position of county elections administrator is created or the county clerk is designated as the voter registrar. (V.T.E.C. Art. 5.09a, Subdiv. 1.)

Sec. 12.002. **ADMINISTRATION OF OATHS.** The registrar may administer and certify an oath under the seal of office if the oath is required in connection with the registrar's responsibilities under this code. (V.T.E.C. Art. 5.09a, Subdiv. 2.)

Sec. 12.003. **FEES PROHIBITED.** The registrar may not charge a fee for performing a function in connection with voter registration unless expressly authorized to do so by law. (V.T.E.C. Art. 5.09a, Subdiv. 2.)

Sec. 12.004. **OFFICE HOURS.** (a) The registrar shall conduct voter registration activities at all times during regular office hours.

(b) The registrar may keep the office open for voter registration activities at times other than regular office hours. The registrar shall post notice of the irregular days and hours the office will be open. The notice must remain posted continuously at each entrance to the registrar's office for the period beginning not later than the third day before the day the office is to be open during irregular hours and ending after the last time specified in the notice for the office to be open.

(c) The registrar's office shall remain open for voter registration activities during the hours the polls are required to be open for voting on the date of any general or primary election in which a statewide office appears on the ballot. (V.T.E.C. Art. 5.09c; Art. 5.13a, Subdiv. 1; Art. 5.24a, Subdiv. 10; New.)

Sec. 12.005. **BRANCH OFFICES.** The registrar may establish one or more branch offices in the county to conduct voter registration activities for the convenience of persons desiring to register. A branch office may be temporary or permanent. (V.T.E.C. Art. 5.20a, Subdiv. 2.)

Sec. 12.006. **REGULAR DEPUTY REGISTRARS.** (a) The registrar may appoint one or more deputy registrars to assist in the registration of voters.

(b) In this code, "regular deputy registrar" means a deputy registrar appointed under this section.

(c) Except as provided by Subsection (d), a regular deputy registrar has the same authority as the registrar, subject to the registrar's supervision.

(d) A regular deputy registrar may not hear or determine a challenge under this title. (V.T.E.C. Art. 5.09a, Subdiv. 2.)

[Sections 12.007-12.030 reserved for expansion]

SUBCHAPTER B. COUNTY CLERK AS VOTER REGISTRAR

Sec. 12.031. **DESIGNATION OF COUNTY CLERK AS VOTER REGISTRAR.** The commissioners court by written order may designate the county clerk as the voter registrar for the county if the county clerk and county tax assessor-collector agree to the designation. (V.T.E.C. Art. 5.09b, Subdiv. 1.)

Sec. 12.032. **DESIGNATION ORDER.** (a) The order designating the county clerk as the voter registrar must state the effective date of the transfer of voter registration duties and functions to the county clerk.

(b) The county clerk shall deliver a certified copy of the order to the secretary of state and comptroller of public accounts not later than the third day after the date the order is adopted. (V.T.E.C. Art. 5.09b, Subdiv. 1.)

Sec. 12.033. **APPROPRIATION BY COMMISSIONERS COURT.** The amount initially appropriated by the commissioners court for the voter registration activities of the county clerk may not be less than the amount last appropriated to the county's voter registrar for the same purpose. (V.T.E.C. Art. 5.09b, Subdiv. 3.)

Sec. 12.034. **RESCISSION OF DESIGNATION ORDER.** (a) The commissioners court by written order may rescind the order designating the county clerk as the voter registrar at any time after two years have elapsed from the date the order was adopted, to become effective on a date stated in the order.

(b) Not later than the third day after the date the rescission order is adopted, the county clerk shall deliver a certified copy of the order to the secretary of state and comptroller of public accounts.

(c) On the effective date of the rescission, the county tax assessor-collector is the voter registrar for the county unless the position of county elections administrator is created. (V.T.E.C. Art. 5.09b, Subdiv. 1.)

CHAPTER 13. APPLICATION FOR REGISTRATION; INITIAL REGISTRATION

SUBCHAPTER A. ELIGIBILITY; MANNER OF APPLYING FOR REGISTRATION

Sec. 13.001. **ELIGIBILITY FOR REGISTRATION**

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CHAPTER 13. APPLICATION FOR REGISTRATION; INITIAL
REGISTRATION

SUBCHAPTER A. ELIGIBILITY; MANNER OF APPLYING FOR
REGISTRATION

Sec. 13.001. **ELIGIBILITY FOR REGISTRATION.** (a) To be eligible for registration as a voter in this state, a person must:

- (1) be 18 years of age or older;
- (2) be a United States citizen;
- (3) not have been determined mentally incompetent by a final judgment of a court;
- (4) not have been finally convicted of a felony or, if so convicted, must have:
 - (A) received a certificate of discharge by the Board of Pardons and Paroles or completed a period of probation ordered by a court and at least two calendar years have elapsed from the date of the receipt or completion; or
 - (B) been pardoned or otherwise released from the resulting disability to vote; and
- (5) be a resident of the county in which application for registration is made.

(b) To be eligible to apply for registration, a person must, on the date the registration application is submitted to the registrar, be at least 17 years and 10 months of age and satisfy the requirements of Subsection (a) except for age. (V.T.E.C. Art. 5.10a; New.)

Sec. 13.002. **APPLICATION REQUIRED.** (a) A person desiring to register to vote must submit an application to the registrar of the county in which the person resides.

(b) A registration application must be in writing and signed by the applicant.

(c) A registration application must include:

- (1) the applicant's name as follows:
 - (A) first name, middle name, if any, and surname; or
 - (B) first name, maiden name, and husband's surname if the applicant is a married woman using the husband's surname;
- (2) the applicant's sex;
- (3) the month, day, and year of the applicant's birth;
- (4) a statement that the applicant is a United States citizen;
- (5) if the applicant is a naturalized citizen, the location of the court of naturalization;
- (6) a statement that the applicant is a resident of the county;
- (7) a statement that the applicant has not been determined mentally incompetent by a final judgment of a court;
- (8) a statement that the applicant has not been finally convicted of a felony or that the applicant is a felon eligible for registration under Section 13.001(a)(4);
- (9) if the applicant is currently registered in another county, the name of that county and the applicant's residence address on the registration certificate for that county;
- (10) the applicant's residence address or, if the residence has no address, the address at which the applicant receives mail and a concise description of the location of the applicant's residence; and
- (11) if the application is made by an agent, a statement of the agent's relationship to the applicant.

(d) The omission of the applicant's middle or maiden name under Subsection (c)(1) does not affect the validity of a registration application, and the registrar may not reject the application because of that omission. (V.T.E.C. Art. 5.01; Art. 5.13a, Subdiv. 1; Art. 5.13b, Subdiv. 1; Art. 5.18a, Subdiv. 3; New.)

Sec. 13.003. **APPLICATION BY AGENT.** (a) An applicant may appoint, either orally or in writing, an agent to perform one or more of the following acts for the applicant:

- (1) complete and sign a registration application;
- (2) submit an application;
- (3) act on the applicant's behalf in the process of approving the application, including a challenge of the applicant; and
- (4) receive a registration certificate in person.

(b) To be eligible for appointment as an agent, a person must:

- (1) be the applicant's spouse, parent, or child; and
- (2) be a qualified voter of the county or have submitted a registration application and be otherwise eligible to vote. (V.T.E.C. Art. 5.13a, Subdiv. 3; New.)

Sec. 13.004. **RECORDING OF TELEPHONE NUMBER BY REGISTRAR PROHIBITED.** The registrar may not transcribe, copy, or otherwise record a telephone number furnished on a registration application. (V.T.E.C. Art. 5.13b, Subdiv. 2.)

Sec. 13.005. UNLAWFULLY ACTING AS AGENT. (a) A person commits an offense if the person acts as an agent for an applicant but is not eligible for appointment as an agent under Section 13.003(b).

(b) An offense under this section is a Class B misdemeanor. (V.T.E.C. Art. 5.13a, Subdiv. 3.)

Sec. 13.006. PURPORTEDLY ACTING AS AGENT. (a) A person commits an offense if the person purports to act as an agent in applying for registration or in signing a registration application at a time when the person:

(1) is not an agent of the applicant under Section 13.003(a); and

(2) is not eligible for appointment under Section 13.003(b) as the agent of the person for whom he purports to act.

(b) An offense under this section is a felony of the third degree. (V.T.E.C. Art. 5.13a, Subdiv. 5.)

Sec. 13.007. SOLICITATION OF FALSE STATEMENT ON APPLICATION. (a) A person commits an offense if the person requests, commands, or attempts to induce another person to make a false statement on a registration application.

(b) An offense under this section is a felony of the third degree. (V.T.E.C. Art. 15.74.)

[Sections 13.008-13.030 reserved for expansion]

SUBCHAPTER B. VOLUNTEER DEPUTY REGISTRARS; HIGH SCHOOL DEPUTY REGISTRARS

Sec. 13.031. APPOINTMENT; TERM. (a) To encourage voter registration, the registrar shall appoint as deputy registrars persons who volunteer to serve.

(b) In this code, "volunteer deputy registrar" means a deputy registrar appointed under this section.

(c) Volunteer deputy registrars serve for terms expiring December 31 of even-numbered years.

(d) To be eligible for appointment as a volunteer deputy registrar, a person must be 18 years of age or older. (V.T.E.C. Art. 5.20a, Subdiv. 4; New.)

Sec. 13.032. PROHIBITION ON REFUSING TO APPOINT. A registrar may not refuse to appoint as a volunteer deputy registrar:

(1) a resident of the county served by the registrar; or

(2) any person on the basis of sex, race, creed, color, or national origin or ancestry. (V.T.E.C. Art. 5.20a, Subdiv. 5.)

Sec. 13.033. CERTIFICATE OF APPOINTMENT. (a) A person desiring to serve as a volunteer deputy registrar must request appointment by the registrar in person or by mail.

(b) If a person is to be appointed, the registrar shall prepare a certificate of appointment in duplicate containing:

(1) the date of appointment;

(2) the statement: "I, _____, Voter Registrar for _____ County, do hereby appoint _____ as a volunteer deputy registrar for _____ County.";

(3) the person's residence address;

(4) the person's voter registration number, if any;

(5) a statement that the term of the appointment expires December 31 of an even-numbered year; and

(6) a statement that the appointment terminates on the person's final conviction for an offense for failure to deliver a registration application.

(c) The registrar shall sign the certificate and issue the original to the appointee, who shall sign it on receipt.

(d) A volunteer deputy shall present the certificate as identification to an applicant for registration, on request, when receiving the application for delivery to the registrar. (New.)

Sec. 13.034. ACTIVE APPOINTMENT FILE. (a) The registrar shall maintain a file containing the duplicate certificates of appointment of the volunteer deputy registrars whose appointments are effective.

(b) The registrar shall maintain the file in alphabetical order by deputy name on a countywide basis.

(c) Each certificate shall be retained on file during the time the appointment is effective. (New.)

Sec. 13.035. INACTIVE APPOINTMENT FILE. (a) The registrar shall maintain a file containing the duplicate certificates of appointment of the volunteer deputy registrars whose appointments have been terminated.

(b) The registrar shall enter the date of and reason for termination on each duplicate certificate.

(c) The registrar shall maintain the file in alphabetical order by deputy name on a countywide basis.

(d) Each certificate shall be retained on file for two years after the date of termination. (New.)

Sec. 13.036. **TERMINATION OF APPOINTMENT.** (a) An appointment as a volunteer deputy registrar is terminated on:

(1) the expiration of the volunteer deputy's term of appointment; or

(2) the final conviction of the volunteer deputy for an offense prescribed by Section 13.043.

(b) Immediately on the termination of an appointment, the registrar shall deliver written notice of the termination to the volunteer deputy, directing the deputy:

(1) to stop activity as a volunteer deputy registrar immediately; and

(2) to deliver the certificate of appointment, receipt forms, and registration applications and receipts in the volunteer deputy's possession to the registrar not later than the second day after the date the deputy receives the termination notice.

(c) The registrar shall reject all registration applications received by a person purporting to act as a volunteer deputy registrar after the person's appointment is terminated.

(d) The registrar may not reappoint a person whose appointment as a volunteer deputy registrar is terminated under Subsection (a)(2). (New.)

Sec. 13.037. **COMPENSATION; BOND.** (a) A volunteer deputy registrar serves without pay unless compensation is authorized by the commissioners court.

(b) An unpaid volunteer deputy is not required to give a bond in connection with the deputy's service. (V.T.E.C. Art. 5.20a, Subdiv. 1.)

Sec. 13.038. **POWERS GENERALLY.** A volunteer deputy registrar may distribute voter registration application forms throughout the county and receive registration applications submitted to him in person. (New.)

Sec. 13.039. **REVIEW OF APPLICATION.** (a) On receipt of a registration application, a volunteer deputy registrar shall review it for completeness in the applicant's presence.

(b) If the application does not contain all the required information and the required signature, the volunteer deputy shall return the application to the applicant for completion and resubmission. (New.)

Sec. 13.040. **ISSUANCE OF RECEIPT.** (a) On receipt of a completed registration application, a volunteer deputy registrar shall prepare a receipt in duplicate on a form furnished by the registrar.

(b) The receipt must contain:

(1) the name of the applicant and, if applicable, the name of the applicant's agent; and
(2) the date the completed application is submitted to the volunteer deputy.

(c) The volunteer deputy shall sign the receipt in the applicant's presence and shall give the original to the applicant.

(d) The volunteer deputy shall deliver the duplicate receipt to the registrar with the registration application. The registrar shall retain the receipt on file with the application. (New.)

(e) The secretary of state may prescribe a procedure that is an alternative to the procedure prescribed by this section that will ensure the accountability of the registration applications.

Sec. 13.041. **EFFECT OF SUBMISSION OF APPLICATION.** The date of submission of a completed registration application to a volunteer deputy registrar is considered to be the date of submission to the registrar for the purpose of determining the effective date of registration only. (New.)

Sec. 13.042. **DELIVERY OF APPLICATION TO REGISTRAR.** (a) A volunteer deputy registrar shall deliver in person to the registrar each completed voter registration application submitted to the deputy, as provided by this section.

(b) Except as provided by Subsection (c), an application shall be delivered to the registrar not later than 5 p.m. of the fifth day after the date the application is submitted to the volunteer deputy registrar.

(c) An application submitted after the 34th day and before the 29th day before the date of an election in which any qualified voter of the county is eligible to vote shall be delivered not later than 5 p.m. of the 29th day before election day. (New.)

Sec. 13.043. **FAILURE TO DELIVER APPLICATION.** (a) A volunteer deputy registrar commits an offense if the deputy fails to comply with Section 13.042.

(b) Except as provided by Subsection (c), an offense under this section is a Class C misdemeanor.

(c) An offense under this section is a Class A misdemeanor if the deputy's failure to comply is intentional. (New.)

Sec. 13.044. **PURPORTEDLY ACTING AS VOLUNTEER DEPUTY REGISTRAR.** (a) A person commits an offense if the person purports to act as a volunteer deputy registrar when the person does not have an effective appointment as a volunteer deputy registrar.

(b) An offense under this section is a Class C misdemeanor. (New.)

Sec. 13.045. **ACTIVITY ON GOVERNMENTAL PREMISES.** Except as otherwise provided by law, the chief executive of a state agency with approval of the agency's governing body, if any, the chief executive of a department of a city with approval of the city's governing body, or a county officer may permit an officer or employee under the chief executive's or officer's supervision who is a volunteer deputy registrar to engage in official registration activities during working hours on the premises under the chief executive's or officer's control. (V.T.E.C. Art. 5.20a, Subdiv. 3.)

Sec. 13.046. **HIGH SCHOOL DEPUTY REGISTRARS.** (a) Each principal of a public high school or his designee shall serve as a deputy registrar for the county in which the school is located.

(b) In this code, "high school deputy registrar" means a deputy registrar serving under this section.

(c) A high school deputy registrar may distribute registration application forms to and receive registration applications submitted to him in person from students and employees of the school only.

(d) During the final month of each school semester, a high school deputy registrar shall distribute an officially prescribed registration application form to each student who is or will be 18 years of age or older during that semester.

(e) Each application form distributed under this section must be accompanied by a notice informing the student or employee that the application may be submitted in person or by mail to the voter registrar of the county in which the applicant resides or in person to a high school deputy registrar or volunteer deputy registrar for delivery to the voter registrar of the county in which the applicant resides.

(f) Except as provided by this subsection, Sections 13.039, 13.040, 13.041, and 13.042 apply to the submission and delivery of registration applications under this section, and for that purpose, "volunteer deputy registrar" in those sections includes a high school deputy registrar. A high school deputy registrar may review an application for completeness out of the applicant's presence. A deputy may deliver a group of applications to the registrar by mail in an envelope or package, and, for the purpose of determining compliance with the delivery deadline, an application delivered by mail is considered to be delivered at the time of its receipt by the registrar.

(g) A high school deputy registrar commits an offense if the deputy fails to comply with Section 13.042. An offense under this subsection is a Class C misdemeanor unless the deputy's failure to comply is intentional, in which case the offense is a Class A misdemeanor.

(h) The secretary of state shall prescribe any additional procedures necessary to implement this section. (V.T.E.C. Art. 5.20a, Subdiv. 6; Art. 5.20b; New.)

[Sections 13.047-13.070 reserved for expansion]

SUBCHAPTER C. ACTION ON APPLICATION BY REGISTRAR

Sec. 13.071. **REVIEW OF APPLICATION.** (a) The registrar shall review each submitted application for registration to determine whether it complies with Section 13.002 and indicates that the applicant is eligible for registration.

(b) The registrar shall make the determination not later than the seventh day after the date the application is submitted to the registrar. (V.T.E.C. Art. 5.14a, Subdiv. 2; New.)

Sec. 13.072. **ACTION ON APPLICATION.** (a) If the registrar determines that an application complies with Section 13.002 and indicates that the applicant is eligible for registration, the registrar shall approve the application unless the registrar challenges the applicant.

(b) After approval of an application by an applicant who was registered in another county at the time of application, the registrar shall deliver written notice of the applicant's change of residence to the other county's registrar and include in the notice the applicant's name, former residence address, and former registration number, if known.

(c) If the registrar determines that an application does not comply with Section 13.002 or does not indicate that the applicant is eligible for registration, the registrar shall reject the

application. (V.T.E.C. Art. 5.14a, Subdiv. 2(a); Art. 5.15a, Subdiv. 1(b); Art. 5.17a(1); Art. 5.18a, Subdiv. 4.)

Sec. 13.073. NOTICE OF REJECTION. (a) Except as provided by Subsection (b), the registrar shall deliver written notice of the reason for the rejection of an application to the applicant not later than the second day after the date of rejection.

(b) If the registrar rejects an application in the applicant's presence, at that time the registrar shall orally inform the applicant of the reason for the rejection. If the rejection is for incompleteness, the registrar shall return the application to the applicant for completion and resubmission. (New.)

Sec. 13.074. CHALLENGE OF APPLICANT. (a) If after determining that an application complies with Section 13.002 and indicates that the applicant is eligible for registration, the registrar has reason to believe the applicant is not eligible for registration or the application was submitted in an unauthorized manner, the registrar shall challenge the applicant.

(b) The registrar shall indicate on the application of a challenged applicant that the applicant's eligibility or the manner of submission of the application has been challenged and the date of the challenge.

(c) The registrar may not challenge an applicant later than the second day after the date the application is determined to comply with Section 13.002 and indicate that the applicant is eligible for registration. (V.T.E.C. Art. 5.17a(1); New.)

Sec. 13.075. NOTICE OF CHALLENGE TO APPLICANT. (a) Except as provided by Subsection (c), the registrar shall deliver written notice of the challenge to the applicant not later than the second day after the date of the challenge.

(b) The notice must include:

- (1) the date of the challenge;
- (2) a statement of the grounds for the challenge; and

(3) a brief explanation of the applicant's right to a hearing on the challenge and the right to appeal the registrar's decision.

(c) If a challenge is made in the applicant's presence, at that time the registrar shall orally explain to the applicant the grounds for the challenge and the applicant's right to a hearing and appeal. (New.)

Sec. 13.076. REQUEST FOR HEARING ON CHALLENGE. (a) Except as provided by Subsection (b), to be entitled to a hearing on a challenge, the applicant must file a written, signed request for a hearing with the registrar not later than the 10th day after the date of the challenge.

(b) If a challenge is made in the applicant's presence, at that time the applicant may orally request a hearing. (New.)

Sec. 13.077. HEARING ON CHALLENGE. (a) On the timely filing or making of a hearing request, the registrar shall schedule a hearing on the challenge.

(b) The registrar shall conduct the hearing not later than the 10th day after the date the request is filed or made or at a later date on the applicant's request.

(c) The applicant may appear personally at the hearing to offer evidence or argument. The applicant may offer evidence or argument by affidavit without personally appearing if the applicant submits the affidavit to the registrar before the hearing begins.

(d) If a challenge is made in the applicant's presence and the applicant orally requests a hearing, the hearing may be conducted at that time with the applicant's consent. (V.T.E.C. Art. 5.17a(1); New.)

Sec. 13.078. NOTICE OF HEARING. (a) The registrar shall deliver to a challenged applicant written notice of the date, hour, and place set for the hearing on the challenge not later than the second day after the date the hearing request is filed or made.

(b) This section does not apply to a hearing conducted under Section 13.077(d). (New.)

Sec. 13.079. DETERMINATION OF CHALLENGE. (a) After hearing and considering the evidence or argument, the registrar shall promptly determine the challenge and issue a decision in writing.

(b) If the registrar determines that the applicant is eligible for registration or that the manner of submission of the application was authorized, the registrar shall approve the application.

(c) If the registrar determines that the applicant is not eligible for registration or that the manner of submission of the application was unauthorized, the registrar shall reject the application.

(d) The registrar shall retain a copy of the decision on file with the applicant's registration application and shall deliver a copy to the applicant. (V.T.E.C. Art. 5.17a(1); New.)

Sec. 13.080. RECORDING REJECTION. On rejection of an applicant's registration application, the registrar shall enter the date of and reason for the rejection on the application. (V.T.E.C. Art. 5.15a, Subdiv. 1(b).)

[Sections 13.081-13.100 reserved for expansion]

SUBCHAPTER D. APPLICATION FILES

Sec. 13.101. **ACTIVE APPLICATION FILE.** (a) The registrar shall maintain a file containing the approved registration applications of the registered voters of the county.

(b) The registrar shall maintain the file in alphabetical order by voter name on a countywide basis. However, the registrar may maintain the file in numerical order by registration number if the registrar regularly maintains a list of registered voters in alphabetical order by voter name on a countywide basis.

(c) Each application shall be retained on file during the time the registration is effective. (V.T.E.C. Art. 5.15a, Subdiv. 1(a).)

Sec. 13.102. **INACTIVE APPLICATION FILE.** (a) The registrar shall maintain a file containing the rejected applications of applicants for registration.

(b) The registrar shall maintain a file, separate from the file maintained under Subsection (a), containing the applications of the voters whose registrations have been canceled.

(c) The registrar shall maintain each file in alphabetical order by applicant or voter name on a countywide basis.

(d) Each application shall be retained on file for two years after the date of rejection or cancellation. (V.T.E.C. Art. 5.15a, Subdiv. 1(b).)

Sec. 13.103. **PLACE FOR KEEPING FILES; SECURITY.** (a) The registration application files maintained under this subchapter shall be kept in the registrar's office at all times in a place and manner ensuring their security.

(b) Applications may be removed from the registrar's office temporarily, in a manner ensuring their security, for use in preparing registration certificates, lists of registered voters, and other registration documents by electronic data-processing methods. (V.T.E.C. Art. 5.15a, Subdiv. 3.)

[Sections 13.104-13.120 reserved for expansion]

SUBCHAPTER E. OFFICIAL APPLICATION FORMS

Sec. 13.121. **OFFICIAL FORM FOR REGISTRATION BY MAIL.** (a) The officially prescribed application form for registration by mail must be in the form of a business reply postcard, unless another form or system is used under Subsection (b), with postage paid by the state. The secretary of state shall design the form to enhance the legibility of its contents.

(b) The secretary of state shall obtain a permit from the United States Postal Service for use of the postage-paid application form and shall arrange for payment of the postal charges with warrants issued by the comptroller of public accounts. The secretary may use any other form or system made available by the United States Postal Service if the form or system is less costly than the business reply system.

(c) The secretary of state shall have the official application forms for registration by mail printed and shall furnish the forms without charge to each registrar in a quantity the secretary determines sufficient for the proper conduct of voter registration.

(d) The secretary of state shall prescribe the procedures necessary to implement this section. (V.T.E.C. Art. 5.13a, Subdiv. 1; New.)

Sec. 13.122. **ADDITIONAL ELEMENTS ON OFFICIAL FORM.** (a) In addition to the other statements and spaces for entering information that appear on an officially prescribed registration application form, each official form must include:

- (1) the statement: "I understand that the giving of false information to procure the registration of a voter is a felony.";
- (2) a space for the applicant's registration number;
- (3) a space for the number of the county election precinct in which the applicant resides;
- (4) a space for the applicant's telephone number;
- (5) a space for the applicant's social security number; and
- (6) a statement indicating that the furnishing of the applicant's election precinct number, telephone number, and social security number is optional.

(b) If it becomes permissible under federal law to require an applicant for registration who has a social security number to furnish the number, the secretary of state may implement that requirement. (V.T.E.C. Art. 5.13a, Subdiv. 1; Art. 5.13b, Subdiv. 2.)

[Sections 13.123-13.140 reserved for expansion]

SUBCHAPTER F. INITIAL REGISTRATION

Sec. 13.141. **REGISTRATION NUMBER.** (a) The registrar shall assign a registration number to each person to be registered as a voter.

(b) The secretary of state may prescribe a uniform system for assigning voter registration numbers. If a uniform system is not prescribed, the registrar shall use a system that promotes efficient and accurate administration of voter registration. (V.T.E.C. Art. 5.14a, Subdiv. 1(b).)

Sec. 13.142. **INITIAL REGISTRATION CERTIFICATE.** (a) After approval of a registration application, the registrar shall:

(1) prepare a voter registration certificate in duplicate and issue the original certificate to the applicant; and

(2) enter the applicant's county election precinct number and registration number on the applicant's registration application.

(b) In this code, "initial certificate" means a registration certificate issued under this section.

(c) An initial certificate takes effect on the effective date of the registration and expires the following March 1 of an even-numbered year. (V.T.E.C. Art. 5.14a, Subdivs. 1, 2.)

Sec. 13.143. **EFFECTIVE DATE OF REGISTRATION; PERIOD OF EFFECTIVENESS.** (a) Except as provided by Subsection (b), if an applicant's registration application is approved, the registration becomes effective on the 30th day after the date the application is submitted to the registrar or on the date the applicant becomes 18 years of age, whichever is later.

(b) A registration is effective for purposes of voting absentee if it will be effective on election day.

(c) A registration is effective until canceled.

(d) For purposes of determining the effective date of a registration, an application submitted by mail is considered to be submitted to the registrar on the date it is placed with postage prepaid and properly addressed in the United States mail. The date indicated by the post office cancellation mark is considered to be the date the application was placed in the mail unless proven otherwise. (V.T.E.C. Art. 5.13a, Subdiv. 4; New.)

Sec. 13.144. **DELIVERY OF INITIAL CERTIFICATE TO VOTER.** (a) The registrar shall deliver the original of an initial certificate:

(1) in person to the applicant or the applicant's agent appointed under Section 13.003; or

(2) by mail to the applicant.

(b) If delivery is by mail, the registrar shall send the certificate to the mailing address on the applicant's registration application.

(c) The registrar shall deliver the certificate in time for the applicant to receive it before the effective date of the registration. (V.T.E.C. Art. 5.14a, Subdiv. 2(a).)

Sec. 13.145. **UNLAWFUL DELIVERY OF CERTIFICATE.** (a) A voter registrar commits an offense if the registrar knowingly delivers a registration certificate to a person other than the applicant or the applicant's agent appointed under Section 13.003.

(b) An offense under this section is a felony of the third degree. (V.T.E.C. Art. 5.14a, Subdiv. 2(d).)

CHAPTER 14. RENEWAL OF REGISTRATION

SUBCHAPTER A. ISSUANCE OF RENEWAL CERTIFICATE

Sec. 14.001. **RENEWAL REGISTRATION CERTIFICATE**

Sec. 14.002. **DELIVERY OF RENEWAL CERTIFICATE TO VOTER**

[Sections 14.003-14.020 reserved for expansion]

SUBCHAPTER B. RETURN OF RENEWAL CERTIFICATE

Sec. 14.021. **LIST OF RETURNED CERTIFICATES**

Sec. 14.022. **DISPOSITION OF RETURNED CERTIFICATE**

Sec. 14.023. **ERRONEOUS RETURN OF RENEWAL CERTIFICATE**

Sec. 14.024. **AVAILABILITY OF REGISTRAR'S LIST**

Sec. 14.025. **DELIVERY OF LIST TO SECRETARY OF STATE**

Sec. 14.026. **AVAILABILITY OF SECRETARY OF STATE'S LIST**

Sec. 14.027. UNLAWFUL USE OF INFORMATION ON LISTS OF RETURNED CERTIFICATES

[Sections 14.028-14.050 reserved for expansion]

SUBCHAPTER C. VOTING ON AFFIDAVIT OF RESIDENCE

Sec. 14.051. NOTATION ON LIST OF REGISTERED VOTERS

Sec. 14.052. AUTHORIZATION TO VOTE BY AFFIDAVIT

Sec. 14.053. DISPOSITION OF AFFIDAVIT

CHAPTER 14. RENEWAL OF REGISTRATION

SUBCHAPTER A. ISSUANCE OF RENEWAL CERTIFICATE

Sec. 14.001. RENEWAL REGISTRATION CERTIFICATE. (a) During the first 15 days of each even-numbered year, the registrar shall issue a voter registration certificate to each voter in the county whose registration is effective on the preceding December 31.

(b) In this code, "renewal certificate" means a registration certificate issued under this section.

(c) A renewal certificate is valid for two years beginning on March 1 of the year in which it is issued.

(d) At the time the registrar issues an initial certificate for a voter whose registration will be effective after December 31 of an odd-numbered year and before March 1 of the following year, the registrar shall also issue the voter a renewal certificate. (V.T.E.C. Art. 5.14a, Subdivs. 2(b), (c).)

Sec. 14.002. DELIVERY OF RENEWAL CERTIFICATE TO VOTER. (a) Except as provided by Subsection (d), the registrar shall deliver a voter's renewal certificate by mail to the mailing address on the voter's registration application.

(b) The certificate, if mailed without an envelope, or the envelope containing the certificate must contain an instruction to the postal authorities not to forward it to any other address and to return it to the registrar if the addressee is no longer at the address to which the certificate was mailed.

(c) The registrar may not mail the certificate in the same envelope with a tax statement.

(d) The registrar shall deliver a renewal certificate issued under Section 14.001(d) with the voter's initial certificate. (V.T.E.C. Art. 5.14a, Subdivs. 2(b), (c).)

[Sections 14.003-14.020 reserved for expansion]

SUBCHAPTER B. RETURN OF RENEWAL CERTIFICATE

Sec. 14.021. LIST OF RETURNED CERTIFICATES. (a) The registrar shall maintain a list of the renewal certificates mailed to voters and returned undelivered.

(b) The list shall be arranged alphabetically by voter name and for each certificate must contain the voter's name, residence address, date of birth, and registration number. The names shall be grouped according to county election precincts.

(c) The registrar shall retain the list for two years after the last day of each January mailing. (V.T.E.C. Art. 5.14a, Subdiv. 2(b); New.)

Sec. 14.022. DISPOSITION OF RETURNED CERTIFICATE. On the return of an undelivered renewal certificate to the registrar, the registrar shall file the certificate with the voter's registration application and enter the appropriate information on the list of returned certificates. (V.T.E.C. Art. 5.14a, Subdiv. 2(b); New.)

Sec. 14.023. ERRONEOUS RETURN OF RENEWAL CERTIFICATE. If the registrar determines that a voter's renewal certificate was returned undelivered solely because of postal service error, address reclassification, or the registrar's clerical error, the registrar shall delete the voter's name from the list of returned certificates, make any other appropriate corrections in the registration records, and deliver the certificate to the voter. (V.T.E.C. Art. 5.14a, Subdiv. 2(b); New.)

Sec. 14.024. AVAILABILITY OF REGISTRAR'S LIST. (a) The registrar shall furnish a copy of the list of returned certificates to any person requesting it or shall furnish that portion of the list requested.

(b) The fee for each list or portion of a list furnished under this section may not exceed the actual expense incurred in reproducing the list or portion for the person requesting it and shall be uniform for each type of copy furnished. The registrar shall make reasonable efforts to minimize the reproduction expenses.

(c) If the list is recorded on magnetic tape, the copy shall be furnished in the form of a tape or a printout, as requested.

(d) The registrar shall use fees collected under this section to defray expenses incurred in the preparation of the copy. (V.T.E.C. Art. 5.14a, Subdiv. 2(b); New.)

Sec. 14.025. DELIVERY OF LIST TO SECRETARY OF STATE. (a) Before March 8 of each even-numbered year, the registrar shall deliver a copy of the list of returned certificates to the secretary of state in the form prescribed by the secretary.

(b) The secretary of state shall retain the list for two years after receipt. (V.T.E.C. Art. 5.14a, Subdiv. 2(b); New.)

Sec. 14.026. AVAILABILITY OF SECRETARY OF STATE'S LIST. (a) The secretary of state shall furnish a copy of the list of returned certificates to any person requesting it or shall furnish that portion of the list requested.

(b) The fee for each list or portion of a list furnished under this section may not exceed the actual expense incurred in reproducing the list or portion for the person requesting it and shall be uniform for each type of copy furnished.

(c) The copy shall be furnished in the form in which the list is stored or, if practicable, in any other form requested.

(d) The secretary of state shall use fees collected under this section to defray expenses incurred in the preparation of the copy. (V.T.E.C. Art. 5.14a, Subdiv. 2(b); New.)

Sec. 14.027. UNLAWFUL USE OF INFORMATION ON LISTS OF RETURNED CERTIFICATES. (a) A person commits an offense if the person uses information in connection with advertising or promoting commercial products or services that he knows was obtained under Section 14.024 or 14.026.

(b) An offense under this section is a Class A misdemeanor. (V.T.E.C. Art. 5.14a, Subdiv. 2(b); New.)

[Sections 14.028-14.050 reserved for expansion]

SUBCHAPTER C. VOTING ON AFFIDAVIT OF RESIDENCE

Sec. 14.051. NOTATION ON LIST OF REGISTERED VOTERS. (a) In each even-numbered year, the registrar shall enter the notation "R", or a similar notation, on the original list of registered voters beside each voter's name that also appears on the list of returned certificates.

(b) The registrar shall delete the notation from the list if the voter's name is deleted from the list of returned certificates. (New.)

Sec. 14.052. AUTHORIZATION TO VOTE BY AFFIDAVIT. (a) In an election held on or after March 1 and before August 16 of an even-numbered year, a voter whose name appears on a precinct list of registered voters with the notation "R", or a similar notation, may vote in the election precinct in which the list is used if the voter resides in the county in which the voter is registered and, if applicable:

(1) resides in the political subdivision served by the authority ordering the election if the political subdivision is other than the county; or

(2) resides in the territory covered by the election in a less-than-countywide election ordered by the governor or a county authority.

(b) Before being accepted to vote, the voter must execute and submit to an election officer at the polling place an affidavit including:

(1) a statement that the voter complies with the applicable residence requirements of Subsection (a);

(2) the voter's residence address or, if the residence has no address, the address at which the voter receives mail and a concise description of the location of the voter's residence;

(3) the month, day, and year of the voter's birth; and

(4) the date the affidavit is submitted to the election officer. (V.T.E.C. Art. 5.16a, Subdiv. 3a; Art. 8.08, Subdiv. 1; New.)

Sec. 14.053. DISPOSITION OF AFFIDAVIT. (a) After the election, each presiding election judge shall deliver the affidavits of residence to the general custodian of election records at the time the other precinct election records are delivered.

(b) The general custodian of election records shall deliver the affidavits to the registrar not later than the fifth day after election day.

(c) The registrar shall retain each affidavit on file with the voter's registration application. (V.T.E.C. Art. 5.16a, Subdiv. 5; Art. 8.29b; New.)

CHAPTER 15. GENERAL ADMINISTRATION OF REGISTRATION
SUBCHAPTER A. FORM AND CONTENTS OF REGISTRATION
CERTIFICATE; REPLACEMENT OF CERTIFICATE

- Sec. 15.001. REQUIRED CONTENTS
- Sec. 15.002. OPTIONAL CONTENTS
- Sec. 15.003. SIGNING CERTIFICATE BY VOTER
- Sec. 15.004. REPLACEMENT CERTIFICATE

[Sections 15.005-15.020 reserved for expansion]

SUBCHAPTER B. CORRECTION OF REGISTRATION INFORMATION

- Sec. 15.021. NOTICE OF CHANGE IN REGISTRATION INFORMATION BY VOTER
- Seq. 15.022. CORRECTION OF REGISTRATION RECORDS
- Sec. 15.023. TIME FOR CERTAIN DELETIONS FROM LIST OF RETURNED CERTIFICATES
- Sec. 15.024. CORRECTED REGISTRATION CERTIFICATE
- Sec. 15.025. EFFECTIVE DATE OF REGISTRATION IN PRECINCT OF NEW RESIDENCE
- Sec. 15.026. EFFECTIVE DATE OF REGISTRATION UNDER NEW NAME
- Sec. 15.027. NOTICE TO VOTER OF PRECINCT BOUNDARY CHANGE
- Sec. 15.028. NOTICE OF UNLAWFUL VOTING TO PROSECUTOR

[Sections 15.029-15.050 reserved for expansion]

SUBCHAPTER C. CERTIFICATE FILES

- Sec. 15.051. ACTIVE CERTIFICATE FILE
- Sec. 15.052. INACTIVE CERTIFICATE FILE
- Sec. 15.053. MAINTENANCE OF FILES AS ELECTRONIC DATA-PROCESSING INFORMATION
- Sec. 15.054. PLACE FOR KEEPING FILES; SECURITY

CHAPTER 15. GENERAL ADMINISTRATION OF REGISTRATION
SUBCHAPTER A. FORM AND CONTENTS OF REGISTRATION
CERTIFICATE; REPLACEMENT OF CERTIFICATE

Sec. 15.001. REQUIRED CONTENTS. (a) Each voter registration certificate issued must contain:

- (1) the voter's name;
- (2) the voter's residence address or, if the residence has no address, the address at which the voter receives mail;
- (3) the month, day, and year of the voter's birth and the voter's sex;
- (4) the number of the county election precinct in which the voter resides;
- (5) the voter's effective date of registration if an initial certificate;
- (6) the voter's registration number;
- (7) an indication of the period for which the certificate is issued;
- (8) a statement that the voter will receive a new certificate every two years as long as the voter's registration is not canceled;
- (9) a space for stamping the voter's political party affiliation;
- (10) a statement that voting with the certificate by a person other than the person in whose name the certificate is issued is a felony;
- (11) a space for the voter's signature;
- (12) a statement that the voter must sign the certificate personally, if able to sign, immediately on receipt;
- (13) a space for the voter to correct the information on the certificate followed by a signature line;

(14) the statement: "If any information on this certificate changes or is incorrect, correct the information in the space provided, sign below, and return this certificate to the voter registrar."; and

(15) the registrar's mailing address and telephone number.

(b) A certificate may not contain:

(1) the voter's telephone number;

(2) the voter's social security number; or

(3) except as provided by Section 15.002, any other information not specified by

Subsection (a). (V.T.E.C. Art. 5.14a, Subdivs. 2(b), 3(a), 3(b); New.)
 Sec. 15.002. OPTIONAL CONTENTS. (a) A voter registration certificate may contain an explanation of the voter's rights or duties under this code, including:

(1) the procedure by which the voter will receive a renewal certificate;

(2) the necessity of notifying the registrar if the voter changes residence;

(3) the necessity of applying for a new registration if the voter changes residence to another county;

(4) the period during which the voter may vote a limited ballot after changing residence to another county;

(5) the procedure for voting without a certificate; and

(6) the procedure for obtaining a replacement for a lost or destroyed certificate.

(b) An explanation authorized by Subsection (a) may appear on a separate sheet accompanying the certificate when it is delivered. (V.T.E.C. Art. 5.14a, Subdiv. 3(b).)

Sec. 15.003. SIGNING CERTIFICATE BY VOTER. (a) On receipt of a voter registration certificate issued under this title, the person to whom the certificate is issued must personally sign it in the appropriate space.

(b) This section does not apply to a person who cannot sign the certificate because of a physical disability or illiteracy. (V.T.E.C. Art. 5.14a, Subdiv. 3(a).)

Sec. 15.004. REPLACEMENT CERTIFICATE. (a) A voter whose registration certificate is lost or destroyed may obtain a replacement certificate by delivering a written, signed notice of the loss or destruction to the registrar.

(b) On receipt of the notice, the registrar shall deliver to the voter a replacement certificate containing:

(1) the registration number and other information on the lost or destroyed certificate; and

(2) a notation that the certificate is a replacement.

(c) The registrar shall retain the notice on file with the voter's registration application. (V.T.E.C. Art. 5.16a, Subdiv. 6.)

[Sections 15.005-15.020 reserved for expansion]

SUBCHAPTER B. CORRECTION OF REGISTRATION INFORMATION

Sec. 15.021. NOTICE OF CHANGE IN REGISTRATION INFORMATION BY VOTER. (a) If a voter discovers incorrect information on the voter's registration certificate or if any of the information becomes incorrect because of a change in circumstances, the voter shall promptly deliver to the registrar a written, signed notice of the incorrect information and the corresponding correction.

(b) The voter shall use the registration certificate as the notice, indicating the correct information in the appropriate space on the certificate unless the voter does not have possession of the certificate at the time of giving the notice.

(c) The registrar shall retain the notice on file with the voter's registration application. If the correction is a change of the voter's name, the registrar shall file the application under the new name. (V.T.E.C. Art. 5.16a, Subdiv. 1; Art. 5.18a, Subdivs. 1, 2; Art. 5.18d, Subdiv. 1.)

Sec. 15.022. CORRECTION OF REGISTRATION RECORDS. (a) The registrar shall make the appropriate corrections in the registration records, including, if necessary, deleting a voter's name from the list of returned certificates:

(1) after receipt of a notice of a change in registration information under Section 15.021;

(2) after receipt of a voter's reply to a notice of investigation given under Section 16.033;

(3) after receipt of a registration omissions list following an election;

(4) after receipt of a voter's affidavit of residence executed under Section 14.052;

(5) before the effective date of the abolishment of a county election precinct or a change in its boundary; or

(6) after receipt of United States Postal Service information indicating an address reclassification.

(b) At least monthly, the registrar shall request from the United States Postal Service any available information indicating address reclassifications affecting the registered voters of the county. (V.T.E.C. Art. 5.16a, Subdivs. 1, 5; Art. 5.16b; Art. 5.18a, Subdivs. 1, 2, 5; Art. 5.18d, Subdiv. 1; New.)

Sec. 15.023. **TIME FOR CERTAIN DELETIONS FROM LIST OF RETURNED CERTIFICATES.** If the name of a voter whose residence is changed on the registration records to another county election precinct in the same county appears on the list of returned certificates, the voter's name shall be deleted from the list on the date the voter's registration in the precinct of new residence becomes effective. (V.T.E.C. Art. 5.18a, Subdiv. 2.)

Sec. 15.024. **CORRECTED REGISTRATION CERTIFICATE.** (a) Except as provided by Subsection (b), after correcting the registration records with respect to a voter, if necessary, the registrar shall promptly issue the voter a registration certificate containing the appropriate corrections and deliver it to the voter.

(b) A corrected certificate is not required for a correction to the registration records under Section 15.022(a)(5). (V.T.E.C. Art. 5.16a, Subdivs. 1, 5; Art. 5.16b; Art. 5.18a, Subdivs. 1, 2, 5; Art. 5.18d, Subdiv. 1.)

Sec. 15.025. **EFFECTIVE DATE OF REGISTRATION IN PRECINCT OF NEW RESIDENCE.** The registration of a voter whose residence is changed on the registration records to another county election precinct in the same county becomes effective in the precinct of new residence on the 30th day after:

(1) the date the registrar receives a notice of a change in registration information under Section 15.021 or a voter's reply to a notice of investigation given under Section 16.033, as applicable, indicating the change of residence; or

(2) the date the voter submits an affidavit indicating the change of residence to an election officer under Section 14.052. (V.T.E.C. Art. 5.18a, Subdiv. 2; New.)

Sec. 15.026. **EFFECTIVE DATE OF REGISTRATION UNDER NEW NAME.** The registration of a voter whose name is changed on the registration records becomes effective under the new name on the 30th day after the date the registrar receives notice of the change of name. (V.T.E.C. Art. 5.18d, Subdiv. 2.)

Sec. 15.027. **NOTICE TO VOTER OF PRECINCT BOUNDARY CHANGE.** (a) Before the effective date of the abolishment of a county election precinct or a change in its boundary, the registrar shall deliver written notice of that action to each affected registered voter.

(b) If the voter is not issued a corrected registration certificate, the notice shall inform the voter of the new precinct number and direct the voter to correct the precinct number on his registration certificate and to retain the certificate for continued use. (V.T.E.C. Art. 5.16b.)

Sec. 15.028. **NOTICE OF UNLAWFUL VOTING TO PROSECUTOR.** If the registrar determines that a person who is not a registered voter voted in an election, the registrar shall notify the appropriate prosecuting attorney of that fact. (V.T.E.C. Art. 5.16a, Subdiv. 5.)

[Sections 15.029-15.050 reserved for expansion]

SUBCHAPTER C. CERTIFICATE FILES

Sec. 15.051. **ACTIVE CERTIFICATE FILE.** (a) The registrar shall maintain a file containing the duplicate initial registration certificates of voters whose registrations are effective.

(b) The registrar shall maintain the file in numerical order by registration number on a countywide basis.

(c) Each certificate shall be retained on file during the time the registration is effective. (V.T.E.C. Art. 5.15a, Subdiv. 2(a).)

Sec. 15.052. **INACTIVE CERTIFICATE FILE.** (a) The registrar shall maintain a file containing the duplicate initial registration certificates of voters whose registrations have been canceled.

(b) The registrar shall maintain the file in numerical order by registration number on a countywide basis for each voting year.

(c) Each certificate shall be retained on file for two years after the date of cancellation. (V.T.E.C. Art. 5.15a, Subdiv. 2(b).)

Sec. 15.053. **MAINTENANCE OF FILES AS ELECTRONIC DATA-PROCESSING INFORMATION.** The registrar may maintain the active or inactive certificate file as information stored in a form suitable for use with electronic data-processing equipment. After the appropriate information is stored, the registrar may destroy or otherwise dispose of a duplicate certificate. (V.T.E.C. Art. 5.15a, Subdiv. 2(c).)

Sec. 15.054. **PLACE FOR KEEPING FILES; SECURITY.** (a) The registration certificate files maintained under this subchapter shall be kept in the registrar's office at all times in a place and manner ensuring their security.

(b) Certificates may be removed from the registrar's office temporarily, in a manner ensuring their security, for use in preparing registration certificates, lists of registered voters, and other registration documents by electronic data-processing methods. (V.T.E.C. Art. 5.15a, Subdiv. 3.)

CHAPTER 16. CANCELLATION OF REGISTRATION

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CHAPTER 16. CANCELLATION OF REGISTRATION

SUBCHAPTER A. OFFICIAL NOTICE TO REGISTRAR

Sec. 16.001. DEATH. (a) Each month the local registrar of deaths shall prepare an abstract of each death certificate issued in the month for a decedent 18 years of age or older who was a resident of the state at the time of death. The local registrar of deaths shall file each abstract with the voter registrar of the decedent's county of residence not later than the 10th day of the month following the month in which the abstract is prepared.

(b) Each month the clerk of each court having probate jurisdiction shall prepare an abstract of each application for probate of a will or administration of a decedent's estate filed in the month with a court served by the clerk. The clerk shall file each abstract with the voter registrar not later than the 10th day of the month following the month in which the abstract is prepared.

(c) Not later than the 10th day of each month, the Bureau of Vital Statistics shall furnish to the secretary of state available information specified by the secretary relating to deceased residents of the state. Periodically, the secretary shall furnish to the appropriate voter registrars information obtained from the bureau that will assist in identifying the deceased registered voters of each county. (V.T.E.C. Art. 5.18c, Subdiv. 1; New.)

Sec. 16.002. **MENTAL INCOMPETENCE.** (a) Each month the clerk of each court having jurisdiction to adjudge a person mentally incompetent shall prepare an abstract of each final judgment of a court served by the clerk, occurring in the month, adjudging a person 18 years of age or older who is a resident of the state to be mentally incompetent.

(b) The clerk shall file each abstract with the voter registrar of the person's county of residence not later than the 10th day of the month following the month in which the abstract is prepared. (V.T.E.C. Art. 5.18c, Subdiv. 2.)

Sec. 16.003. **FELONY CONVICTION.** (a) Each month the clerk of each court having felony jurisdiction shall prepare an abstract of each final judgment of a court served by the clerk, occurring in the month, convicting a person 18 years of age or older who is a resident of the state of a felony.

(b) The clerk shall file each abstract with the voter registrar of the person's county of residence not later than the 10th day of the month following the month in which the abstract is prepared. (V.T.E.C. Art. 5.18c, Subdiv. 3.)

Sec. 16.004. **DISQUALIFICATION IN ELECTION CONTEST.** Not later than the 10th day after the date a judgment in an election contest in which a person is adjudged not to be a qualified voter becomes final, the district clerk shall prepare an abstract of the judgment, which shall include each disqualified person's name, and file it with the voter registrar of each county in which a person adjudged disqualified was registered on the date of the contested election. (V.T.E.C. Art. 5.18c, Subdiv. 5; New.)

Sec. 16.005. **PRESERVATION OF ABSTRACT.** If an abstract received under this subchapter affects a registered voter of the county, the registrar shall retain a copy of the abstract on file with the affected voter's registration application. (New.)

[Sections 16.006-16.030 reserved for expansion]

SUBCHAPTER B. CANCELLATION

Sec. 16.031. **CANCELLATION ON OFFICIAL NOTICE OF INELIGIBILITY.** (a) The registrar shall cancel a voter's registration immediately on receipt of:

- (1) notice under Section 13.072(b) or 15.021 that the voter's residence is outside the county;
- (2) an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b); or
- (3) an abstract of a final judgment of the voter's mental incompetence, conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004.

(b) The registrar shall cancel a voter's registration immediately if the registrar:

- (1) determines from information received under Section 16.001(c) that the voter is deceased;
- (2) has personal knowledge that the voter is deceased; or
- (3) receives from a person related within the second degree by consanguinity or affinity to the voter a sworn statement by that person indicating that the voter is deceased. (V.T.E.C. Art. 5.18a, Subdiv. 4; Art. 5.18c; New.)

Sec. 16.032. **CANCELLATION FOLLOWING RETURN OF RENEWAL CERTIFICATE.** If on August 16 of an even-numbered year a registered voter's name appears on the list of returned certificates, the registrar shall cancel the voter's registration unless the name is to be deleted from the list under Section 15.023. (V.T.E.C. Art. 5.14a, Subdiv. 2(e).)

Sec. 16.033. **CANCELLATION FOLLOWING INVESTIGATION BY REGISTRAR.** (a) The registrar may use any lawful means to investigate whether a registered voter's current residence is different from the residence indicated on the registration records or whether a voter is currently eligible for registration in the county.

(b) If the registrar has reason to believe that a voter's current residence is different from that indicated on the registration records or that the voter is no longer eligible for registration, the registrar shall deliver written notice to the voter indicating that the voter's registration status is being investigated by the registrar. The notice shall be delivered by forwardable mail to the mailing address on the voter's registration application and to any new address of the voter known to the registrar.

(c) The notice must include:

(1) a request for verification of the voter's current residence or a request for other information relevant to determining the voter's eligibility for registration; and

(2) a warning that the voter's registration is subject to cancellation if the registrar does not receive an appropriate reply on or before the 60th day after the date the notice is mailed.

(d) Except as provided by Subsection (e), the registrar shall cancel a voter's registration if:

(1) after considering the voter's reply, the registrar determines that the voter is not eligible for registration;

(2) no reply is received from the voter on or before the 60th day after the date the notice is mailed to the voter under Subsection (b); or

(3) each notice mailed under Subsection (b) is returned undelivered to the registrar with no forwarding information available.

(e) A voter's registration may not be canceled under Subsection (d) if the voter's name appears on the list of returned certificates unless the notice mailed to the voter indicated that the registrar had reason to believe that the voter is not eligible for registration because of a change of residence to a place outside the county or for some other reason.

(f) The registrar shall retain a copy of the notice mailed to a voter under this section on file with the voter's registration application. If the voter's reply to the notice is in writing, the registrar shall also retain the reply on file with the application. If the reply is oral, the registrar shall prepare a memorandum of the reply, indicating the substance and date of the reply, and shall retain the memorandum on file with the application. (V.T.E.C. Art. 5.18a, Subdiv. 5; New.)

Sec. 16.034. **RECORDING CANCELLATION.** On cancellation of a voter's registration, the registrar shall enter the date of and reason for the cancellation on the voter's registration application and duplicate registration certificate and make any other appropriate corrections in the registration records. (V.T.E.C. Art. 5.15a, Subdivs. 1(b), 2(b).)

Sec. 16.035. **EFFECTIVE DATE OF CANCELLATION.** A cancellation of a voter's registration takes effect immediately. (V.T.E.C. Art. 5.18a, Subdivs. 5(b), (c).)

Sec. 16.036. **NOTICE OF CANCELLATION TO VOTER.** (a) Immediately after cancellation of a voter's registration under Section 16.031(a)(3) or 16.033, the registrar shall deliver written notice of the cancellation to the voter.

(b) The notice shall be delivered by mail to the mailing address on the voter's registration application and to any new address known to the registrar.

(c) The notice must include:

(1) the date of cancellation;

(2) the reason for cancellation; and

(3) a brief explanation of the voter's right to challenge the cancellation and to appeal the registrar's decision. (V.T.E.C. Art. 5.18a, Subdiv. 5(b); Art. 5.18c, Subdiv. 6; New.)

Sec. 16.037. **REINSTATEMENT OF REGISTRATION.** (a) If the registrar determines after cancellation of a registration that the registration should not have been canceled, the registrar shall reinstate it.

(b) If, after canceling a voter's registration under Section 16.032, the registrar receives an affidavit of residence executed by the voter under Section 14.052 at an election held before August 16, the registrar shall reinstate the registration.

(c) On reinstatement of a registration, the registrar shall enter the date of and reason for the reinstatement on the voter's registration application and duplicate registration certificate, make any appropriate corrections in the registration records, and take any other action necessary to give effect to the reinstatement.

(d) A reinstatement of a registration takes effect immediately. (V.T.E.C. Art. 5.18c, Subdiv. 6; New.)

Sec. 16.038. **NOTICE OF REINSTATEMENT TO VOTER.** (a) Immediately on reinstatement of a registration, the registrar shall deliver written notice of the reinstatement to the voter.

(b) The notice shall be delivered by mail to the mailing address on the voter's registration application and to any new address known to the registrar.

(c) The notice must include the date of and reason for the reinstatement. (New.)

[Sections 16.039-16.060 reserved for expansion]

SUBCHAPTER C. CHALLENGE OF CANCELLATION

Sec. 16.061. **RIGHT TO CHALLENGE CANCELLATION.** A person whose voter registration is canceled may challenge the cancellation at a hearing before the registrar. (V.T.E.C. Art. 5.14a, Subdiv. 2(e); Art. 5.18a, Subdiv. 5(c); New.)

Sec. 16.062. **REQUEST FOR HEARING ON CHALLENGE.** A person desiring to challenge the cancellation of his registration must file with the registrar a written, signed request for a hearing on the challenge. (V.T.E.C. Art. 5.14a, Subdiv. 2(e); Art. 5.18a, Subdiv. 5(c).)

Sec. 16.063. **REINSTATEMENT PENDING CHALLENGE.** (a) On the filing of a hearing request under Section 16.062, the registrar shall reinstate the challenging voter's registration pending determination of the challenge.

(b) Sections 16.037(c) and (d) apply to a reinstatement under this section. (V.T.E.C. Art. 5.18a, Subdiv. 5(c); New.)

Sec. 16.064. **HEARING ON CHALLENGE.** (a) On the filing of a hearing request, the registrar shall schedule a hearing on the challenge.

(b) The registrar shall conduct the hearing not later than the 10th day after the date the request is filed or on a later date at the request of the challenging voter.

(c) The voter may appear personally at the hearing to offer evidence or argument. The voter may offer evidence or argument by affidavit without personally appearing if the voter submits the affidavit to the registrar before the hearing begins. (V.T.E.C. Art. 5.14a, Subdiv. 2(e); Art. 5.18a, Subdiv. 5(c); New.)

Sec. 16.065. **NOTICE OF HEARING.** The registrar shall deliver written notice of the date, hour, and place set for the hearing on the challenge to the challenging voter not later than the second day after the date the hearing request is filed. (V.T.E.C. Art. 5.14a, Subdiv. 2(e); Art. 5.18a, Subdiv. 5(c); New.)

Sec. 16.066. **DETERMINATION OF CHALLENGE.** (a) After hearing and considering the evidence or argument, the registrar shall promptly determine the challenge and issue a decision in writing.

(b) If the registrar determines that the registration should not have been canceled, the registration continues in effect.

(c) If the registrar determines that the cancellation of the registration was proper, the registrar shall cancel the registration on the 31st day after the date the registrar's decision is issued.

(d) The registrar shall retain a copy of the decision on file with the duplicate registration certificate of the challenging voter and shall deliver a copy to the voter. (V.T.E.C. Art. 5.14a, Subdiv. 2(e); Art. 5.18a, Subdiv. 5(c); New.)

[Sections 16.067-16.090 reserved for expansion]

SUBCHAPTER D. CHALLENGE OF REGISTRATION

Sec. 16.091. **RIGHT TO CHALLENGE REGISTRATION.** A registered voter may challenge the registration of another voter of the same county at a hearing before the registrar. (V.T.E.C. Art. 5.17a(2).)

Sec. 16.092. **SWORN STATEMENT REQUIRED.** A voter desiring to challenge a registration must file with the registrar a sworn statement of the grounds for the challenge. (V.T.E.C. Art. 5.17a(2).)

Sec. 16.093. **HEARING ON CHALLENGE.** (a) On the filing of a sworn statement under Section 16.092, the registrar shall schedule a hearing on the challenge.

(b) The registrar shall conduct the hearing not later than the 20th day after the date the statement is filed or on a later date requested by either party and agreed to by both parties.

(c) A party may appear personally at the hearing to offer evidence or argument. A party may offer evidence or argument by affidavit without personally appearing if the party submits the affidavit to the registrar before the hearing begins. (V.T.E.C. Art. 5.17a(2); New.)

Sec. 16.094. **NOTICE OF HEARING.** (a) The registrar shall deliver written notice of the hearing on the challenge to each party to the controversy not later than the 15th day before the date of the hearing.

(b) The notice must include:

- (1) the date, hour, and place set for the hearing; and
- (2) a brief explanation of the right to appeal the registrar's decision.

(c) The notice delivered to the voter whose registration is challenged must be accompanied by a copy of the sworn statement of the grounds for the challenge. (V.T.E.C. Art. 5.17a(2); New.)

Sec. 16.095. **DETERMINATION OF CHALLENGE.** (a) After hearing and considering the evidence or argument, the registrar shall promptly determine the challenge and issue a decision in writing.

(b) If the registrar determines that the voter's registration should not be canceled, the registration continues in effect.

(c) If the registrar determines that the voter's registration should be canceled, the registrar shall cancel the registration on the 31st day after the date the registrar's decision is issued.

(d) The registrar shall retain a copy of the decision on file with the duplicate registration certificate of the voter whose registration was challenged and shall deliver a copy to each party to the challenge. (V.T.E.C. Art. 5.17a(2); New.)

CHAPTER 17. JUDICIAL REVIEW

Sec. 17.001. RIGHT OF APPEAL BY APPLICANT FOR REGISTRATION

Sec. 17.002. RIGHT OF APPEAL BY REGISTERED VOTER

Sec. 17.003. PETITION FOR REVIEW

Sec. 17.004. COPY FILED WITH REGISTRAR

Sec. 17.005. CANCELLATION DELAYED PENDING APPEAL

Sec. 17.006. VENUE

Sec. 17.007. SCOPE OF REVIEW

Sec. 17.008. DECISION NOT APPEALABLE

CHAPTER 17. JUDICIAL REVIEW

Sec. 17.001. RIGHT OF APPEAL BY APPLICANT FOR REGISTRATION. An applicant for voter registration is entitled to appeal an adverse decision issued by the registrar under Section 13.079. (V.T.E.C. Art. 5.17a(1).)

Sec. 17.002. RIGHT OF APPEAL BY REGISTERED VOTER. A party to a challenge under Subchapter C or D of Chapter 16 is entitled to appeal an adverse decision issued by the registrar. (V.T.E.C. Art. 5.14a, Subdiv. 2(e); Art. 5.17a(2); Art. 5.18a, Subdiv. 5(c).)

Sec. 17.003. PETITION FOR REVIEW. (a) A party desiring to appeal under this chapter must file a petition for review in the district court not later than the 30th day after the date the adverse decision is issued.

(b) Citation is issued and served in the manner provided by law for civil suits generally. (V.T.E.C. Art. 5.14a, Subdiv. 2(e); Arts. 5.17a(1), (2); Art. 5.18a, Subdiv. 5(c); New.)

Sec. 17.004. COPY FILED WITH REGISTRAR. (a) Not later than the deadline for filing a petition for review, the petitioner must deliver a copy of the petition to the registrar who issued the adverse decision.

(b) A petition delivered by mail is considered to be delivered at the time of its receipt by the registrar. (New.)

Sec. 17.005. CANCELLATION DELAYED PENDING APPEAL. If a voter's registration is to be canceled following a decision from which an appeal is taken, the registrar shall delay canceling the registration, pending the outcome of the appeal, on the timely delivery of the copy of the petition for review. (V.T.E.C. Art. 5.17a(2); Art. 5.18a, Subdiv. 5(c); New.)

Sec. 17.006. VENUE. Venue of an appeal under this chapter is in the county served by the registrar who issued the decision from which the appeal is taken. (V.T.E.C. Art. 5.14a, Subdiv. 2(e); Arts. 5.17a(1), (2); Art. 5.18a, Subdiv. 5(c).)

Sec. 17.007. SCOPE OF REVIEW. (a) Review by the district court under this chapter is by trial de novo.

(b) The district court shall try all issues of fact and law raised by the pleadings in the manner applicable to civil suits generally.

(c) The court may not admit in evidence the fact of prior action by the registrar, except to the extent necessary to establish its jurisdiction. (V.T.E.C. Art. 5.17a(3); New.)

Sec. 17.008. DECISION NOT APPEALABLE. A decision of the district court under this chapter is not appealable. (V.T.E.C. Art. 5.14a, Subdiv. 2(e); Arts. 5.17a(1), (2); Art. 5.18a, Subdiv. 5(c).)

CHAPTER 18. PROCEDURES FOR IDENTIFYING REGISTERED VOTERS

SUBCHAPTER A. REGISTRATION LISTS

Sec. 18.001. ORIGINAL LIST OF REGISTERED VOTERS

Sec. 18.002. SUPPLEMENTAL LIST OF REGISTERED VOTERS

Sec. 18.003. REGISTRATION CORRECTION LIST

Sec. 18.004. REVISED ORIGINAL LIST

Sec. 18.005. FORM AND CONTENTS OF LIST

- Sec. 18.006. DELIVERY OF LISTS TO ELECTION AUTHORITIES
- Sec. 18.007. LISTS FURNISHED FOR PRECINCT CONVENTIONS
- Sec. 18.008. COPIES FURNISHED ON REQUEST
- Sec. 18.009. UNLAWFUL USE OF INFORMATION ON REGISTRATION LIST
- Sec. 18.010. FEES
- Sec. 18.011. FILE OF LISTS FOR COUNTYWIDE ELECTION
- Sec. 18.012. SECRETARY OF STATE TO APPROVE COMPUTER SERVICES CONTRACTS

[Sections 18.013-18.040 reserved for expansion]

SUBCHAPTER B. ANNUAL REGISTRATION STATEMENT

- Sec. 18.041. REGISTRATION STATEMENT
- Sec. 18.042. FILING STATEMENT WITH SECRETARY OF STATE

[Sections 18.043-18.060 reserved for expansion]

SUBCHAPTER C. REGISTRATION SERVICE PROGRAM

- Sec. 18.061. REGISTRATION SERVICE PROGRAM AUTHORIZED
- Sec. 18.062. STATE MASTER FILE
- Sec. 18.063. INFORMATION FURNISHED BY REGISTRAR
- Sec. 18.064. SANCTION FOR NONCOMPLIANCE
- Sec. 18.065. SECRETARY OF STATE TO MONITOR REGISTRAR'S COMPLIANCE
- Sec. 18.066. AVAILABILITY OF MASTER FILE INFORMATION
- Sec. 18.067. UNLAWFUL USE OF MASTER FILE INFORMATION

CHAPTER 18. PROCEDURES FOR IDENTIFYING REGISTERED VOTERS

SUBCHAPTER A. REGISTRATION LISTS

Sec. 18.001. ORIGINAL LIST OF REGISTERED VOTERS. (a) Before the beginning of absentee voting for the first election held in a county in each voting year, the registrar shall prepare for each county election precinct a certified list of the registered voters in the precinct. The list must contain the name of each voter whose registration will be effective on the date of the first election held in the county in the voting year.

(b) On request of the authority responsible for procuring election supplies for an election authorized by law to be held in the county during the voting year for which the lists are prepared, the registrar shall furnish to the authority a list for each county election precinct wholly or partly in the territory covered by the election.

(c) Except as otherwise provided by this code, the list shall be used throughout the voting year.

(d) An additional copy of each list shall be furnished for use in absentee voting.

(e) In this code, "original list of registered voters" means a list prepared under this section. (V.T.E.C. Arts. 5.19a(1), (2); New.)

Sec. 18.002. SUPPLEMENTAL LIST OF REGISTERED VOTERS. (a) For each election held in the county in a voting year, on request of the authority responsible for procuring election supplies, the registrar shall prepare and furnish to the authority a certified list supplementing each original list furnished to the authority. The list must contain the name of each voter whose registration will be effective on election day but whose name does not appear on the original list.

(b) For a runoff election, as an alternative to the list required by Subsection (a), the registrar may furnish for each county election precinct wholly or partly in the territory covered by the runoff a certified list containing the name of each voter whose registration will be effective on runoff election day but whose name does not appear on the original list or on a list furnished under Subsection (a) for the main election.

(c) An additional copy of each list shall be furnished for use in absentee voting.

(d) In this code, "supplemental list of registered voters" means a list prepared under this section. (V.T.E.C. Arts. 5.19a(1), (2); New.)

Sec. 18.003. REGISTRATION CORRECTION LIST. (a) For each election held in the county in a voting year, the registrar shall prepare and furnish to the authority responsible for procuring election supplies a certified list of corrections.

(b) The list must contain:

(1) the name of each person for whom the information on a list of registered voters furnished under Section 18.001 or 18.002 has changed because of cancellation or correction; and

(2) an indication that the person's registration has been canceled or the corrected registration information.

(c) An additional copy of each list shall be furnished for use in absentee voting.

(d) In this code, "registration correction list" means a list prepared under this section. (V.T.E.C. Arts. 5.19a(1), (2); New.)

Sec. 18.004. REVISED ORIGINAL LIST. (a) As an alternative to furnishing a supplemental list of registered voters and a correction list for an election, the registrar may furnish a certified revised original list.

(b) A revised list must contain the name of each voter whose registration will be effective on election day. (V.T.E.C. Art. 5.19a(1).)

Sec. 18.005. FORM AND CONTENTS OF LIST. Each original and supplemental list of registered voters must:

(1) contain the voter's name, residence address, sex, date of birth, and registration number; and

(2) be arranged alphabetically by voter name. (V.T.E.C. Art. 5.19a(1).)

Sec. 18.006. DELIVERY OF LISTS TO ELECTION AUTHORITIES. The registrar shall deliver the lists furnished under this subchapter to the appropriate authority as soon as practicable after the request but in every case in time for receipt before the beginning of absentee voting by personal appearance for the election in which the lists are to be used. (V.T.E.C. Arts. 5.19a(1), (2).)

Sec. 18.007. LISTS FURNISHED FOR PRECINCT CONVENTIONS. In a voting year in which a political party holds precinct conventions in the county under Title 10, the registrar, on request of the party's county chairman, shall furnish to the chairman for use in qualifying individuals for participation in the conventions one of each of the original, supplemental, and correction lists prescribed by this subchapter. (V.T.E.C. Art. 5.19a(3).)

Sec. 18.008. COPIES FURNISHED ON REQUEST. (a) The registrar shall furnish a copy of any list prepared under this subchapter to any person requesting it.

(b) The list shall be furnished as soon as practicable after the request but not later than the 15th day after the date the registrar receives the request or completes preparation of the list from which the copy is to be made, whichever is later.

(c) If the list is recorded on magnetic tape, the copy shall be furnished in the form of a tape or printout, as requested. (V.T.E.C. Arts. 5.19a(4), (5); New.)

Sec. 18.009. UNLAWFUL USE OF INFORMATION ON REGISTRATION LIST. (a) A person commits an offense if the person uses information in connection with advertising or promoting commercial products or services that he knows was obtained under Section 18.008.

(b) An offense under this section is a Class A misdemeanor. (New.)

Sec. 18.010. FEES. (a) The registrar may not charge a fee for furnishing lists required to be furnished under this subchapter except as authorized by this section.

(b) The fee for each list furnished under Section 18.008 may not exceed the actual expense incurred in reproducing the list for the person requesting it and shall be uniform for each type of copy furnished.

(c) The registrar shall use fees collected under this section to defray expenses incurred in the preparation of the copy. (V.T.E.C. Arts. 5.19a(3), (4); New.)

Sec. 18.011. FILE OF LISTS FOR COUNTYWIDE ELECTION. (a) The registrar shall maintain a file containing one of each of the lists prepared under this subchapter for each countywide election.

(b) The registrar shall retain each list on file for two years after election day except a list used in a presidential election, which shall be retained for four years after election day. (V.T.E.C. Art. 5.19a(2); New.)

Sec. 18.012. SECRETARY OF STATE TO APPROVE COMPUTER SERVICES CONTRACTS. A county may not contract with a computer service company or other private business entity for services related to the lists required under this subchapter unless the programs, equipment, or other materials to be covered by the contract are approved by the secretary of state. (New.)

[Sections 18.013-18.040 reserved for expansion]

SUBCHAPTER B. ANNUAL REGISTRATION STATEMENT

Sec. 18.041. REGISTRATION STATEMENT. (a) Each voting year the registrar shall prepare a written statement of the number of registered voters in each county election precinct as of March 1.

(b) The registrar shall retain a copy of the statement on file as a registration record for two years. (V.T.E.C. Art. 5.21a; New.)

Sec. 18.042. FILING STATEMENT WITH SECRETARY OF STATE. (a) The registrar shall file the annual registration statement with the secretary of state not later than March 8.

(b) The secretary of state shall retain the statement on file for two years. (V.T.E.C. Art. 5.21a; New.)

[Sections 18.043-18.060 reserved for expansion]

SUBCHAPTER C. REGISTRATION SERVICE PROGRAM

Sec. 18.061. REGISTRATION SERVICE PROGRAM AUTHORIZED. (a) The secretary of state may implement a registration service program to assist registrars in maintaining accurate lists of registered voters.

(b) A service program must include:

(1) obtaining registration information from registrars and other available sources for a master file on registered voters;

(2) periodically obtaining information from registrars and other available sources for the following purposes:

(A) to aid in determining the proper status of voters on the lists of registered voters;

and

(B) to aid in ascertaining the proper registration information for each registered voter;

and

(3) furnishing information that may be useful to the registrars in the performance of their official duties.

(c) The secretary of state may contract with counties to provide them with electronic data services to facilitate the implementation of the registration service program. The secretary shall use funds collected under the contracts to defray expenses incurred in implementing the registration service program. (V.T.E.C. Art. 5.15b, Subdivs. 1, 2.)

Sec. 18.062. STATE MASTER FILE. (a) If a registration service program is implemented, the secretary of state shall maintain a master file containing registration information for each registered voter in the state.

(b) The information must be arranged according to county of registration.

(c) The file must include each voter's:

(1) name;

(2) county of residence;

(3) county election precinct number;

(4) residence address or, if the residence has no address, the address at which the voter receives mail;

(5) sex;

(6) date of birth; and

(7) registration number. (V.T.E.C. Art. 5.15b, Subdiv. 3(a); New.)

Sec. 18.063. INFORMATION FURNISHED BY REGISTRAR. (a) On or after March 1 but before March 16 and on or after September 1 but before September 16 of each even-numbered year, each registrar shall deliver to the secretary of state a list containing each new registration, canceled registration, and change in registration information that has occurred in the county since the delivery of the previous corresponding list. The information on the list must be current as of the date of delivery. The secretary shall use the information to update the state master file.

(b) The secretary shall prescribe the form for the lists required by this section. (V.T.E.C. Art. 5.14a, Subdiv. 2(f); Art. 5.15b, Subdiv. 3(b); New.)

Sec. 18.064. SANCTION FOR NONCOMPLIANCE. If a registrar fails to comply with Section 18.063 or with rules adopted by the secretary of state implementing the registration service program, the registrar is not entitled to receive state funds for financing voter registration in the county. (V.T.E.C. Art. 5.19b, Subdiv. 3; New.)

Sec. 18.065. SECRETARY OF STATE TO MONITOR REGISTRAR'S COMPLIANCE. (a) The secretary of state shall monitor each registrar for compliance with Section 18.063 and with rules implementing the registration service program.

(b) On determining that a registrar is not in compliance, the secretary shall deliver written notice of the noncompliance to:

(1) the registrar, including in the notice a description of the violation and an explanation of the action necessary for compliance and of the consequences of noncompliance; and

(2) the comptroller of public accounts, including in the notice the identity of the noncomplying registrar.

(c) On determining that a noncomplying registrar has corrected the violation and is in compliance, the secretary shall deliver written notice to the registrar and to the comptroller that the registrar is in compliance.

(d) The comptroller shall retain a notice received under this section on file until July 1 following the voting year in which it is received. The secretary shall retain a copy of each notice the secretary delivers under this section for two years after the date the notice is delivered. (V.T.E.C. Art. 5.19b, Subdiv. 3; New.)

Sec. 18.066. AVAILABILITY OF MASTER FILE INFORMATION. (a) The secretary of state shall furnish information in the state master file to any person on request not later than the 15th day after the date the request is received.

(b) Information furnished under this section may not include a voter's social security number.

(c) The secretary shall furnish the information in the form and order in which it is stored or if practicable in any other form or order requested.

(d) To receive information under this section, a person must submit an affidavit to the secretary stating that the person will not use the information obtained in connection with advertising or promoting commercial products or services.

(e) The secretary may prescribe a schedule of fees for furnishing information under this section. A fee may not exceed the actual expense incurred in reproducing the information requested.

(f) The secretary shall use fees collected under this section to defray expenses incurred in the furnishing of the information. (V.T.E.C. Art. 5.15b, Subdiv. 3(a); New.)

Sec. 18.067. UNLAWFUL USE OF MASTER FILE INFORMATION. (a) A person commits an offense if the person uses information in connection with advertising or promoting commercial products or services that he knows was obtained under Section 18.066.

(b) An offense under this section is a Class A misdemeanor. (V.T.E.C. Art. 5.15b, Subdiv. 4; New.)

CHAPTER 19. FINANCING VOTER REGISTRATION

Sec. 19.001. STATEMENT OF REGISTRATIONS SUBMITTED TO COMPTROLLER

Sec. 19.002. ISSUANCE OF WARRANTS BY COMPTROLLER

Sec. 19.003. DISBURSEMENT OF STATE FUNDS

Sec. 19.004. USE OF STATE FUNDS RESTRICTED

Sec. 19.005. STATE FUNDS NOT FEES OF OFFICE

Sec. 19.006. STATE FUNDS NOT PART OF COUNTY BUDGET

CHAPTER 19. FINANCING VOTER REGISTRATION

Sec. 19.001. STATEMENT OF REGISTRATIONS SUBMITTED TO COMPTROLLER. (a) Before May 15 of each year, the registrar shall prepare and submit to the comptroller of public accounts a statement containing:

(1) the total number of initial registrations for the previous voting year; and

(2) the total number of registrations canceled under Sections 16.031(a)(1) and 16.033 for the previous voting year.

(b) In each even-numbered year, the registrar shall include in the statement the total number of voters on the lists of registered voters on the date of the first election held in the county in the voting year.

(c) The registrar shall certify that the information in the statement is accurate. (V.T.E.C. Art. 5.19b, Subdiv. 1; New.)

Sec. 19.002. ISSUANCE OF WARRANTS BY COMPTROLLER. (a) Each registrar is entitled to receive the sum of the following amounts:

(1) 40 cents multiplied by the number of initial registrations certified under Section 19.001(a)(1);

(2) 40 cents multiplied by the number of canceled registrations certified under Section 19.001(a)(2); and

(3) in each even-numbered year, 40 cents multiplied by the difference between the number of registered voters and the number of initial registrations certified for the two previous voting years.

(b) Before July 1 of each year, the comptroller of public accounts shall issue to each registrar a warrant pursuant to a voucher submitted by the registrar and approved by the secretary of state in an amount not exceeding the registrar's entitlement. Subsequent warrants for any remainder of the entitlement shall be issued in the same manner.

(c) The comptroller may require additional proof to substantiate the information in the certified statement before issuing a warrant.

(d) The comptroller may not issue a warrant to a registrar if on June 1 of the year in which the warrant is to be issued the most recent notice received by the comptroller from the secretary of state under Section 18.065 indicates that the registrar is not in compliance with Section 18.063 or with rules implementing the registration service program. (V.T.E.C. Art. 5.19b, Subdivs. 2, 3; New.)

Sec. 19.003. DISBURSEMENT OF STATE FUNDS. Only funds from the General Revenue Fund may be appropriated for the disbursements required by this chapter. (V.T.E.C. Art. 5.19b, Subdiv. 4.)

Sec. 19.004. USE OF STATE FUNDS RESTRICTED. State funds received by a registrar under this chapter may be used only to defray expenses of the registrar's office in connection with voter registration. (V.T.E.C. Art. 5.19b, Subdiv. 4; New.)

Sec. 19.005. STATE FUNDS NOT FEES OF OFFICE. State funds received by a registrar under this chapter are not and may not be treated as fees of office. (V.T.E.C. Art. 5.19b, Subdiv. 4.)

Sec. 19.006. STATE FUNDS NOT PART OF COUNTY BUDGET. The commissioners court may not consider the availability of state funds under this chapter in adopting the county budget for the office of the voter registrar. (V.T.E.C. Art. 5.09a, Subdiv. 3; New.)

TITLE 3. ELECTION OFFICERS AND OBSERVERS

- Chapter 31. Officers to Administer Elections
- Chapter 32. Election Judges and Clerks
- Chapter 33. Watchers
- Chapter 34. State Inspectors

TITLE 3. ELECTION OFFICERS AND OBSERVERS

CHAPTER 31. OFFICERS TO ADMINISTER ELECTIONS

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- Sec. 31.003. UNIFORMITY
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TITLE 3. ELECTION OFFICERS AND OBSERVERS

CHAPTER 31. OFFICERS TO ADMINISTER ELECTIONS

SUBCHAPTER A. SECRETARY OF STATE

- Sec. 31.001. CHIEF ELECTION OFFICER. (a) The secretary of state is the chief election officer of the state.
(b) The secretary shall establish in his office an elections division with an adequate staff to enable him to perform his duties as chief election officer. The secretary may assign to the

elections division staff any function relating to the administration of elections that is under his jurisdiction. (V.T.E.C. Art. 1.03, Subdiv. 1; New.)

Sec. 31.002. OFFICIAL FORMS. (a) The secretary of state shall prescribe the design and content, consistent with this code, of the forms necessary for the administration of this code.

(b) The secretary shall furnish samples of the forms to:

- (1) the appropriate authorities who have administrative duties under this code; and
- (2) other persons who request a form for duplication.

(c) The samples of forms shall be furnished without charge.

(d) An authority having administrative duties under this code shall use an official form in performing the administrative functions, except in an emergency in which an official form is unavailable. Other persons are not required to use an official form unless expressly required to do so by this code. (V.T.E.C. Art. 1.03, Subdiv. 2; Art. 5.18a, Subdiv. 6; New.)

Sec. 31.003. UNIFORMITY. 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. In performing this duty, the secretary shall prepare detailed and comprehensive written directives and instructions relating to and based on this code and the election laws outside this code. The secretary shall distribute these materials to the appropriate state and local authorities having duties in the administration of these laws. (V.T.E.C. Art. 1.03, Subdiv. 1.)

Sec. 31.004. ASSISTANCE AND ADVICE. (a) 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.

(b) The secretary shall maintain an informational service for answering inquiries of election authorities relating to the administration of the election laws or the performance of their duties. (V.T.E.C. Art. 1.03, Subdiv. 1; New.)

Sec. 31.005. PROTECTION OF VOTING RIGHTS. (a) The secretary of state may take appropriate action to protect the voting rights of the citizens of this state from abuse by the authorities administering the state's electoral processes.

(b) If the secretary determines that a person performing official functions in the administration of any part of the electoral processes is exercising the powers vested in that person in a manner that impedes the free exercise of a citizen's voting rights, the secretary may order the person to correct the offending conduct. If the person fails to comply, the secretary may seek enforcement of the order by a temporary restraining order or a writ of injunction or mandamus obtained through the attorney general. (V.T.E.C. Art. 5.02(b); New.)

[Sections 31.006-31.030 reserved for expansion]

SUBCHAPTER B. COUNTY ELECTIONS ADMINISTRATOR

Sec. 31.031. CREATION OF POSITION. (a) The commissioners court by written order may create the position of county elections administrator for the county.

(b) The order must state the date the creation of the position of administrator is effective. The effective date may not be later than 12 months after the date the order is adopted.

(c) To facilitate the orderly transfer of duties on the effective date, the order may authorize the commissioners court to employ the administrator-designate not earlier than the 90th day before the effective date of the creation of the position, at a salary not to exceed that to be paid to the administrator.

(d) Not later than the third day after the date the order is adopted, the county clerk shall deliver a certified copy of the order to:

- (1) the secretary of state;
- (2) the comptroller of public accounts; and
- (3) each member of the county election commission. (V.T.E.C. Art. 5.24a, Subdiv. 1; New.)

Sec. 31.032. APPOINTMENT OF ADMINISTRATOR; COUNTY ELECTION COMMISSION. (a) The position of county elections administrator is filled by appointment of the county election commission, which consists of:

- (1) the county judge, as chairman;
- (2) the county clerk, as vice-chairman;
- (3) the county tax assessor-collector, as secretary; and
- (4) the county chairman of each political party that made nominations by primary election for the last general election for state and county officers preceding the date of the meeting at which the appointment is made.

(b) The affirmative vote of a majority of the commission's membership is necessary for the appointment of an administrator.

(c) Each appointment must be evidenced by a written resolution or order signed by the number of commission members necessary to make the appointment. Not later than the third day after the date an administrator is appointed, the officer who presided at the meeting shall file a signed copy of the resolution or order with the county clerk. Not later than the third day after the date the copy is filed, the county clerk shall deliver a certified copy of the resolution or order to the secretary of state.

(d) The initial appointment may be made at any time after the adoption of the order creating the position. (V.T.E.C. Art. 5.24a, Subdiv. 2, Subsecs. (a), (d); New.)

Sec. 31.033. COMMISSION MEETINGS. (a) The county election commission shall meet at the call of the chairman. However, the vice-chairman or any three members of the commission may call a meeting if the calling authority considers a meeting to be necessary or desirable and the chairman fails to call the meeting after being requested to do so.

(b) The authority calling a meeting shall set the date, hour, and place for the meeting and shall deliver written notice of the time and place to each other commission member not later than the fourth day before the meeting date.

(c) Each member who is present at a meeting is entitled to vote on any matter that is put to a vote. (V.T.E.C. Art. 5.24a, Subdiv. 2, Subsecs. (a), (b); New.)

Sec. 31.034. ELIGIBILITY. To be eligible for appointment as county elections administrator, a person must be a qualified voter of the state. (V.T.E.C. Art. 5.24a, Subdiv. 2(c); New.)

Sec. 31.035. RESTRICTIONS ON POLITICAL ACTIVITIES. (a) A county elections administrator may not be a candidate for a public office or an office of a political party, hold a public office, or hold an office of or position in a political party. At the time an administrator becomes a candidate or accepts an office or position in violation of this subsection, he vacates the position of administrator.

(b) A county elections administrator commits an offense if the administrator makes a political contribution or political expenditure, as defined by the law regulating political funds and campaigns, or publicly supports or opposes a candidate for public office or a measure to be voted on at an election. An offense under this subsection is a Class A misdemeanor. On a final conviction, the administrator's employment is terminated, and the person convicted is ineligible for future appointment as county elections administrator.

(c) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election. (V.T.E.C. Art. 5.24a, Subdivs. 2(c)(3), 2(c)(4); Art. 14.01(A); New.)

Sec. 31.036. RESIGNATION. The county election commission is the proper authority to receive and act on a resignation from the position of county elections administrator. (New.)

Sec. 31.037. TERMINATION OF EMPLOYMENT. The employment of the county elections administrator may be terminated at any time for good and sufficient cause on the four-fifths vote of the county election commission and approval of that action by a majority vote of the commissioners court. (V.T.E.C. Art. 5.24a, Subdiv. 5.)

Sec. 31.038. FILLING VACANCY. (a) A vacancy in the position of county elections administrator is filled by appointment of the county election commission.

(b) An appointment to fill an anticipated vacancy arising from a resignation to take effect at a future date may be made at any time after the resignation is accepted. (V.T.E.C. Art. 5.24a, Subdivs. 2(d), 5.)

Sec. 31.039. SALARY; STAFF; OPERATING EXPENSES. (a) The commissioners court shall set the number of deputies and other persons that the county elections administrator may employ.

(b) The salary of the administrator may not exceed the salary paid to the county clerk, and the salaries paid to the administrator's employees may not exceed the salaries paid to the employees of the county clerk in comparable positions.

(c) The commissioners court may allow the automobile expense that it considers necessary to the administrator and to any of the administrator's employees in the performance of their official duties.

(d) The commissioners court shall provide the administrator with suitable office space and with the equipment and operating expenses needed for the proper conduct of the office.

(e) The amount initially appropriated by the commissioners court for the operating expenses of the administrator's office may not be less than the total amount last appropriated to the county clerk and the county tax assessor-collector for the functions assigned to the administrator. (V.T.E.C. Art. 5.24a, Subdiv. 4.)

Sec. 31.040. BOND. (a) Before assuming the duties of a county elections administrator, the person appointed to the position must give a bond that is in an amount set by the commissioners court, not to exceed \$20,000, payable to the county judge, approved by the commissioners court, and conditioned on the faithful performance of the duties of the position.

(b) The commissioners court or the administrator may require any or all of the administrator's deputies, other than unpaid volunteer deputy registrars, to give a bond similar to that required of the administrator in an amount not exceeding the amount of the administrator's bond. (V.T.E.C. Art. 5.24a, Subdiv. 6; New.)

Sec. 31.041. SEAL. The county elections administrator shall have an official seal, on which shall be inscribed a star with five points surrounded by the words "County Elections Administrator, _____ County, Texas", for use in certifying documents required to be impressed with the seal of the certifying officer. (V.T.E.C. Art. 5.24a, Subdiv. 7.)

Sec. 31.042. TRANSFER OF RECORDS. As soon as practicable after the effective date of the creation of the position of county elections administrator, the officer formerly serving as the voter registrar shall transfer to the administrator all records pertaining to voter registration, and the county officer formerly required to conduct elections shall transfer to the administrator all voting equipment and supplies of which the officer has custody and all records in the officer's possession that pertain to an uncompleted election. The commissioners court shall determine which records of prior elections are to be transferred to the administrator and which are to remain with the officer. (V.T.E.C. Art. 5.24a, Subdiv. 8.)

Sec. 31.043. DUTIES OF ADMINISTRATOR GENERALLY. The county elections administrator shall perform:

- (1) the duties and functions of the voter registrar;
- (2) the duties and functions placed on the county clerk by this code;
- (3) the duties and functions relating to elections that are placed on the county clerk by statutes outside this code, subject to Section 31.044; and
- (4) the duties and functions placed on the administrator under Sections 31.044 and 31.045. (V.T.E.C. Art. 5.24a, Subdiv. 3; Art. 5.24b, Subdivs. 1(a), (b).)

Sec. 31.044. DIVISION OF CERTAIN DUTIES BETWEEN COUNTY CLERK AND ADMINISTRATOR. (a) With respect to meetings of the commissioners court, including meetings at which the only business conducted pertains to elections, the county clerk shall perform his regularly prescribed duties in giving notice of and preparing the agenda for the meetings, attending the meetings and making a record of the proceedings, preparing and maintaining the minutes of the court, and filing and preserving copies of the court's orders, except as provided by Subsection (b). The county elections administrator shall cooperate with the county clerk in supplying information on election matters that are to be brought before the court and shall attend or be represented at the meetings of the court at which election matters are considered. The county clerk shall furnish the administrator with a copy of each order of the court that pertains to or affects an election, and the administrator shall maintain the copies on file.

(b) The administrator is responsible for providing the clerical assistance needed by the commissioners court in canvassing precinct election returns. The administrator shall maintain the official file of the court's tabulation of election results, and the county clerk need not maintain a file of copies of the tabulations.

(c) In an election on a measure in which the commissioners court is the final canvassing authority, if a statute requires the county clerk to record an order of the court in its minutes declaring whether the measure carried or failed, the county clerk shall perform that duty. A copy of the order shall also be filed in the office of the administrator. If a statute requires the county clerk to certify the result of the election to some other authority, the clerk shall perform that duty.

(d) If a statute provides for the ordering of an election on a measure by the commissioners court, the county judge, or another county authority on submission of a petition requesting the election, the administrator shall perform the duties that the statute places on the county clerk in connection with filing the petition, determining its validity, and any other matters preceding the ordering of the election.

(e) If a statute prescribing the procedure for creating a political subdivision provides for the ordering of an election by a county authority as a step in the creation process, the administrator shall perform the duties that the statute places on the county clerk in connection with matters preceding the entry of the order on whether the election will be ordered, including the filing of a petition for the creation, the holding of any hearing on the proposal, the filing of any report or other document that is a step in the procedure, and the taking of any appeal from the order on whether the election is to be ordered. If the holding of an election ordered by a county authority is not one of the steps in the creation process, the county clerk shall perform the duties placed on that officer in connection with the creation of a political subdivision.

(f) If a statute provides that the return of an election notice for an election ordered by a county authority is to be recorded in the minutes of the commissioners court, the return shall be filed in the office of the administrator.

(g) The county clerk is the proper officer to receive and post copies of proposed constitutional amendments under Article XVII, Section 1, of the Texas Constitution. However, the secretary of state shall also send a copy of each proposed amendment to the administrator for the administrator's information. (V.T.E.C. Art. 5.24b, Subdivs. 1(c), 2; New.)

Sec. 31.045. CLASSIFICATION OF DUTIES BY SECRETARY OF STATE. (a) The secretary of state shall adopt rules consistent with Sections 31.043 and 31.044 that classify the duties and functions placed on the county clerk by statutes outside this code according to whether they are to be performed by the county elections administrator or by the county clerk.

(b) If the administrator or county clerk of a county having the position of administrator is uncertain as to which person should perform a duty or function that the secretary has not classified, the person shall request the secretary to classify that duty or function, and the secretary shall comply with the request as soon as practicable.

(c) The secretary shall deliver a copy of each rule proposed under this section to the administrator and to the county clerk of each county having the position of administrator not later than the fifth day after the date notice of the proposal is published in the Texas Register and shall deliver a copy of each adopted rule to those persons not later than the fifth day after the date the certified copy of the rule is filed in the secretary's office. Failure to comply with this subsection does not affect the validity of a rule.

(d) On receiving notice of the creation of the position of administrator in a county, the secretary shall deliver to the county clerk a current set of the rules adopted under this section. On receiving notice of the initial appointment of the administrator, the secretary shall deliver a set of the rules to the administrator.

(e) The secretary may, on 30 days' notice, adopt a rule classifying a duty or function if the rule is needed in a shorter time than provided by the regular rulemaking process. The rule is considered an emergency rule for purposes of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The secretary is not required to give notice of the proposed rule under Subsection (c), but the secretary must give notice of the rule's adoption under that subsection. (V.T.E.C. Art. 5.24b, Subdiv. 3.)

Sec. 31.046. MISDIRECTION OF DOCUMENT. (a) If a document that should be filed with or submitted to the county elections administrator is mailed to the county clerk or vice versa, the person receiving the document shall note on the document or the envelope in which it is received the time of its receipt and shall promptly deliver it to the proper person. If the statute under which the document is filed or submitted does not specify that the filing or submission is to be made with the administrator in a county having that position, the timeliness of the filing or submission is determined, as appropriate:

(1) by the time of mailing; or

(2) by the time of receipt by the person to whom the document is addressed.

(b) If a document that should be filed with or submitted to the county elections administrator is delivered in person to the county clerk or vice versa, the person to whom the delivery is made shall direct the person making the delivery to the proper office.

(c) If a statute specifies that a document is to be filed with or submitted to the county clerk without specifying that the filing or submission is to be made with the county elections administrator in a county having that position and the office to accept the filing or submission is changed to the administrator under this subchapter, a filing or submission made with the county clerk has the same legal effect as if made with the administrator if the clerk accepts and files the document. (V.T.E.C. Art. 5.24b, Subdiv. 4, Subsecs. (a), (b), (c).)

Sec. 31.047. ACTION BY WRONG OFFICER. If a statute specifies that an action is to be taken by the county clerk without specifying that it is to be taken by the county elections administrator in a county having that position, an action taken by the county clerk without objection from the administrator has the same legal effect as if taken by the administrator. (V.T.E.C. Art. 5.24b, Subdiv. 4(d).)

Sec. 31.048. ABOLISHING POSITION. (a) The commissioners court by written order may abolish the position of county elections administrator at any time.

(b) After the effective date of an order abolishing the position of administrator, the county tax assessor-collector is the voter registrar, and the duties and functions of the county clerk that were performed by the administrator revert to the county clerk, unless a transfer of duties and functions occurs under Section 12.031 or 31.071.

(c) Not later than the third day after the date an order abolishing the position of administrator is adopted, the county clerk shall deliver a certified copy of the order to the secretary of state and comptroller of public accounts. (V.T.E.C. Art. 5.24a, Subdiv. 9.)

Sec. 31.049. CRIMINAL PENALTIES. A statute prescribing a criminal penalty against the county clerk or the clerk's deputies or other employees for conduct relating to duties or functions transferred to the county elections administrator applies to the administrator or to his deputies or employees as appropriate. (V.T.E.C. Art. 5.24b, Subdiv. 5.)

[Sections 31.050-31.070 reserved for expansion]

SUBCHAPTER C. TRANSFER OF ELECTION DUTIES TO COUNTY TAX ASSESSOR-COLLECTOR

Sec. 31.071. **TRANSFER OF DUTIES.** (a) The commissioners court by written order may transfer to the county tax assessor-collector the duties and functions of the county clerk in connection with the conduct of elections if the county tax assessor-collector and county clerk agree to the transfer.

(b) The order must state the effective date of the transfer of duties and functions.

(c) Not later than the third day after the date the order is adopted, the county clerk shall deliver a certified copy of the order to the secretary of state and comptroller of public accounts. (V.T.E.C. Art. 5.24c, Subsecs. (a), (c).)

Sec. 31.072. **APPLICABILITY OF OTHER SECTIONS.** To the extent practicable, Sections 31.043-31.047 and Section 31.049 apply to the transfer of election duties and functions under this subchapter. For this purpose, the references in those sections to the creation of the position of county elections administrator mean the transfer of duties and functions under this subchapter, and the references in those sections to the county elections administrator mean the county tax assessor-collector. (V.T.E.C. Art. 5.24c, Subsec. (d).)

Sec. 31.073. **TRANSFER OF RECORDS.** As soon as practicable after the effective date of a transfer of duties and functions under Section 31.071, the county clerk shall transfer to the county tax assessor-collector all voting equipment and supplies of which the clerk has custody and all records in the clerk's possession that pertain to an uncompleted election. The commissioners court shall determine which records of prior elections are to be transferred to the county tax assessor-collector and which are to remain with the county clerk. (V.T.E.C. Art. 5.24c, Subsec. (e).)

Sec. 31.074. **APPROPRIATION BY COMMISSIONERS COURT.** The amount initially appropriated by the commissioners court for the duties and functions to be performed by the county tax assessor-collector under this subchapter may not be less than the amount last appropriated to the county clerk for the same purpose. (V.T.E.C. Art. 5.24c, Subsec. (f).)

Sec. 31.075. **GUIDELINES.** The secretary of state shall prepare advisory budgetary guidelines for the performance of the duties and functions of the county tax assessor-collector that are consolidated after implementation of this subchapter. (V.T.E.C. Art. 5.24c, Subsec. (g).)

Sec. 31.076. **RESCISSION OF TRANSFER ORDER.** (a) The commissioners court by written order may rescind an order adopted under Section 31.071 at any time after two years have elapsed from the date the order was adopted, to become effective on a date stated in the order.

(b) Not later than the third day after the date the rescission order is adopted, the county clerk shall deliver a certified copy of the order to the secretary of state and comptroller of public accounts.

(c) On the effective date of the rescission, the county clerk shall perform the duties and functions previously transferred to the county tax assessor-collector unless the position of county elections administrator is created. (V.T.E.C. Art. 5.24c, Subsecs. (b), (c).)

[Sections 31.077-31.090 reserved for expansion]

SUBCHAPTER D. CONTRACT FOR ELECTION SERVICES

Sec. 31.091. **DEFINITIONS.** In this subchapter:

(1) "County election officer" means the county elections administrator in counties having that position, the county tax assessor-collector in counties in which the county clerk's election duties and functions have been transferred to the tax assessor-collector, and the county clerk in other counties.

(2) "Election services contract" means a contract executed under this subchapter.

(3) "Contracting authority" means the governing body of a political subdivision or the county executive committee of a political party that enters into a contract under this subchapter. (V.T.E.C. Art. 1.08d, Subdiv. 1; New.)

Sec. 31.092. **CONTRACT FOR ELECTION SERVICES AUTHORIZED.** (a) The county election officer may contract with the governing body of a political subdivision situated wholly or partly in the county served by the officer to perform election services, as provided by this subchapter, in any one or more elections ordered by an authority of the political subdivision.

(b) The county election officer may contract with the county executive committee of a political party holding a primary election in the county to perform election services, as provided by this subchapter, in the party's general primary election or runoff primary election, or both. To be binding, a contract under this subsection must be approved in writing by the

secretary of state, and the execution of a contract is not completed until written approval is obtained.

(c) An election services contract need not be submitted to the commissioners court for approval. (V.T.E.C. Art. 1.08d, Subdiv. 2, Subsecs. (a), (b); Subdiv. 7(b).)

Sec. 31.093. **DUTY TO CONTRACT.** (a) If requested to do so by a political subdivision or political party, the county elections administrator shall enter into a contract to furnish the election services requested, in accordance with a cost schedule agreed on by the contracting parties. If the contracting parties are unable to reach an agreement, on referral by either party, the secretary of state shall either prescribe terms that the administrator must accept or instruct the administrator to decline to enter into a contract with the requesting party.

(b) A county elections administrator may but is not required to enter into a contract to conduct a training program for election judges and clerks. (V.T.E.C. Art. 1.08d, Subdiv. 2, Subsec. (c).)

Sec. 31.094. **SERVICES PERFORMABLE UNDER CONTRACT.** Subject to Sections 31.096 and 31.097, an election services contract may provide for the county election officer to perform or to supervise the performance of any or all of the corresponding duties and functions that the officer performs in connection with a countywide election ordered by a county authority. (V.T.E.C. Art. 1.08d, Subdiv. 3.)

Sec. 31.095. **DELEGATION TO DEPUTIES.** (a) The county election officer may assign deputies to perform any of the contracted services.

(b) In a county not having the office of county elections administrator, the county clerk or county tax assessor-collector, as appropriate, may delegate to the deputy in charge of the officer's elections division the authority to enter into election services contracts and to supervise their performance. (V.T.E.C. Art. 1.08d, Subdiv. 8.)

Sec. 31.096. **NONTRANSFERABLE FUNCTIONS.** An election services contract may not change:

- (1) the authority with whom applications of candidates for a place on a ballot are filed;
- (2) the authority with whom documents are filed under Title 15; or
- (3) the authority to serve as custodian of voted ballots or other election records, except that a contract with a political subdivision other than a city may provide that the county election officer will be the custodian of voted ballots. (V.T.E.C. Art. 1.08d, Subdiv. 5; New.)

Sec. 31.097. **ABSENTEE VOTING.** (a) An election services contract may provide that the county election officer's deputies may serve as deputy absentee voting clerks even if the officer is not to serve as the absentee voting clerk or supervise absentee voting.

(b) If the county election officer is to serve as the absentee voting clerk or is to provide deputies to serve as deputy absentee voting clerks, the officer's written order appointing a permanent or temporary deputy of the officer as a deputy absentee voting clerk is sufficient, without the necessity for an appointment by any other authority.

(c) A permanent deputy of the county election officer is not subject to the eligibility requirements of this subsection. For a temporary deputy of the officer to be eligible for appointment as a deputy absentee voting clerk, the deputy must have the qualifications for appointment as a presiding election judge except that:

- (1) an appointee is not required to be a qualified voter of any particular territory other than the county served by the county election officer or the political subdivision in which the election is held; and
- (2) if an employee of the contracting political subdivision is appointed, the appointee's status as an employee does not disqualify him from serving in an election in which an officer of the political subdivision is a candidate. (V.T.E.C. Art. 1.08d, Subdiv. 4; New.)

Sec. 31.098. **PAYMENT OF ELECTION EXPENSES.** (a) An election services contract may authorize the county election officer to contract with third persons for election services and supplies and may provide that the officer will pay the claims for those election expenses or that the contracting authority will make the payments directly to the claimants.

(b) If a contract provides that the contracting authority is to pay the claims of third persons, the county election officer becomes the agent of the authority and may contract with third persons in the name of the authority with respect to election expenses within the scope of the officer's duties, and the officer is not liable for the authority's failure to pay a claim.

(c) If a contract provides that the county election officer is to pay the expenses, the contracting authority is not liable for the officer's failure to pay a claim. (V.T.E.C. Art. 1.08d, Subdiv. 6.)

Sec. 31.099. **FILING COPIES OF CONTRACT.** (a) Not later than the 10th day after the date an election services contract is executed, the county election officer shall file a copy of the contract with:

- (1) the county treasurer or, in a county not having a treasurer, the county judge; and
 - (2) the county auditor or, in a county not having an auditor, the county judge.
- (b) The county election officer shall file a copy of the secretary of state's approval with each copy of a contract with the county executive committee of a political party if the approval is in a separate document. (V.T.E.C. Art. 1.08d, Subdiv. 7(a); New.)

Sec. 31.100. DISPOSITION OF CONTRACT MONEY; PAYMENT OF CONTRACTING OFFICER'S EXPENSES. (a) Money paid to a county election officer under an election services contract shall be deposited in a separate fund in the county treasury. The county election officer may pay the expenses of performing election services contracts from the fund without budgeting or appropriation by the commissioners court. However, claims against the fund shall be audited and approved in the same manner as other claims against the county before they are paid.

(b) Salaries of personnel regularly employed by the county election officer shall be paid from funds regularly budgeted and appropriated for that purpose, but salaries and wages paid to persons temporarily employed to perform duties under an election services contract and the other expenses directly attributable to a contract that are charged to the county election officer shall be paid out of the election services contract fund.

(c) The county election officer may direct the treasurer or other appropriate officer to transfer all or any part of the surplus in the election services contract fund to the voter registrar. (V.T.E.C. Art. 1.08d, Subdiv. 7(b); New.)

[Sections 31.101-31.120 reserved for expansion]

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

Sec. 31.121. PRESIDING OFFICER FAILING TO ACT. Two or more members of the governing body of a political subdivision may perform a duty placed by this code on the presiding officer of the governing body if the office is vacant or the presiding officer fails to perform the duty unless:

- (1) a single member of the governing body designated by law to act in place of the presiding officer performs the duty; or
- (2) this code specifies that the duty is to be performed by another authority acting in place of the presiding officer. (V.T.E.C. Art. 1.02; New.)

Sec. 31.122. OFFICE HOURS OF ELECTION AUTHORITY DURING ELECTION PERIOD. Except as provided by Section 31.123, each county clerk, city secretary, or secretary of the governing body of a political subdivision other than a county or city or the authority performing the duties of a secretary under this code shall keep his office open for election duties for at least three hours each day, during regular office hours, on regular business days during the period:

- (1) beginning not later than the 40th day before the date of each general election of the political subdivision or the third day after the date a special election is ordered by an authority of the political subdivision; and
- (2) ending not earlier than the 40th day after election day. (New.)

Sec. 31.123. APPOINTMENT OF AGENT DURING ELECTION PERIOD. (a) If the secretary of the governing body of a political subdivision other than a county or city or the authority performing the duties of a secretary under this code does not maintain an office during the hours and days required by Section 31.122, the secretary or other authority shall appoint another officer or employee of the political subdivision as his agent to perform the duties provided by this section. The appointment is subject to the approval of the political subdivision's governing body.

(b) The agent shall maintain office hours, as directed by the appointing authority, for at least the hours and days required by Section 31.122, in the agent's regular office, the office of the appointing authority, or an office designated by the governing body of the political subdivision served by the authority.

(c) The agent shall maintain in his office the documents, records, and other papers relating to the election that:

- (1) by law are placed in the custody of the authority appointing the agent; and
- (2) are public information.

(d) The agent shall:

- (1) receive any personally delivered document relating to the election that the appointing authority is authorized or required to receive; and
- (2) make available for inspection and copying, in accordance with applicable regulations, the documents, records, and other papers that are required to be maintained in the agent's office under Subsection (c).

(e) The appointing authority may authorize the agent to perform any other ministerial duties in connection with the election that may lawfully be performed by an employee of the appointing authority.

(f) The appointing authority shall post, on the bulletin board used for posting notice of meetings of the political subdivision's governing body, a notice containing the agent's name, the location of his office, his office hours, and duration of his appointment. The notice shall remain continuously posted during the minimum period for maintaining the agent's office. (New.)

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
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- Sec. 32.031. PRESIDING JUDGE TO APPOINT CLERKS
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- Sec. 32.051. GENERAL ELIGIBILITY REQUIREMENTS
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 - Sec. 32.072. DUTIES AND WORKING HOURS OF CLERKS
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- Sec. 32.091. COMPENSATION FOR SERVICES AT POLLING PLACE
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- Sec. 32.111. TRAINING STANDARDS FOR ELECTION JUDGES
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CHAPTER 32. ELECTION JUDGES AND CLERKS

SUBCHAPTER A. APPOINTMENT OF ELECTION JUDGES

Sec. 32.001. PRESIDING JUDGE AND ALTERNATE FOR EACH ELECTION PRECINCT. (a) A presiding election judge and an alternate presiding judge shall be appointed for each election precinct in which an election is held.

(b) The alternate presiding judge shall serve as presiding judge for an election if the regularly appointed presiding judge cannot serve. (V.T.E.C. Art. 3.01(e).)

Sec. 32.002. JUDGES FOR COUNTY ELECTION. (a) The commissioners court, at its July term each year, shall appoint the election judges for each regular county election precinct.

(b) Judges appointed under Subsection (a) serve for a term of one year beginning on August 1 following the appointment.

(c) The commissioners court shall fill a vacancy in the position of election judge for the remainder of the unexpired term. An appointment to fill a vacancy may be made at any regular or special term of court.

(d) The county clerk shall recommend a presiding judge and an alternate judge for each precinct and shall submit a list of the recommendations to the commissioners court. The clerk shall also recommend an appointee for each unexpired term. The court shall consider the clerk's recommendation before making an appointment.

(e) Subject to Section 32.003, the judges appointed under this section shall serve in each election ordered by the governor or a county authority in which the regular county election precincts are required to be used. (V.T.E.C. Art. 3.01, Subsecs. (a), (a-1), (f); Art. 10.01; New.)

Sec. 32.003. JUDGES FOR CONSOLIDATED COUNTY ELECTION PRECINCTS. If election precincts are consolidated in a special election in which the regular county election precincts are required to be used, the commissioners court shall appoint the election judges to serve in each consolidated precinct from among the judges appointed for the precincts comprising the consolidated precinct. (New.)

Sec. 32.004. JUDGES FOR OTHER ELECTIONS ORDERED BY COUNTY AUTHORITY. Except as otherwise provided by law, for an election ordered by a county authority in which use of the regular county election precincts is not required, the authority ordering the election shall appoint the election judges. (V.T.E.C. Art. 3.01(f).)

Sec. 32.005. JUDGES FOR ELECTIONS OF OTHER POLITICAL SUBDIVISIONS. (a) The governing body of a political subdivision other than a county shall appoint the election judges for elections ordered by an authority of the political subdivision.

(b) The governing body shall determine whether appointments under Subsection (a) are for a single election or for a definite term not to exceed two years. If appointments are made for a term, the governing body shall set the duration and beginning date of the term and shall fill vacancies in unexpired terms. (V.T.E.C. Art. 3.01, Subsecs. (b), (c); New.)

Sec. 32.006. JUDGES FOR PRIMARY ELECTIONS. (a) The county chairman of a political party holding a primary election shall appoint for each primary, with the approval of the county executive committee, the judges for each precinct in which the election will be held in the county.

(b) If a vacancy in the positions of both the presiding judge and the alternate judge arises after the appointments are approved and the county executive committee is not scheduled to meet

before the election for which the appointments are made, the county chairman may fill the vacancies without the approval of the committee. (V.T.E.C. Art. 3.01(d); New.)

Sec. 32.007. EMERGENCY APPOINTMENT. (a) If neither the presiding judge nor the alternate presiding judge can serve in an election and their inability to serve is discovered so late that it is impracticable to fill the vacancy in the normal manner, the presiding officer of the appointing authority or the authority if a single officer shall appoint a replacement judge to preside at the election. If the appointing authority is unavailable, the authority responsible for distributing the supplies for the election shall appoint the replacement judge.

(b) If a person authorized to act as presiding judge is not present at the polling place at the time for opening the polls, on receiving information of the absence, the authority authorized to appoint a replacement under Subsection (a) shall investigate the absence and appoint a replacement judge unless the authority learns that a previously appointed judge will immediately report for duty.

(c) The appointing authority shall promptly give notice of the emergency appointment to the authority responsible for distributing the supplies for the election. As soon as practicable but not later than the time for closing the polls for the election, the appointing authority shall prepare a written memorandum of the appointment and deliver a signed copy to the presiding officer of the local canvassing authority and to the general custodian of election records. The copies shall be preserved for the period for preserving the precinct election records.

(d) A judge appointed under this section serves only for the election for which the appointment is made.

(e) In this chapter, "emergency appointment" means an appointment made under this section. (V.T.E.C. Art. 8.04; New.)

Sec. 32.008. ORDER OF APPOINTMENT. (a) The appointment of election judges must be made by written order.

(b) The order of appointment need not be recorded in the minutes of the appointing authority.

(c) An order making an appointment for a single election shall be preserved for the period for preserving the precinct election records. An order making an appointment for a term shall be preserved for the longer of:

(1) the term for which the appointment is made; or

(2) the period for preserving precinct election records in the last election in which an appointee serves under the order.

(d) This section does not apply to an emergency appointment. (New.)

Sec. 32.009. NOTICE OF APPOINTMENT. (a) Each presiding election judge and alternate presiding judge shall be given written notice of the appointment as provided by this section.

(b) The authority responsible for distributing the supplies for the election for which the judge is appointed shall prepare and deliver the notice not later than the 20th day after the date the appointment is made.

(c) The notice must state whether the appointment is for a single election or for a term. If the appointment is for a term, the notice must state the duration and beginning date of the term.

(d) A notice to a presiding judge must state the name and address of the alternate, and a notice to an alternate must state the name and address of the presiding judge.

(e) If an appointment is for a single election, the notice required by this section and the notice required by Section 4.007 may be combined and given by the authority responsible for giving either of the two notices, as agreed between the two authorities.

(f) This section does not apply to an emergency appointment or to an appointment for a primary election. (V.T.E.C. Art. 3.09; New.)

Sec. 32.010. FURNISHING PRECINCT BOUNDARY INFORMATION TO JUDGES. (a) If a presiding election judge has not been given a current description of the boundary of the election precinct for which he is appointed, a description of the boundary and a map of the precinct, if a map is available, shall accompany the notice given under Section 32.009.

(b) If a change in a precinct's boundary occurs after the date a notice under Section 32.009 is delivered to the precinct's presiding judge, the authority responsible for delivering the notice shall deliver to the judge a current description of the precinct boundary and a map, if a map is available. The authority shall deliver the boundary information as soon as practicable after the date the order making the change is adopted and not later than the 30th day before the date of the first election for which the judge is appointed after the change takes effect.

(c) The authority responsible for distributing the supplies for an election shall give current precinct boundary information to an alternate judge who is to serve as the presiding judge for an election or a presiding judge who is appointed as an emergency appointee. (V.T.E.C. Art. 3.09; New.)

Sec. 32.011. CONFLICTS WITH OTHER LAW. (a) A home-rule city charter supersedes this subchapter to the extent of any conflict.

(b) A law outside this subchapter that prescribes a different appointing authority for election judges supersedes this subchapter with respect to the appointing authority. (V.T.E.C. Art. 3.01, Subsecs. (b), (c).)

[Sections 32.012-32.030 reserved for expansion]

SUBCHAPTER B. APPOINTMENT OF ELECTION CLERKS

Sec. 32.031. PRESIDING JUDGE TO APPOINT CLERKS. (a) The presiding judge for each election precinct shall appoint the election clerks to assist the judge in the conduct of an election at the polling place served by the judge.

(b) The appointment of an election clerk is for a single election only. (V.T.E.C. Art. 3.01; New.)

Sec. 32.032. ALTERNATE PRESIDING JUDGE AS CLERK. In an election conducted by the regularly appointed presiding judge, the presiding judge shall appoint the alternate presiding judge as one of the clerks. (V.T.E.C. Art. 3.01(e).)

Sec. 32.033. NUMBER OF CLERKS. (a) The authority that appoints the election judges shall prescribe the maximum number of clerks that each presiding judge may appoint for each election. The authority may prescribe different maximums for different types of elections.

(b) The presiding judge shall appoint at least two clerks for each precinct in each election and may appoint as many additional clerks, within the prescribed limit, as are necessary for the proper conduct of the election. (V.T.E.C. Art. 3.01.)

Sec. 32.034. CLERKS FOR ELECTIONS FOR FEDERAL, STATE, AND COUNTY OFFICES. (a) The clerks for the general election for state and county officers or for a special election to fill a vacancy in an office regularly filled at the general election shall be selected from different political parties if possible.

(b) The county chairman of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election may, not later than the 25th day before a general election or the 10th day before a special election to which Subsection (a) applies, submit to a presiding judge a list containing the names of at least two persons who are eligible for appointment as a clerk. If a timely list is submitted, the presiding judge shall appoint at least one clerk from the list, except as provided by Subsection (c).

(c) If only one additional clerk is to be appointed for an election in which the alternate presiding judge will serve as a clerk, the clerk shall be appointed from the list of a political party with which neither the presiding judge nor the alternate judge is affiliated or aligned, if such a list is submitted. If two such lists are submitted, the presiding judge shall decide from which list the appointment will be made. If such a list is not submitted, the presiding judge is not required to make an appointment from any list.

(d) The presiding judge shall make an appointment under this section not later than the fifth day after the date the judge receives the list and shall deliver written notification of the appointment to the appropriate county chairman. (V.T.E.C. Art. 3.01(a); New.)

Sec. 32.035. CONFLICTS WITH CITY CHARTER. (a) Except as provided by Subsection (b), a home-rule city charter supersedes this subchapter to the extent of any conflict.

(b) A home-rule city charter may not provide for fewer than three election officers for each election precinct. (V.T.E.C. Art. 3.01(b).)

[Sections 32.036-32.050 reserved for expansion]

SUBCHAPTER C. ELIGIBILITY

Sec. 32.051. GENERAL ELIGIBILITY REQUIREMENTS. (a) Except as provided by Subsection (b), to be eligible to serve as a judge of an election precinct, a person must be a qualified voter of the precinct.

(b) If the authority making an emergency appointment of a presiding judge cannot find an eligible qualified voter of the precinct who is willing to accept the appointment, the eligibility requirement for a clerk prescribed by Subsection (c) applies.

(c) To be eligible to serve as a clerk of an election precinct, a person must be a qualified voter:

- (1) of the county, in a countywide election ordered by the governor or a county authority or in a primary election;

- (2) of the part of the county in which the election is held, for an election ordered by the governor or a county authority that does not cover the entire county of the person's residence;

or

(3) of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(d) The Alcoholic Beverage Code supersedes this section to the extent of any conflict. (V.T.E.C. Art. 3.03(a); Art. 10.02; New.)

Sec. 32.052. **INELIGIBILITY OF PUBLIC OFFICER.** (a) A person who holds an elective public office is ineligible to serve as an election judge or clerk in an election.

(b) For purposes of this section, a deputy or assistant serving under a public officer does not hold a public office. (V.T.E.C. Art. 3.04, Subdivs. 1, 2; New.)

Sec. 32.053. **INELIGIBILITY OF CANDIDATE FOR PUBLIC OFFICE.** (a) A person is ineligible to serve as an election judge or clerk in an election if the person is a candidate for a public office in an election to be held on the same day.

(b) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election. (V.T.E.C. Art. 3.04, Subdiv. 1; New.)

Sec. 32.054. **INELIGIBILITY OF EMPLOYEE OR RELATIVE OF CANDIDATE.** (a) A person is ineligible to serve as an election judge or clerk in an election if the person is employed by or related within the second degree by consanguinity or affinity to an opposed candidate for a public office or the party office of county chairman in the election. For purposes of this subsection, a candidate whose name appears on the ballot is not considered to be opposed by a write-in candidate other than a declared write-in candidate under Chapter 146.

(b) For purposes of this section, a person is employed by a candidate if:

(1) the candidate is an owner or officer of a business entity by which the person is employed;

(2) the candidate is an officer of a governmental department or agency by which the person is employed; or

(3) the person is under the candidate's supervision in public or private employment.

(c) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election. (V.T.E.C. Art. 3.03(b); New.)

Sec. 32.055. **INELIGIBILITY OF CAMPAIGN TREASURER.** (a) A person is ineligible to serve as an election judge or clerk in an election if the person is the campaign treasurer or assistant campaign treasurer of a candidate in that election.

(b) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election. (New.)

Sec. 32.056. **CITY CHARTER REQUIREMENTS.** Eligibility requirements or grounds of ineligibility in addition to those prescribed by this subchapter may be prescribed by a home-rule city charter for election officers serving in elections ordered by an authority of the city. (New.)

[Sections 32.057-32.070 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Sec. 32.071. **GENERAL RESPONSIBILITY OF PRESIDING JUDGE.** The presiding judge is in charge of and responsible for the management and conduct of the election at the polling place of the election precinct that he serves. (V.T.E.C. Art. 3.02(a).)

Sec. 32.072. **DUTIES AND WORKING HOURS OF CLERKS.** (a) The presiding judge shall designate the working hours of and assign the duties to be performed by the election clerks serving under him.

(b) Subject to Section 32.073, clerks may be assigned to work for different lengths of time and to begin work at different hours. (V.T.E.C. Art. 3.02(a).)

Sec. 32.073. **ABSENCE OF ELECTION OFFICERS FROM POLLING PLACE.** (a) The presiding judge and the clerks who begin work before the time for closing the polls shall remain on duty without leaving the polling place while the polls are open. However, the presiding judge may permit absences for meals or other necessary activities.

(b) If the presiding judge does not permit the clerks to be absent for meals, he must permit meals to be brought or delivered to the polling place.

(c) With respect to regulating absences from the polling place while the polls are open, the presiding judge shall treat all election officers serving at the polling place uniformly. (V.T.E.C. Art. 3.02(a); New.)

Sec. 32.074. **ADMINISTRATION OF OATHS.** An election judge or clerk may administer any oath required or authorized to be made at a polling place. (V.T.E.C. Art. 8.05; New.)

Sec. 32.075. LAW ENFORCEMENT DUTIES AND POWERS. (a) The presiding judge shall preserve order and prevent breaches of the peace and violations of this code in the polling place and in the area within which electioneering and loitering are prohibited from the time the judge arrives at the polling place on election day until he leaves the polling place after the polls close.

(b) In performing duties under Subsection (a), the presiding judge may appoint one or more persons to act as special peace officers for the polling place. A special peace officer may not enforce the prohibition against electioneering or loitering near the polling place unless the officer's appointment is approved by the presiding officer of the local canvassing authority.

(c) In performing duties under Subsection (a), a presiding judge has the power of a district judge to enforce order and preserve the peace, including the power to issue an arrest warrant.

(d) A person who is arrested at a polling place while voting or waiting to vote shall be permitted to vote, if entitled to do so, before being removed from the polling place. (V.T.E.C. Arts. 8.05, 8.27.)

[Sections 32.076-32.090 reserved for expansion]

SUBCHAPTER E. COMPENSATION

Sec. 32.091. COMPENSATION FOR SERVICES AT POLLING PLACE. (a) An election judge or clerk is entitled to compensation for services rendered at a precinct polling place at an hourly rate not to exceed \$5.

(b) A judge or clerk may not be paid for more than one hour of work before the polls open. In a precinct in which voting machines are used, a judge or clerk may not be paid for more than two hours of work after the time for closing the polls or after the last voter has voted, whichever is later. (V.T.E.C. Art. 3.08(a).)

Sec. 32.092. COMPENSATION FOR DELIVERING ELECTION RECORDS AND SUPPLIES. (a) The election judge or clerk who delivers the precinct election records, keys to ballot boxes or other election equipment, and unused election supplies after an election is entitled to compensation for that service in an amount not to exceed \$25.

(b) If more than one election officer delivers the records, keys, and unused supplies, the presiding judge shall determine how the amount fixed for the service is to be allocated among the officers. (V.T.E.C. Art. 3.08(a); New.)

Sec. 32.093. AUTHORITY FIXING COMPENSATION. The compensation of election judges and clerks shall be fixed by the following authority:

(1) for an election ordered by the governor or a county authority, the commissioners court;

(2) for an election ordered by an authority of a political subdivision other than a county, the political subdivision's governing body; and

(3) for a primary election, the county executive committee of the political party holding the primary. (V.T.E.C. Art. 3.08(b).)

Sec. 32.094. STATEMENT OF COMPENSATION. (a) After each election, each presiding judge serving in the election shall prepare and sign, in duplicate, a statement containing the following information:

(1) the name and address of the presiding judge and each clerk who served under him;

(2) the number of hours that each election officer worked at the polling place, excluding time for which payment may not be made; and

(3) the name of the election officer who delivered the election records, keys, and unused supplies, and, if more than one officer, the name of and the amount of compensation allocated to each officer.

(b) In addition to the information required by Subsection (a), the compensation statement must include the total hourly compensation earned by each officer if the authority responsible for distributing the election supplies directs the presiding judge to include that information.

(c) The presiding judge shall follow the instructions of the authority responsible for distributing the election supplies with respect to:

(1) the time by which and the authority to whom the presiding judge is to deliver the compensation statement; and

(2) any other instructions that the authority considers appropriate to ensure that the election officers are paid.

(d) The time designated under Subsection (c)(1) for delivery of the compensation statement may not be later than 5 p.m. of the third day after election day.

(e) The original compensation statement shall be used for making payment for the services. The general custodian of election records shall preserve the duplicate for the period for preserving the precinct election records. If the presiding judge delivers the statement to an

authority other than the general custodian of election records, the authority receiving the statement shall deliver the duplicate to the general custodian not later than the third day after the date of its receipt. (New.)

[Sections 32.095-32.110 reserved for expansion]

SUBCHAPTER F. TRAINING

Sec. 32.111. TRAINING STANDARDS FOR ELECTION JUDGES. (a) The governing body of a political subdivision that holds elections or the county executive committee of a political party that holds primary elections may:

(1) adopt minimum standards of training in election law and procedure for presiding or alternate judges serving in its elections; and

(2) require that a person meet those standards before appointment or service as a judge.

(b) Minimum training standards may include attendance at appropriate training programs. (V.T.E.C. Art. 3.09b, Subdiv. 1.)

Sec. 32.112. EXPENSE OF TRAINING JUDGES. The governing body of a political subdivision may appropriate funds to:

(1) compensate its election judges, absentee voting clerk, and deputy absentee voting clerks in charge of absentee polling places for attending training programs, at an hourly rate not to exceed the maximum rate of compensation of an election judge for services rendered at a precinct polling place; and

(2) pay the expenses of conducting the programs. (V.T.E.C. Art. 3.09b, Subdiv. 1.)

Sec. 32.113. TRAINING PROGRAMS. (a) The governing body of a political subdivision other than a county may, and the county executive committee of a political party shall, provide training programs for its election officers.

(b) A political subdivision or county executive committee may conduct its training programs independently or jointly with other entities.

(c) A law outside this code providing for a training program in connection with a specified type of election supersedes this subchapter to the extent of any conflict. (V.T.E.C. Art. 3.09b, Subdiv. 2; New.)

Sec. 32.114. PUBLIC COUNTY TRAINING PROGRAM. (a) The county clerk shall provide one or more sessions of a training program for the election judges and clerks appointed to serve in elections ordered by the governor or a county authority. Each election judge shall complete the training program.

(b) A training program provided under this section is open to the public free of charge.

(c) The county clerk shall:

(1) post a notice of the time and place of each session on the bulletin board used for posting notice of meetings of the commissioners court and shall include on the notice a statement that the program is open to the public;

(2) notify each presiding judge appointed by the commissioners court of the time and place of each session and of the duty of each election judge to complete the training program; and

(3) notify the county chairman of each political party in the county of the time and place of each session.

(d) Each presiding judge receiving notice under Subsection (c)(2) shall notify the alternate presiding judge and other persons who serve as clerks for his precinct of the time and place of each session. (V.T.E.C. Art. 3.09a(a); New.)

Sec. 32.115. SECRETARY OF STATE TO ASSIST IN TRAINING. On request of a county executive committee or a county clerk, as appropriate, the secretary of state shall schedule and provide assistance for the training of election judges and clerks under Section 32.113 or 32.114. The secretary may provide similar training assistance to other political subdivisions. (V.T.E.C. Art. 3.09a(b); New.)

CHAPTER 33. WATCHERS

SUBCHAPTER A. APPOINTMENT

Sec. 33.001. WATCHER DEFINED

Sec. 33.002. APPOINTMENT BY CANDIDATE

Sec. 33.003. APPOINTMENT BY POLITICAL PARTY

Sec. 33.004. APPOINTMENT FOR WRITE-IN CANDIDATE

Sec. 33.005. APPOINTMENT FOR ELECTION ON MEASURE

- Sec. 33.006. CERTIFICATE OF APPOINTMENT
- Sec. 33.007. NUMBER AND PLACE OF SERVICE OF WATCHERS
- [Sections 33.008-33.030 reserved for expansion]

SUBCHAPTER B. ELIGIBILITY

- Sec. 33.031. GENERAL ELIGIBILITY REQUIREMENTS
- Sec. 33.032. INELIGIBILITY OF CANDIDATE FOR PUBLIC OFFICE
- Sec. 33.033. INELIGIBILITY OF EMPLOYEE OR RELATIVE OF ELECTION OFFICER
- Sec. 33.034. INELIGIBILITY OF PUBLIC OFFICER
- [Sections 33.035-33.050 reserved for expansion]

SUBCHAPTER C. SERVICE

- Sec. 33.051. ACCEPTANCE OF WATCHER
- Sec. 33.052. HOURS OF SERVICE AT PRECINCT POLLING PLACE
- Sec. 33.053. HOURS OF SERVICE AT ABSENTEE POLLING PLACE
- Sec. 33.054. HOURS OF SERVICE AT ABSENTEE BALLOT BOARD MEETING
- Sec. 33.055. HOURS OF SERVICE AT CENTRAL COUNTING STATION
- Sec. 33.056. OBSERVING ACTIVITY GENERALLY
- Sec. 33.057. OBSERVING PREPARATION OF VOTER'S BALLOT
- Sec. 33.058. RESTRICTIONS ON WATCHER'S ACTIVITIES
- Sec. 33.059. OBSERVING SECURING OF VOTING SYSTEM EQUIPMENT BEFORE ELECTION
- Sec. 33.060. OBSERVING DELIVERY OF ELECTION RECORDS
- Sec. 33.061. UNLAWFULLY OBSTRUCTING WATCHER

CHAPTER 33. WATCHERS

SUBCHAPTER A. APPOINTMENT

Sec. 33.001. WATCHER DEFINED. In this code, "watcher" means a person appointed under this subchapter to observe the conduct of an election on behalf of a candidate, a political party, or the proponents or opponents of a measure. (V.T.E.C. Arts. 3.05, 3.06.)

Sec. 33.002. APPOINTMENT BY CANDIDATE. (a) Watchers may be appointed by each candidate whose name appears on the ballot in an election for:

- (1) a public office other than the office of vice-president of the United States; or
- (2) an office of a political party.

(b) In an election for an office of the state government that is filled by voters of more than one county, watchers may also be appointed by the candidate's campaign treasurer.

(c) In an election for an office of the federal government that is filled by voters of more than one county, watchers may also be appointed by the chairman or treasurer of the candidate's principal campaign committee or by a designated agent of the chairman or treasurer. (V.T.E.C. Art. 3.05(b); New.)

Sec. 33.003. APPOINTMENT BY POLITICAL PARTY. (a) The county chairman of each political party that has one or more nominees on the ballot may appoint watchers.

(b) If the county chairman does not make an authorized appointment, any three members of the county executive committee may make the appointment. (V.T.E.C. Art. 3.05(a).)

Sec. 33.004. APPOINTMENT FOR WRITE-IN CANDIDATE. (a) A group of registered voters may appoint watchers on behalf of a write-in candidate.

(b) To be eligible to participate in the appointment under this section of a watcher for a precinct polling place, a person must be a registered voter of the precinct. To be eligible to participate in the appointment under this section of a watcher for an absentee polling place, the meeting place of an absentee ballot board, or a central counting station, a person must be a registered voter of the territory served by that facility.

(c) The minimum number of voters required to make an appointment under this section is the lesser of:

- (1) 15; or

(2) five percent of the registered voters of the appropriate territory as determined from the list of registered voters to be used for the election. (V.T.E.C. Art. 3.05(c); New.)

Sec. 33.005. **APPOINTMENT FOR ELECTION ON MEASURE.** (a) In an election on a measure, watchers may be appointed by the campaign treasurer or an assistant campaign treasurer of a specific-purpose political committee that supports or opposes the measure.

(b) This section does not apply to a referendum measure submitted at a primary election. (V.T.E.C. Art. 3.06; New.)

Sec. 33.006. **CERTIFICATE OF APPOINTMENT.** (a) For an appointment of a watcher to be effective, the appointing authority must issue a certificate of appointment to the appointee.

(b) A certificate of appointment must:

(1) be in writing and signed by the appointing authority or, for an appointment for a write-in candidate, by each of the voters making the appointment;

(2) indicate the capacity in which the appointing authority is acting;

(3) state the name, residence address, and voter registration number of the appointee;

(4) identify the election and the precinct polling place or other location at which the appointee is to serve; and

(5) in an election on a measure, identify the measure if more than one is to be voted on and state which side of the measure the appointee represents.

(c) In addition to complying with Subsection (b), a certificate issued to a watcher for a write-in candidate must:

(1) include the residence address and voter registration number of eligible signers in the required number;

(2) include the signed statement of the candidate, or a person who would be authorized to make appointments on the candidate's behalf if the candidate's name appeared on the ballot, that the appointment is made with the signer's consent; and

(3) state the residence or office address of the signer under Subdivision (2) and the capacity in which he signs, if the statement is not signed by the candidate. (V.T.E.C. Arts. 3.05, 3.06; New.)

Sec. 33.007. **NUMBER AND PLACE OF SERVICE OF WATCHERS.** (a) Each appointing authority may appoint not more than two watchers for each precinct polling place, meeting place for an absentee ballot board, or central counting station involved in the election.

(b) Each appointing authority may appoint not more than seven watchers for each main or branch absentee polling place involved in the election. Not more than two watchers appointed by the same authority may be on duty at the same absentee polling place at the same time.

(c) In an election in which the election officers serving at a precinct polling place also serve as an absentee ballot board, a watcher who is appointed for the precinct polling place may observe the processing of absentee ballots by the absentee ballot board, or separate watchers may be appointed to observe only that activity.

(d) The number of watchers accepted for service on each side of a measure may not exceed the number authorized by this section. If the number of appointments exceeds the authorized number, the authority accepting the watchers for service shall accept the watchers in the order in which they present their certificates of appointment. (V.T.E.C. Art. 3.05; Art. 3.06; Art. 5.05, Subdiv. 3(c); Art. 5.05, Subdiv. 6(f); Art. 7.15, Subdiv. 10a; New.)

[Sections 33.008-33.030 reserved for expansion]

SUBCHAPTER B. ELIGIBILITY

Sec. 33.031. **GENERAL ELIGIBILITY REQUIREMENTS.** (a) To be eligible to serve as a watcher, a person must be a qualified voter:

(1) of the county in which the person is to serve, in an election ordered by the governor or a county authority or in a primary election;

(2) of the part of the county in which the election is held, in an election ordered by the governor or a county authority that does not cover the entire county of the person's residence; and

(3) of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(b) The Alcoholic Beverage Code supersedes this section to the extent of any conflict. (V.T.E.C. Art. 3.03(a); New.)

Sec. 33.032. **INELIGIBILITY OF CANDIDATE FOR PUBLIC OFFICE.** (a) A person is ineligible to serve as a watcher in an election if the person is a candidate for a public office in an election to be held on the same day.

(b) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election. (V.T.E.C. Art. 3.04, Subdiv. 1; New.)

Sec. 33.033. **INELIGIBILITY OF EMPLOYEE OR RELATIVE OF ELECTION OFFICER.** (a) A person is ineligible to serve as a watcher at a particular location if the person is the employer of or is employed by or related within the second degree by consanguinity or affinity to an election judge, an election clerk, an absentee voting clerk, or a deputy clerk serving at that location.

(b) For purposes of this section, a person is employed by an election officer in the same circumstances that a person is employed by a candidate under Section 32.054(b). (V.T.E.C. Art. 3.03(c); New.)

Sec. 33.034. **INELIGIBILITY OF PUBLIC OFFICER.** (a) A person who holds an elective public office is ineligible to serve as a watcher in an election.

(b) For purposes of this section, a deputy or assistant serving under a public officer does not hold a public office. (V.T.E.C. Art. 3.04, Subdiv. 1; New.)

[Sections 33.035-33.050 reserved for expansion]

SUBCHAPTER C. SERVICE

Sec. 33.051. **ACCEPTANCE OF WATCHER.** (a) A watcher appointed to serve at a precinct polling place, a meeting place for an absentee ballot board, or a central counting station must deliver a certificate of appointment to the presiding judge at the time the watcher reports for service. A watcher appointed to serve at an absentee polling place must deliver a certificate of appointment to the absentee voting clerk or deputy clerk in charge of the polling place when the watcher first reports for service.

(b) A watcher who presents himself at the proper time with a certificate of appointment shall be accepted for service unless the person is ineligible to serve or the number of appointees to which the appointing authority is entitled have already been accepted.

(c) The certificate of a watcher serving at an absentee polling place shall be retained at the polling place until voting at the polling place is concluded. At each subsequent time that the watcher reports for service, he shall inform the clerk or deputy in charge. The officer may require the watcher to sign his name in the officer's presence, for comparison with the signature on the certificate, if the officer is uncertain of the watcher's identity.

(d) If a watcher is not accepted for service, the certificate of appointment shall be returned to the watcher with a signed statement of the reason for the rejection. (V.T.E.C. Art. 3.07(b); New.)

Sec. 33.052. **HOURS OF SERVICE AT PRECINCT POLLING PLACE.** (a) A watcher at a precinct polling place may begin service at any time after the presiding judge arrives at the polling place on election day and may remain at the polling place until the presiding judge and the clerks complete their duties there. A watcher may not be accepted for service unless he is present at the time the polls are opened for voting.

(b) A watcher may not leave the polling place during the time the polls are open unless the presiding judge gives the watcher permission to be absent for a meal or other necessary activity. If the presiding judge permits the clerks to leave the polling place during the time the polls are open, the judge must grant the same privilege to watchers.

(c) A watcher who votes at another polling place in the same election or in another election held on the same day must be permitted to leave the polling place for the purpose of voting during the first two hours after the polls open if the watcher has not already voted in the election.

(d) If a watcher leaves the polling place without permission before the time for closing the polls, the presiding judge may refuse to readmit the watcher.

(e) A watcher may leave the polling place after the time for closing the polls without obtaining permission, and the presiding judge shall readmit the watcher on request. (V.T.E.C. Art. 3.07(a); New.)

Sec. 33.053. **HOURS OF SERVICE AT ABSENTEE POLLING PLACE.** A watcher serving at an absentee polling place may be present at the polling place at any time it is open and until completion of the securing of any voting equipment used at the polling place that is required to be secured on the close of voting each day. The watcher may serve during the hours he chooses. (V.T.E.C. Art. 3.07(g).)

Sec. 33.054. **HOURS OF SERVICE AT ABSENTEE BALLOT BOARD MEETING.** (a) A watcher serving at the meeting place of an absentee ballot board may be present at any time the board is processing or counting ballots and until the board completes its duties. The watcher may serve during the hours he chooses, except as provided by Subsection (b).

(b) A watcher may not leave during voting hours on election day without the presiding judge's permission if the board has recorded any votes cast on voting machines or counted any ballots, unless the board has completed its duties and has been dismissed by the presiding judge. (V.T.E.C. Art. 5.05, Subdiv. 6(f); New.)

Sec. 33.055. HOURS OF SERVICE AT CENTRAL COUNTING STATION. (a) A watcher serving at a central counting station may be present at any time the station is open for the purpose of processing or preparing to process election results and until the election officers complete their duties at the station. The watcher may serve during the hours he chooses, except as provided by Subsection (b).

(b) A watcher may not leave during voting hours on election day without the presiding judge's permission if the counting of ballots at the central counting station has begun. (V.T.E.C. Art. 7.15, Subdiv. 10a.)

Sec. 33.056. OBSERVING ACTIVITY GENERALLY. (a) Except as provided by Section 33.057, a watcher is entitled to observe any activity conducted at the location at which the watcher is serving. A watcher is entitled to sit or stand conveniently near the election officers conducting the observed activity.

(b) A watcher is entitled to sit or stand near enough to the member of a counting team who is announcing the votes to verify that the ballots are read correctly or to a member who is tallying the votes to verify that they are tallied correctly.

(c) A watcher is entitled to inspect the returns and other records prepared by the election officers at the location at which the watcher is serving.

(d) A watcher may not be prohibited from making written notes while on duty. Before permitting a watcher who made written notes at a precinct polling place to leave while the polls are open, the presiding officer may require the watcher to leave the notes with another person on duty at the polling place, selected by the watcher, for retention until the watcher returns to duty. (V.T.E.C. Art. 3.07(d); New.)

Sec. 33.057. OBSERVING PREPARATION OF VOTER'S BALLOT. (a) A watcher is entitled to be present at the voting station when a voter is being assisted by an election officer, and the watcher is entitled to examine the ballot before it is deposited in the ballot box to determine whether it is prepared in accordance with the voter's wishes.

(b) A watcher may not be present at the voting station when a voter is preparing his ballot or is being assisted by a person of his choice. (V.T.E.C. Art. 3.07(d); Art. 8.13, Subdiv. 1.)

Sec. 33.058. RESTRICTIONS ON WATCHER'S ACTIVITIES. (a) While on duty, a watcher may not:

- (1) converse with an election officer regarding the election, except to call attention to an irregularity or violation of law;
- (2) converse with a voter; or
- (3) communicate in any manner with a voter regarding the election.

(b) A watcher may call the attention of an election officer to any occurrence that the watcher believes to be an irregularity or violation of law and may discuss the matter with the officer. An officer may refer the watcher to the presiding officer at any point in the discussion. In that case, the watcher may not discuss the occurrence further with the subordinate officer unless the presiding officer invites the discussion. (V.T.E.C. Arts. 3.07(d), (e); New.)

Sec. 33.059. OBSERVING SECURING OF VOTING SYSTEM EQUIPMENT BEFORE ELECTION. (a) A watcher appointed to serve at a polling place in an election using voting system equipment that is required to be delivered to the polling place in a secured condition is entitled to observe the inspection and securing of the equipment in the jurisdiction of the authority responsible for distributing election supplies to the polling place at which the watcher is appointed to serve.

(b) On request of a watcher, the authority responsible for distributing the election supplies shall inform the watcher of the place, date, and hour of the inspection. A watcher shall be admitted on presentation of a certificate of appointment. The person admitting the watcher shall return the certificate to the watcher. (V.T.E.C. Art. 3.07(f); Art. 7.14, Sec. 10; New.)

Sec. 33.060. OBSERVING DELIVERY OF ELECTION RECORDS. (a) On request of a watcher, an election officer who delivers election records from a precinct polling place, an absentee polling place, a meeting place for an absentee ballot board, or a central counting station shall permit the watcher appointed to serve at that location to accompany the officer in making the delivery.

(b) If delivery is made in a vehicle, an election officer complies with this section if the officer permits the watcher to follow in a different vehicle and drives in a manner that enables the watcher to keep the vehicle in sight. (V.T.E.C. Art. 3.07(d); Art. 7.15, Subdiv. 19(d); New.)

Sec. 33.061. UNLAWFULLY OBSTRUCTING WATCHER. (a) A person commits an offense if the person serves in an official capacity at a location at which the presence of watchers

is authorized and knowingly prevents a watcher from observing an activity the watcher is entitled to observe.

(b) An offense under this section is a Class A misdemeanor. (V.T.E.C. Art. 3.07(d).)

CHAPTER 34. STATE INSPECTORS

Sec. 34.001. APPOINTMENT OF STATE INSPECTORS

Sec. 34.002. DUTIES AND PRIVILEGES

Sec. 34.003. TRAVEL EXPENSES

Sec. 34.004. INSPECTIONS BY SECRETARY OF STATE

Sec. 34.005. ACTION BY SECRETARY OF STATE

CHAPTER 34. STATE INSPECTORS

Sec. 34.001. APPOINTMENT OF STATE INSPECTORS. (a) The secretary of state may appoint one or more state inspectors for an election.

(b) The secretary of state shall appoint one or more inspectors for an election if he receives a written request for the appointment from 15 or more registered voters:

(1) of the county for which the inspector is requested, for an election ordered by the governor or a county authority or for a primary election; or

(2) of the political subdivision in which the election specified by the request is held, for an election ordered by an authority of a political subdivision other than a county.

(c) A request under Subsection (b) must be received by the secretary of state not later than the fifth day before the date of the election for which the inspectors are requested.

(d) State inspectors are responsible to the secretary of state and subject to his direction. The secretary may terminate an appointment at any time. (V.T.E.C. Art. 1.03, Subdiv. 3; New.)

Sec. 34.002. DUTIES AND PRIVILEGES. (a) Except as provided by Subsection (b), a state inspector is entitled to be present at and observe any function or activity at a polling place, central counting station, place of canvass, or other place at which official election or voter registration functions or activities take place. An inspector may take reasonable steps to obtain evidence of the manner in which a function or activity is being performed.

(b) A state inspector may not observe the preparation of the ballot of a voter not being assisted by an election officer.

(c) A state inspector shall report to the secretary of state any violation of law that the inspector observes. (V.T.E.C. Art. 1.03, Subdiv. 3.)

Sec. 34.003. TRAVEL EXPENSES. Subject to specific legislative appropriation, the secretary of state may reimburse state inspectors for travel expenses in an amount determined by the secretary but not to exceed travel expenses allowable to state employees generally. (New.)

Sec. 34.004. INSPECTIONS BY SECRETARY OF STATE. The secretary of state or a member of the secretary's staff may make inspections in the same manner as state inspectors whether or not a violation of election laws is suspected. (V.T.E.C. Art. 1.03, Subdiv. 3.)

Sec. 34.005. ACTION BY SECRETARY OF STATE. The secretary of state may refer a reported violation of law for appropriate action to the attorney general, if the attorney general has jurisdiction, or to a prosecuting attorney having jurisdiction. (V.T.E.C. Art. 1.03, Subdiv. 3.)

TITLE 4. TIME AND PLACE OF ELECTIONS

Chapter 41. Election Dates and Hours for Voting

Chapter 42. Election Precincts

Chapter 43. Polling Places

TITLE 4. TIME AND PLACE OF ELECTIONS

CHAPTER 41. ELECTION DATES AND HOURS FOR VOTING

SUBCHAPTER A. ELECTION DATES

Sec. 41.001. UNIFORM ELECTION DATES

Sec. 41.002. GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 41.003. AUTHORIZED NOVEMBER ELECTIONS IN EVEN-NUMBERED YEAR

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[Sections 41.009-41.030 reserved for expansion]

SUBCHAPTER B. HOURS FOR VOTING

Sec. 41.031. VOTING HOURS

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TITLE 4. TIME AND PLACE OF ELECTIONS

CHAPTER 41. ELECTION DATES AND HOURS FOR VOTING

SUBCHAPTER A. ELECTION DATES

Sec. 41.001. UNIFORM ELECTION DATES. (a) Except as otherwise provided by this subchapter, each general or special election in this state shall be held on one of the following dates:

- (1) the third Saturday in January;
- (2) the first Saturday in April;
- (3) the second Saturday in August; or
- (4) the first Tuesday after the first Monday in November.

(b) Subsection (a) does not apply to:

- (1) a runoff election;
- (2) a local option election held under the Alcoholic Beverage Code;
- (3) an election for the issuance or assumption of bonds;
- (4) an election for the levy of a tax for the maintenance of a public school or college;
- (5) an election to resolve a tie vote;
- (6) an election held under an order of a court or other tribunal;
- (7) a recall election;
- (8) a special election to elect the first set of officers of a political subdivision following its organization or reorganization if the election is not held simultaneously with an election on the question of the organization or reorganization;
- (9) an emergency election to fill a vacancy in office ordered under Section 201.053;
- (10) an expedited election to fill a vacancy in the legislature held under Section 203.013;
- (11) a confirmation election, director election, or maintenance tax election held in conjunction with the creation of a political subdivision under Article XVI, Section 59, of the Texas Constitution that will furnish water or sewer services to household users;
- (12) an election held by a political subdivision using the convention method of election; or
- (13) an election held under a statute that expressly provides that the requirement of Subsection (a) does not apply to the election. (V.T.E.C. Arts. 2.01b(a), (b); Art. 4.12, Subdiv. 4; New.)

Sec. 41.002. GENERAL ELECTION FOR STATE AND COUNTY OFFICERS. The general election for state and county officers shall be held on the first Tuesday after the first Monday in November in even-numbered years. (V.T.E.C. Art. 2.01.)

Sec. 41.003. AUTHORIZED NOVEMBER ELECTIONS IN EVEN-NUMBERED YEAR. Only the following elections may be held on the date of the general election for state and county officers:

- (1) a general or special election for officers of the federal, state, or county government;
- (2) a general or special election of officers of a general-law city if the city's governing body determines that the religious beliefs of more than 50 percent of the registered voters of the city prohibit voting on Saturday;
- (3) a general or special election of officers of a home-rule city with a population under 30,000, if before 1975 the general election of the city's officers was held on that date in even-numbered years;
- (4) an election on a proposed amendment to the state constitution or on another statewide measure submitted by the legislature;
- (5) a countywide election on a measure that is ordered by a county authority and that affects county government; and

(6) an election on a measure submitted by order of an authority of a city described by Subdivision (2) or (3). (V.T.E.C. Arts. 2.01b(a), (c); New.)

Sec. 41.004. SPECIAL ELECTION WITHIN PARTICULAR PERIOD. (a) If a law outside this code other than the constitution requires a special election subject to Section 41.001(a) to be held within a particular period after the occurrence of a certain event, the election shall be held on an authorized uniform election date occurring within the period unless no uniform election date within the period affords enough time to hold the election in the manner required by law. In that case, the election shall be held on the first authorized uniform election date occurring after the expiration of the period.

(b) If the constitution requires a special election to be held within a particular period after the occurrence of a certain event, Section 41.001(a) does not apply. (V.T.E.C. Art. 2.01b(e).)

Sec. 41.005. GENERAL ELECTION OF POLITICAL SUBDIVISION OTHER THAN COUNTY. (a) This section does not apply to a general election for county officers.

(b) If a law outside this code requires the general election for officers of a political subdivision to be held on a date other than a uniform election date, the governing body of the political subdivision shall set the election date to comply with this subchapter.

(c) Within two years after the effective date of this code, the governing body of a political subdivision may change, one time only, the date of the general election for the political subdivision's officers from one authorized uniform election date to another if:

(1) the new date is not more than 250 days earlier or later than the former date; and

(2) the governing body changes the date at least 150 days before the new date or the former date, whichever is earlier.

(d) A governing body changing an election date under this section shall adjust the terms of office to conform to the new election date. (V.T.E.C. Arts. 2.01b(c), (d); New.)

Sec. 41.006. ADJUSTING ELECTION SCHEDULE. If under this subchapter an election is held on a date other than a date prescribed by other law, the date for a runoff election, the deadline for filing for candidacy, and the schedule for canvassing election returns, declaring results, or performing any other official act relating to the election shall be adjusted to allow the same interval of time in relation to the date of the election as would be provided by application of the other law. (V.T.E.C. Art. 2.01b(c).)

Sec. 41.007. PRIMARY ELECTIONS. (a) The general primary election date is the first Saturday in May in each even-numbered year.

(b) The runoff primary election date is the first Saturday in June following the general primary election.

(c) No other election may be held on the date of a general or runoff primary election. (V.T.E.C. Arts. 2.01a, 13.03.)

Sec. 41.008. EFFECT OF HOLDING ELECTION ON IMPROPER DATE. An election held on a date not permitted by this subchapter is void. (V.T.E.C. Art. 2.01b(a).)

[Sections 41.009-41.030 reserved for expansion]

SUBCHAPTER B. HOURS FOR VOTING

Sec. 41.031. VOTING HOURS. (a) The polls shall be opened at 7 a.m. for voting and shall be closed at 7 p.m.

(b) Voting may not be conducted after the time for closing the polls except as provided by Section 41.032. (V.T.E.C. Art. 2.01.)

Sec. 41.032. VOTING AFTER POLLS CLOSE. (a) A voter who has not voted before the time for closing the polls is entitled to vote after that time if the voter is inside or waiting to enter the polling place at 7 p.m.

(b) If voters are waiting to enter the polling place at closing time, the presiding judge shall direct them to enter the polling place and shall close it to others. However, if that procedure is impracticable, at closing time the presiding judge shall distribute numbered identification cards to the waiting voters and permit entry into the polling place for voting after closing time only by those possessing a card.

(c) The presiding judge shall take the precautions necessary to prevent voting after closing time by persons who are not entitled to do so. (V.T.E.C. Art. 2.01.)

CHAPTER 42. ELECTION PRECINCTS

SUBCHAPTER A. COUNTY ELECTION PRECINCTS

Sec. 42.001. PRECINCTS ESTABLISHED BY COMMISSIONERS COURT

Sec. 42.002. REQUIRED USE OF COUNTY PRECINCTS

- Sec. 42.003. BOUNDARY DESCRIPTION
 - Sec. 42.004. PRECINCT IDENTIFICATION
 - Sec. 42.005. RELATIONSHIP TO WARDS, DISTRICTS, AND JUSTICE AND COMMISSIONERS PRECINCTS
 - Sec. 42.006. POPULATION REQUIREMENTS
 - Sec. 42.007. COMBINING INCORPORATED AND UNINCORPORATED TERRITORY
 - Sec. 42.008. CONSOLIDATING PRECINCTS IN SPECIAL ELECTION
 - Sec. 42.009. CONSOLIDATING PRECINCTS IN PRIMARY ELECTION
- [Sections 42.010-42.030 reserved for expansion]

SUBCHAPTER B. CHANGING COUNTY PRECINCT BOUNDARIES

- Sec. 42.031. REVIEWING PRECINCTS FOR COMPLIANCE: BOUNDARY CHANGES
 - Sec. 42.032. REDISTRICTING: BOUNDARY CHANGES
 - Sec. 42.033. EFFECTIVE DATE OF BOUNDARY CHANGE
 - Sec. 42.034. NOTICE TO REGISTRAR
 - Sec. 42.035. PUBLIC NOTICE
 - Sec. 42.036. ADDITIONAL NOTICE IN POPULOUS COUNTIES
 - Sec. 42.037. FILING MAP OF PRECINCT BOUNDARY CHANGES WITH SECRETARY OF STATE
- [Sections 42.038-42.060 reserved for expansion]

SUBCHAPTER C. OTHER ELECTION PRECINCTS

- Sec. 42.061. PRECINCTS OF POLITICAL SUBDIVISION OTHER THAN COUNTY
- Sec. 42.062. PRECINCTS FOR CERTAIN SPECIAL ELECTIONS
- Sec. 42.063. BOUNDARY DESCRIPTION
- Sec. 42.064. PRECINCT IDENTIFICATION
- Sec. 42.065. CONFLICTS WITH OTHER LAW

CHAPTER 42. ELECTION PRECINCTS

SUBCHAPTER A. COUNTY ELECTION PRECINCTS

Sec. 42.001. PRECINCTS ESTABLISHED BY COMMISSIONERS COURT. Each commissioners court by order shall divide the county into county election precincts in accordance with this subchapter. The precincts must be compact and contiguous. (V.T.E.C. Art. 2.04, Subdiv. 1; New.)

Sec. 42.002. REQUIRED USE OF COUNTY PRECINCTS. The county election precincts are the election precincts for the following elections:

- (1) the general election for state and county officers;
- (2) a special election ordered by the governor;
- (3) a primary election; and
- (4) a countywide election ordered by the commissioners court, county judge, or other county authority, except an election subject to Section 42.062(2). (V.T.E.C. Arts. 2.02(a), (f).)

Sec. 42.003. BOUNDARY DESCRIPTION. Each county election precinct must be described by natural or artificial boundaries or by survey lines. (V.T.E.C. Art. 2.04, Subdiv. 1; Art. 2.02(h).)

Sec. 42.004. PRECINCT IDENTIFICATION. The commissioners court shall identify each county election precinct by a number. (V.T.E.C. Art. 2.04, Subdiv. 1; Art. 2.02(h).)

Sec. 42.005. RELATIONSHIP TO WARDS, DISTRICTS, AND JUSTICE AND COMMISSIONERS PRECINCTS. (a) A county election precinct may not contain territory from more than one of each of the following types of territorial units:

- (1) a commissioners precinct;
- (2) a justice precinct;
- (3) a congressional district;
- (4) a state representative district;

- (5) a state senatorial district;
- (6) a ward in a city with a population of 10,000 or more; or
- (7) a State Board of Education district.

(b) If application of this section conflicts with application of Section 42.006, this section prevails.

(c) In this section, "ward" means a territorial unit of a city, regardless of its designation under other law, from which a member of the city's governing body is elected by only the voters residing in the territorial unit. (V.T.E.C. Art. 1.01a(a)(61); Art. 2.04, Subdivs. 2, 3, 4, 7; New.)

Sec. 42.006. **POPULATION REQUIREMENTS.** (a) Except as otherwise provided by this section, a county election precinct must contain at least 100 but not more than 2,000 registered voters.

(b) For an election precinct in a county with a population under 100,000, the minimum number of registered voters the precinct may contain is 50, except as provided by Subsection (c).

(c) In a county with a population under 50,000, a county election precinct may contain fewer than 50 registered voters if the commissioners court receives a written petition, signed by at least 25 registered voters of the county, requesting establishment or continuation of the precinct.

(d) In a county in which a voting system has been adopted for use in the general election for state and county officers, the maximum number of registered voters a precinct may contain is:

- (1) 3,000, in a county with a population of 175,000 or more; and
- (2) 5,000, in a county with a population of less than 175,000. (V.T.E.C. Art. 2.04, Subdiv. 2.)

Sec. 42.007. **COMBINING INCORPORATED AND UNINCORPORATED TERRITORY.** A commissioners court may not establish a county election precinct containing territory inside a city with a population of 10,000 or more and unincorporated territory outside that city unless the commissioners court determines that either of the two areas:

- (1) cannot constitute a separate election precinct of suitable size or shape that contains the permissible number of voters; or
- (2) cannot be combined with other territory on the same side of the city boundary to form an election precinct of a suitable size or shape that contains the permissible number of voters without causing another election precinct to fail to meet those requirements. (V.T.E.C. Art. 2.04, Subdiv. 3; New.)

Sec. 42.008. **CONSOLIDATING PRECINCTS IN SPECIAL ELECTION.** (a) In a special election for which use of county election precincts is required, the commissioners court may consolidate two or more county election precincts into a single precinct if:

- (1) the polling place is located so it will adequately serve the voters of the consolidated precinct; and
- (2) no office or measure is to be voted on in the consolidated precinct only by the voters of the county or of an area situated wholly within the county.

(b) If county election precincts are consolidated for a countywide election, at least one consolidated precinct must be situated wholly within each commissioners precinct. (V.T.E.C. Art. 2.02(g).)

Sec. 42.009. **CONSOLIDATING PRECINCTS IN PRIMARY ELECTION.** (a) The county executive committee of a political party holding a primary election may order two or more county election precincts consolidated into a single precinct if:

- (1) the polling place is located so it will adequately serve the voters of the consolidated precinct; and
- (2) at least one consolidated precinct is situated wholly within each commissioners precinct.

(b) Not later than the 10th day before primary election day, the county chairman shall post notice of the consolidation at the county courthouse on the bulletin board used for posting notice of meetings of the commissioners court. The notice must state which precincts have been combined to form each consolidated precinct and the locations of the polling places in the consolidated precincts.

(c) For each precinct that is combined to form a consolidated precinct for a primary election, not later than the 10th day before primary election day, the county chairman shall post notice of the precinct's consolidation at the polling place used in the preceding primary election. The notice must state the location of the polling place in the consolidated precinct.

(d) A notice posted under this section must remain posted continuously through primary election day. (V.T.E.C. Arts. 2.02(g), 13.08(h); New.)

[Sections 42.010-42.030 reserved for expansion]

SUBCHAPTER B. CHANGING COUNTY PRECINCT BOUNDARIES

Sec. 42.031. REVIEWING PRECINCTS FOR COMPLIANCE: BOUNDARY CHANGES. (a) During July or August of each odd-numbered year, each commissioners court shall determine whether the county election precincts comply with Sections 42.005, 42.006, and 42.007. The commissioners court may make that determination during July or August of an even-numbered year. Before September 1 of the year in which the determination is made, the commissioners court shall order the boundary changes necessary for compliance.

(b) The commissioners court may order a boundary change only during July or August unless the change is necessary to:

- (1) comply with Section 42.005 or 42.032;
- (2) reduce the number of registered voters in a precinct so it does not exceed the maximum number permitted by Section 42.006; or
- (3) include within a precinct a suitable building available for use as a polling place if no suitable building is available for that purpose within the existing precinct boundary. (V.T.E.C. Art. 2.04, Subdivs. 1, 3; New.)

Sec. 42.032. REDISTRICTING: BOUNDARY CHANGES. If changes in county election precinct boundaries are necessary to give effect to a redistricting plan under Article III, Section 28, of the Texas Constitution, each commissioners court shall order the changes before December 1 of the year in which the redistricting is done. (V.T.E.C. Art. 2.04, Subdiv. 7.)

Sec. 42.033. EFFECTIVE DATE OF BOUNDARY CHANGE. (a) A change in a county election precinct boundary takes effect on the first day of the first even-numbered voting year following the voting year in which the change is ordered.

(b) For a boundary change under Section 42.031(b), the commissioners court may order an earlier effective date than that prescribed by Subsection (a) if:

- (1) an election for an officer of a territorial unit under Section 42.005(a) is scheduled or may be scheduled to be held before the effective date of the change under Subsection (a) and the territorial unit contains the election precinct as changed; and
- (2) the voter registrar has sufficient time to correct the registration records before the effective date of the change. (V.T.E.C. Art. 2.04, Subdivs. 5, 7.)

Sec. 42.034. NOTICE TO REGISTRAR. The commissioners court shall deliver a certified copy of an order changing a county election precinct boundary to the voter registrar not later than the seventh day after the date the order is adopted. (V.T.E.C. Art. 2.04, Subdivs. 5, 7; New.)

Sec. 42.035. PUBLIC NOTICE. (a) Beginning with the first week following the week in which an order changing a county election precinct boundary is adopted, the commissioners court shall publish notice of the change in a newspaper in the county once a week for three consecutive weeks.

(b) The notice must include a brief, general description of the boundary change.

(c) If no newspaper is published in the county, the commissioners court shall post the notice at the county courthouse on the bulletin board used for posting notice of meetings of the commissioners court. The notice must remain posted continuously for three consecutive weeks. (V.T.E.C. Art. 2.04, Subdivs. 1, 3, 7; New.)

Sec. 42.036. ADDITIONAL NOTICE IN POPULOUS COUNTIES. (a) This section applies only to a county with a population of 500,000 or more.

(b) The commissioners court shall deliver written notice of each proposed change and of each order making a change in a county election precinct boundary to:

- (1) the county chairman of each political party that held a primary election in the county on the most recent general primary day;
- (2) the political party's precinct chairman of each affected election precinct; and
- (3) the presiding judge appointed by the commissioners court for each affected election precinct.

(c) The notice of a proposed boundary change must be delivered not later than the seventh day before the date of the commissioners court meeting at which the proposed change will be considered. The notice of an order making a boundary change must be delivered not later than the seventh day after the date the order is adopted.

(d) The notice of a proposed change must describe the proposed change in brief, general terms, identify the precincts to be affected by the proposed change, and state the date, hour, and place of the meeting.

(e) The notice of an order making a boundary change must describe the change in brief, general terms and identify the changed precincts. As an alternative, the notice to the county

chairman may be a copy of the order, and the notice to a precinct chairman or presiding judge may be a copy of the portion of the order affecting the precinct served by that person.

(f) A person entitled to notice under this section may challenge a boundary change made in violation of this section by petition to the district court. The petition must be filed not later than one year after the date the change is scheduled to take effect. If the court determines that the commissioners court failed to comply with this section, the court shall declare the boundary change void. The validity of an election held before the date of a final judgment declaring a change void is not affected by the judgment. Noncompliance with this section may not be challenged in any other manner.

(g) For one year following the effective date of a change in a county election precinct boundary, the commissioners court shall maintain a record containing a copy of each notice required by this section in connection with the boundary change and showing the date the notice was delivered. (V.T.E.C. Art. 2.04, Subdiv. 6; New.)

Sec. 42.037. FILING MAP OF PRECINCT BOUNDARY CHANGES WITH SECRETARY OF STATE. (a) Not later than the 120th day after the date an order changing a county election precinct boundary is adopted, the county clerk shall deliver to the secretary of state a map depicting the affected precinct's boundary as changed and showing the number of the precinct.

(b) The secretary of state shall retain each map for 10 years after receipt. After that period, the secretary shall transfer the map to the state library.

(c) The state librarian shall retain the map for 20 years after receipt. (V.T.E.C. Art. 2.04a, Subdivs. 2, 3.)

[Sections 42.038-42.060 reserved for expansion]

SUBCHAPTER C. OTHER ELECTION PRECINCTS

Sec. 42.061. PRECINCTS OF POLITICAL SUBDIVISION OTHER THAN COUNTY. (a) The governing body of a political subdivision other than a county shall establish the election precincts for elections ordered by an authority of the political subdivision.

(b) The precincts may be established before each election or, once established, remain established until changed, at the governing body's discretion.

(c) An election precinct established for an election ordered by a city authority may not divide a county election precinct except as necessary to follow the city's boundary. (V.T.E.C. Arts. 2.02(b), (c); Art. 2.05; New.)

Sec. 42.062. PRECINCTS FOR CERTAIN SPECIAL ELECTIONS. A county authority ordering an election shall establish the election precincts for the election if:

(1) the election is a special election affecting only part of the county; or

(2) the election relates to the creation, organization, functioning, or existence of one or more political subdivisions other than the county. (V.T.E.C. Arts. 2.02(d), (e).)

Sec. 42.063. BOUNDARY DESCRIPTION. Each election precinct established under this subchapter must be described by natural or artificial boundaries, by survey lines, or if the precinct is coterminous with one or more county election precincts, by use of the county election precinct number or numbers. (V.T.E.C. Art. 2.02(h); New.)

Sec. 42.064. PRECINCT IDENTIFICATION. If more than one election precinct is established under this subchapter, the authority establishing the precincts shall identify each precinct by a name or number. (V.T.E.C. Art. 2.02(h).)

Sec. 42.065. CONFLICTS WITH OTHER LAW. A law outside this subchapter supersedes this subchapter to the extent of any conflict. (V.T.E.C. Art. 2.02.)

CHAPTER 43. POLLING PLACES

SUBCHAPTER A. NUMBER AND LOCATION OF POLLING PLACES

Sec. 43.001. ONE POLLING PLACE IN EACH PRECINCT

Sec. 43.002. DESIGNATION OF LOCATION: GENERAL OR SPECIAL ELECTION USING COUNTY PRECINCTS

Sec. 43.003. DESIGNATION OF LOCATION: PRIMARY ELECTION

Sec. 43.004. DESIGNATION OF LOCATION: ELECTIONS OF OTHER POLITICAL SUBDIVISIONS

Sec. 43.005. DESIGNATION OF LOCATION: CERTAIN SPECIAL ELECTIONS

Sec. 43.006. CONFLICTS WITH OTHER LAW

[Sections 43.007-43.030 reserved for expansion]

SUBCHAPTER B. BUILDING FOR USE AS POLLING PLACE

Sec. 43.031. POLLING PLACE IN PUBLIC BUILDING

Sec. 43.032. BUILDING ACQUIRED BY COUNTY FOR POLLING PLACE

Sec. 43.033. CONSIDERATION FOR USE OF PUBLIC BUILDING AS POLLING PLACE

Sec. 43.034. ACCESSIBILITY OF POLLING PLACE TO THE ELDERLY AND PHYSICALLY HANDICAPPED

CHAPTER 43. POLLING PLACES

SUBCHAPTER A. NUMBER AND LOCATION OF POLLING PLACES

Sec. 43.001. ONE POLLING PLACE IN EACH PRECINCT. Each election precinct established for an election shall be served by a single polling place located within the boundary of the precinct. (V.T.E.C. Art. 2.02(h).)

Sec. 43.002. DESIGNATION OF LOCATION: GENERAL OR SPECIAL ELECTION USING COUNTY PRECINCTS. (a) For a general or special election in which the use of county election precincts is required, the county clerk shall recommend the location of the polling place for each county election precinct, except as provided by Subsection (b). The commissioners court shall designate the recommended location as the polling place unless the court finds good cause to reject the recommendation. In that case, the commissioners court shall designate another location.

(b) If county election precincts are consolidated, the commissioners court shall designate the location of the polling place for the consolidated precinct. (V.T.E.C. Arts. 2.02(a), (g); New.)

Sec. 43.003. DESIGNATION OF LOCATION: PRIMARY ELECTION. The county chairman of a political party holding a primary election shall designate the location of the polling place for each election precinct in the primary unless the precinct is one that is consolidated. In that case, the county executive committee shall designate the location. (V.T.E.C. Art. 2.02(g); Art. 13.04, Subdiv. 1; New.)

Sec. 43.004. DESIGNATION OF LOCATION: ELECTIONS OF OTHER POLITICAL SUBDIVISIONS. The governing body of each political subdivision authorized to hold elections, other than a county, shall designate the location of the polling place for each of its election precincts. (V.T.E.C. Arts. 2.02(b), (c); Art. 2.05.)

Sec. 43.005. DESIGNATION OF LOCATION: CERTAIN SPECIAL ELECTIONS. The authority establishing election precincts under Section 42.062 shall designate the location of the polling place for each precinct. (V.T.E.C. Arts. 2.02(d), (e).)

Sec. 43.006. CONFLICTS WITH OTHER LAW. A law outside this subchapter supersedes this subchapter to the extent of any conflict. (V.T.E.C. Art. 2.02.)

[Sections 43.007-43.030 reserved for expansion]

SUBCHAPTER B. BUILDING FOR USE AS POLLING PLACE

Sec. 43.031. POLLING PLACE IN PUBLIC BUILDING. (a) In this subchapter, "public building" means a building owned or controlled by the state or a political subdivision.

(b) Each polling place shall be located inside a building.

(c) The building selected for a polling place shall be a public building if practicable.

(d) If a suitable public building is unavailable, the polling place may be located in some other building, and any charge for its use is an election expense. (V.T.E.C. Art. 2.03(a); New.)

Sec. 43.032. BUILDING ACQUIRED BY COUNTY FOR POLLING PLACE. (a) If a public building is unavailable for use as the polling place for a county election precinct, the commissioners court may purchase or construct a building in the precinct for that purpose.

(b) A county that owns a building purchased or constructed under Subsection (a) shall make the building available for use as a polling place in any election that covers an area in which the building is located. If more than one authority requests the use of the building for the same day and simultaneous use is impracticable, the commissioners court shall determine which authority may use the building.

(c) The commissioners court may permit a building purchased or constructed under Subsection (a) to be used with or without charge for purposes other than as a polling place. (V.T.E.C. Art. 2.03(b).)

Sec. 43.033. CONSIDERATION FOR USE OF PUBLIC BUILDING AS POLLING PLACE. (a) No charge may be made for the use of a public building for a polling place except for reimbursement for the actual expenses resulting from use of the building in the election.

(b) The reimbursing authority is entitled to an itemized statement of expenses before making remittance. (V.T.E.C. Art. 2.03(a).)

Sec. 43.034. **ACCESSIBILITY OF POLLING PLACE TO THE ELDERLY AND PHYSICALLY HANDICAPPED.** (a) Except as provided by this section, each polling place shall be accessible to and usable by the elderly and physically handicapped. To be considered accessible, a polling place must meet the following standards:

- (1) the polling place must be on the ground-level floor or be accessible from the ground-level floor by an elevator with doors that provide an opening of at least 30 inches in width;
- (2) doors, entrances, and exits used to enter or leave the polling place must have a minimum width of 30 inches;
- (3) any curb adjacent to the main entrance to a polling place must have curb cuts or temporary nonslip ramps;
- (4) any stairs necessary to enter or leave the polling place must have a handrail and nonslip ramp; and
- (5) the polling place may not have a barrier that impedes the path of the physically handicapped to the voting station.

(b) Subsection (a) does not apply to a temporary polling place or a polling place in a nonpublic building. The authority responsible for designating polling places may designate a polling place in a public building without regard to Subsection (a) if:

- (1) an acceptable and accessible site is unavailable within the precinct for the election; and
- (2) it is anticipated that the site can be brought into compliance with the standards by affirmative governmental action.

(c) Not later than January 1, 1986, each commissioners court shall provide a polling place that complies with Subsection (a) in at least 60 percent of the county election precincts. Not later than January 1, 1987, the commissioners court shall provide a polling place that complies with Subsection (a) in at least 85 percent of the county election precincts. Not later than January 1, 1988, the commissioners court shall provide a polling place that complies with Subsection (a) in each county election precinct. The site shall be made available for use as a polling place on every day that an election may be held within the precinct by any authority that holds elections. The commissioners court may make expenditures from either the general fund or the permanent improvement fund to bring an existing county-owned site into compliance with Subsection (a).

(d) The governing body of each political subdivision that holds elections shall cooperate with the commissioners court in its respective county in implementing this section and is subject to the same deadlines for compliance as prescribed by Subsection (c). If the authority holding an election rejects a county-designated polling place that is available and chooses to use a different site of its own designation, it shall provide a polling place that complies with Subsection (a) at its own expense. A political party that is holding a primary election may not reject an available county-designated polling place without the prior consent of the secretary of state. (V.T.E.C. Art. 2.03a.)

TITLE 5. ELECTION SUPPLIES

Chapter 51. Election Supplies

Chapter 52. Ballot Form, Content, and Preparation

TITLE 5. ELECTION SUPPLIES

CHAPTER 51. ELECTION SUPPLIES

SUBCHAPTER A. PROCURING, ALLOCATING, AND

DISTRIBUTING ELECTION SUPPLIES

Sec. 51.001. ELECTION SUPPLIES

Sec. 51.002. COUNTY ELECTION BOARD

Sec. 51.003. PROCURING AND ALLOCATING SUPPLIES

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- Sec. 51.031. APPROVAL OF BALLOT BOXES AND VOTING BOOTHS
 Sec. 51.032. VOTING BOOTHS
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 Sec. 51.036. CUSTODIAN OF EQUIPMENT [CENHD]TITLE 5. ELECTION SUPPLIES

CHAPTER 51. ELECTION SUPPLIES

SUBCHAPTER A. PROCURING, ALLOCATING, AND DISTRIBUTING ELECTION SUPPLIES

Sec. 51.001. ELECTION SUPPLIES. In this chapter, "election supplies" means the equipment, ballots, forms, lists of registered voters, and other materials necessary to conduct an election. (V.T.E.C. Art. 7.07; New.)

Sec. 51.002. COUNTY ELECTION BOARD. (a) A county election board is established in each county for the general election for state and county officers, a special election for an officer regularly elected at the general election, and any other election ordered by a county authority or held at county expense.

(b) For the general election for state and county officers and for a special election for an officer regularly elected at the general election, the county election board consists of the county judge, county clerk, voter registrar, sheriff, and county chairman of each political party required to nominate candidates by primary election. For other elections, the board consists of the county judge, county clerk, voter registrar, and sheriff.

(c) The county clerk is the chairman of the county election board. (V.T.E.C. Art. 7.07; New.)

Sec. 51.003. PROCURING AND ALLOCATING SUPPLIES. Except as otherwise provided by law, the following authority shall procure the election supplies necessary to conduct an election and shall determine the quantity of the various types of supplies to be provided to each precinct polling place and absentee polling place:

(1) for an election ordered by the governor or a county authority, the county clerk, subject to the approval of the county election board;

(2) for a primary election, the county chairman of the political party holding the primary, subject to the approval of the party's county executive committee;

(3) for an election ordered by a city authority, the city secretary; and

(4) for an election ordered by an authority of a political subdivision other than a county or city, the secretary of the subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer. (V.T.E.C. Arts. 7.07, 7.08, 7.13, 13.19; New.)

Sec. 51.004. DISTRIBUTING SUPPLIES. (a) Except as otherwise provided by law, the authority responsible for procuring the election supplies for an election shall distribute the supplies for the election.

(b) The appropriate supplies shall be distributed to each presiding election judge not later than one hour before the polls are required to be open for voting and to the absentee voting clerk before the beginning of absentee voting. (V.T.E.C. Arts. 6.09, 7.07; New.)

Sec. 51.005. NUMBER OF BALLOTS. The authority responsible for procuring the election supplies for an election shall provide for each election precinct a number of ballots equal to at least the percentage of voters who voted in that precinct in the most recent corresponding election plus 25 percent of that number, except that the number of ballots provided may not exceed the total number of registered voters in the precinct. (V.T.E.C. Art. 6.09(a).)

Sec. 51.006. PREPARING BALLOTS FOR DISTRIBUTION. The authority responsible for distributing election supplies shall package and seal each set of ballots before their distribution and shall mark the package with the number of ballots enclosed and the range of the ballot serial numbers. If the authority is the absentee voting clerk, the ballots allocated for absentee voting need not be packaged and sealed. (V.T.E.C. Art. 6.09.)

Sec. 51.007. RECORD OF BALLOT DISTRIBUTION. (a) As soon as practicable after the ballots are packaged for distribution, the authority responsible for distributing election supplies shall prepare a record of the number of ballots and the range of serial numbers on the ballots to be distributed to each presiding judge and the absentee voting clerk.

(b) The authority shall preserve the record for the period for preserving the precinct election records. (V.T.E.C. Art. 6.09; New.)

Sec. 51.008. SUPPLEMENTING DISTRIBUTED BALLOTS. (a) The authority responsible for distributing election supplies shall retain a reserve of ballots to supplement the distributed ballots and on election day may reallocate previously distributed ballots among the polling places.

(b) The authority shall enter on the record of ballot distribution the number of ballots reserved and the number of ballots distributed from the reserve to each polling place. The range of serial numbers on the ballots shall be included in the record.

(c) If distributed ballots are reallocated, the authority shall indicate the reallocation on the record of ballot distribution and shall issue a receipt to each presiding election judge showing the number of ballots and the range of serial numbers on the ballots taken from the judge's polling place for redistribution. Each presiding judge shall indicate on the ballot register any reallocation of ballots affecting that polling place.

(d) The authority shall retain the undistributed reserve for the period for preserving the precinct election records. (New.)

Sec. 51.009. SHERIFF TO DELIVER SUPPLIES. (a) The sheriff shall deliver the election supplies that a county clerk is responsible for distributing, on request of the clerk, to each presiding judge who has not obtained them from the clerk.

(b) This section does not require the sheriff to deliver an item that cannot be transported in a regular passenger vehicle. (V.T.E.C. Arts. 7.07, 7.11; New.)

Sec. 51.010. FAILURE TO DISTRIBUTE OR DELIVER SUPPLIES. (a) A person commits an offense if the person is responsible for distributing election supplies for an election and intentionally fails to distribute any of the supplies by the deadline prescribed by Section 51.004(b).

(b) A person commits an offense if the person is entrusted with the delivery of election supplies for use at polling places and intentionally fails to deliver any of the supplies within the time specified by the person who entrusted the delivery to him.

(c) An offense under this section is a Class C misdemeanor. (V.T.E.C. Art. 15.13; New.)

Sec. 51.011. OBSTRUCTING DISTRIBUTION OF SUPPLIES. (a) A person commits an offense if the person intentionally obstructs the distribution of election supplies for an election.

(b) An offense under this section is a Class C misdemeanor. (V.T.E.C. Art. 15.13; New.)

Sec. 51.012. TRANSPORTING ELECTION SUPPLIES FOR HIRE. A person who transports election supplies to or from a polling place is exempt from any requirement to obtain a certificate of convenience and necessity or a permit from the Railroad Commission of Texas or any other authority as a prerequisite for transporting property for hire. (V.T.E.C. Art. 7.14, Sec. 10a.)

[Sections 51.013-51.030 reserved for expansion]

SUBCHAPTER B. ELECTION EQUIPMENT

Sec. 51.031. APPROVAL OF BALLOT BOXES AND VOTING BOOTHS. (a) Except as otherwise provided by this subchapter, the secretary of state must approve the composition and design of ballot boxes and voting booths before the equipment may be used in elections.

(b) A person desiring approval of a ballot box or a voting booth for use in this state must submit a written request for approval to the secretary of state.

(c) After examining the specifications or a model of a ballot box or voting booth submitted for approval, the secretary of state by written order shall approve the equipment for use in elections if the secretary determines that the equipment's composition and design are suitable for the intended use.

(d) The secretary of state shall attach the approval order to the approval request and retain it permanently on file. (V.T.E.C. Art. 7.06; New.)

Sec. 51.032. VOTING BOOTHS. (a) Voting booths that provide privacy for voters while marking their ballots shall be provided at each polling place.

(b) The entrance of the voting booth may be open or it may have a door or curtain that a voter may close while occupying the booth.

(c) A voting booth may be used without approval of the secretary of state if the booth:

(1) is rectangular, with at least three sides of opaque material beginning not more than three feet from the floor and extending to a height of at least six feet from the floor;

(2) has inside dimensions at least 22 inches wide and 30 inches deep; and

(3) has a shelf for writing. (V.T.E.C. Arts. 7.01, 7.02; New.)

Sec. 51.033. NUMBER AND USE OF BALLOT BOXES. (a) Four ballot boxes shall be used at each polling place in an election and shall be marked as follows:

(1) "Ballot Box No. 1 for Election Precinct No. _____";

(2) "Ballot Box No. 2 for Election Precinct No. _____";

(3) "Ballot Box No. 3 for Election Precinct No. _____"; and

(4) "Ballot Box No. 4 for Election Precinct No. _____".

(b) If an election precinct is designated by name instead of number, the name of the precinct shall be marked on the box.

(c) Ballot boxes no. 1 and no. 2 are used for the deposit of voters' marked ballots.

(d) Ballot box no. 3 is used for delivering the voted ballots to their custodian after they are counted and for storing the voted ballots during the preservation period.

(e) Ballot box no. 4 is used for delivering defectively printed, spoiled, and unused ballots to their custodian after the election. (V.T.E.C. Arts. 7.05, 7.06, 8.02, 8.16, 8.18, 8.19, 8.29, 8.29b(a), 8.32.)

Sec. 51.034. SPECIFICATIONS FOR BALLOT BOXES. (a) Each ballot box must be made of a sturdy material and suitably designed for its intended use. Each box must have a lock and key.

(b) Ballot boxes no. 1 and no. 2 must each have a slot in the top just large enough to receive a ballot. Ballot boxes no. 3 and no. 4 are not required to have a slot, but if a slot is provided, it may not be larger than that prescribed for boxes no. 1 and no. 2.

(c) A ballot box may be used without approval of the secretary of state if the box:

(1) is an enclosed, opaque container made of metal, wood, or other material;

(2) is equipped with a hinged top, hasp, and padlock; and

(3) complies with Subsection (b). (V.T.E.C. Art. 7.06; New.)

Sec. 51.035. USE OF COUNTY-OWNED EQUIPMENT FOR PRIMARY ELECTION. (a) On request of the county chairman of a political party holding a primary election, the county clerk shall furnish available county-owned ballot boxes and voting booths to the party for use in its primary election.

(b) If there is not enough county-owned equipment to satisfy the requests made under Subsection (a), the commissioners court shall allocate the equipment among the political parties requesting it.

(c) A fee may not be charged for use of equipment furnished under this section, but the political party shall reimburse the county for the actual expenses incurred by the county in transporting the equipment to and from the polling places if the county provides that service. (V.T.E.C. Art. 13.20; New.)

Sec. 51.036. CUSTODIAN OF EQUIPMENT. Except as otherwise provided by this code, the authority responsible for distributing election supplies for an election ordered by an authority of a political subdivision is the custodian of the election equipment owned by the political subdivision. (New.)

CHAPTER 52. BALLOT FORM, CONTENT, AND PREPARATION

SUBCHAPTER A. PREPARING THE BALLOT

Sec. 52.001. OFFICIAL BALLOT

Sec. 52.002. AUTHORITY PREPARING BALLOT

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[Sections 52.009-52.030 reserved for expansion]

SUBCHAPTER B. NAME ON BALLOT

Sec. 52.031. FORM OF NAME ON BALLOT

Sec. 52.032. CANDIDATES WITH SAME OR SIMILAR SURNAMES

- Sec. 52.033. TITLES PROHIBITED
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 Sec. 52.072. PROPOSITIONS
 Sec. 52.073. VOTING SQUARE AND INSTRUCTION FOR PROPOSITIONS
 [Sections 52.074-52.090 reserved for expansion]

SUBCHAPTER D. ORDER OF PARTIES, OFFICES, NAMES, AND PROPOSITIONS ON BALLOT

- Sec. 52.091. PARTY COLUMNS
 Sec. 52.092. OFFICES REGULARLY FILLED AT GENERAL ELECTION FOR STATE AND COUNTY OFFICERS
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 Sec. 52.094. NAMES OF CANDIDATES
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CHAPTER 52. BALLOT FORM, CONTENT, AND PREPARATION

SUBCHAPTER A. PREPARING THE BALLOT

Sec. 52.001. OFFICIAL BALLOT. (a) Except as provided by Subsection (b), the vote in an election is by official ballot.

(b) If an official ballot is unavailable at a polling place, the presiding election judge shall provide a ballot designed in accordance with this chapter. (V.T.E.C. Arts. 6.01, 6.10; New.)

Sec. 52.002. AUTHORITY PREPARING BALLOT. Except as otherwise provided by law, the following authority shall have the official ballot prepared:

- (1) for an election ordered by the governor or a county authority, the county clerk;
- (2) for a primary election, the county chairman of the political party holding the primary;
- (3) for an election ordered by a city authority, the city secretary; and
- (4) for an election ordered by an authority of a political subdivision other than a county or city, the secretary of the subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer. (V.T.E.C. Arts. 7.13, 13.09(c), 13.14, 13.31; New.)

Sec. 52.003. PLACING CANDIDATE'S NAME ON BALLOT. (a) Except as otherwise provided by law, the authority responsible for having the official ballot prepared shall have placed on the ballot the name of each candidate:

- (1) who has filed with the authority an application for a place on the ballot that complies with the requirements as to form, content, and procedure that the application must satisfy for the candidate's name to be placed on the ballot; or
- (2) whose entitlement to placement on the ballot has been lawfully certified to the authority.

(b) A candidate's name shall be placed on the ballot in the form indicated on the candidate's application or, if the application was not filed with the authority, in the form certified to him.

(c) Except as otherwise provided by law, in a runoff election, the authority shall have placed on the ballot the name of each candidate who is entitled to a place on the runoff ballot as indicated by the canvass for the main election. (V.T.E.C. Arts. 6.01, 13.25, 13.31, 13.53.)

Sec. 52.004. FAILURE TO PLACE CANDIDATE'S NAME ON BALLOT. (a) A person commits an offense if the person is responsible for having the official ballot prepared for an election and knowingly fails to place on the ballot the name of a candidate who is entitled to have his name placed on the ballot.

(b) An offense under this section is a Class A misdemeanor. (V.T.E.C. Art. 15.12; New.)

Sec. 52.005. BALLOT CONTENT DETERMINED ACCORDING TO PRECINCT. The ballot for an election precinct may contain only those offices and propositions stating measures on which the qualified voters of the precinct are entitled to vote. (V.T.E.C. Art. 6.05a.)

Sec. 52.006. CORRECTING BALLOT. (a) To make a necessary correction on the ballot, the authority responsible for having the official ballot prepared may:

(1) prepare new ballots;

(2) line out or otherwise obscure the language being corrected and enter in printed form the correct language next to the language being corrected, if necessary; or

(3) prepare printed or blank correction stickers to be affixed to the ballots.

(b) A correction sticker used under this section must be printed in the same type style and on the same color of paper as the ballot.

(c) A correction sticker may be affixed to a ballot only by the authority responsible for having the official ballot prepared or by an election officer serving a polling place.

(d) A vote may not be counted for a name appearing on a correction sticker unless the sticker is prepared and affixed to the ballot as provided by this section. (V.T.E.C. Arts. 6.04, 6.05; New.)

Sec. 52.007. SPECIMEN BALLOT. (a) An official ballot for each ballot format used in each election shall be designated a specimen ballot.

(b) The specimen ballot shall be made available for public inspection:

(1) for an election other than a primary election, in the office of the authority responsible for having the official ballot prepared; or

(2) for a primary election, in the office of the county clerk.

(c) The specimen ballot shall be made available for public inspection as soon as practicable after the official ballots have been prepared for the election and shall be preserved for the period for preserving the precinct election records.

(d) The county chairman of each political party holding a primary election shall deliver the ballots to be used as specimen ballots to the county clerk when the official ballots are received from the printer.

(e) The authority in whose office the specimen ballot is kept shall mark each specimen ballot with "SPECIMEN" in a manner that will not prevent the reading of its contents. If more than one ballot format is used in the election, the authority shall indicate on the specimen ballot the election precincts in which each ballot format is used.

(f) A specimen ballot may not be reproduced for distribution. (New.)

Sec. 52.008. SAMPLE BALLOT. (a) The authority responsible for procuring the election supplies may have a supply of sample ballots printed.

(b) A sample ballot may be printed only on yellow paper. "SAMPLE BALLOT" shall be printed in large letters at the top of each sample ballot.

(c) Sample ballots shall be distributed for use in the election as directed by the authority responsible for procuring the election supplies.

(d) A sample ballot may not be cast or counted in an election. (V.T.E.C. Art. 6.05, Subdiv. 1.)

[Sections 52.009-52.030 reserved for expansion]

SUBCHAPTER B. NAME ON BALLOT

Sec. 52.031. FORM OF NAME ON BALLOT. (a) A candidate's name shall be printed on the ballot with the given name or initials first, followed by a nickname, if any, followed by the surname, in accordance with this section.

(b) In combination with the surname, a candidate may use one or more of the following:

(1) a given name;

(2) a contraction or familiar form of a given name by which the candidate is known; or

(3) an initial of a given name.

(c) A nickname of one unhyphenated word of not more than 10 letters by which the candidate has been commonly known for at least two years immediately preceding the election may be used in combination with a candidate's name. A nickname that indicates a political, economic, social, or religious view or affiliation may not be used.

(d) A suffix such as "Sr.," "Jr.," or "2nd" may be used in combination with a candidate's name.

(e) A married woman or widow may use in combination with her surname, if the same as her husband's surname, the given name or initials of her husband with the prefix "Mrs." (V.T.E.C. Art. 6.01a.)

Sec. 52.032. **CANDIDATES WITH SAME OR SIMILAR SURNAMES.** If two or more candidates for the same office have the same or similar surnames, each of those candidates may have printed on the ballot a brief distinguishing description or title, not to exceed four words, following the candidate's name. The description or title may only refer to the candidate's place of residence or present or former profession, occupation, or position. (V.T.E.C. Art. 6.01a.)

Sec. 52.033. **TITLES PROHIBITED.** Except as otherwise provided by this subchapter, a title or designation of office, status, or position may not be used in conjunction with a candidate's name on the ballot. (V.T.E.C. Art. 6.01a.)

Sec. 52.034. **NAME ON BALLOT MORE THAN ONCE.** A candidate's name may not appear more than once on the ballot except as a candidate for:

- (1) two or more offices that are permitted by law to be held by the same person; or
- (2) the office of president or vice-president of the United States and another office. (V.T.E.C. Art. 6.01.)

[Sections 52.035-52.060 reserved for expansion]

SUBCHAPTER C. FORM OF BALLOT

Sec. 52.061. **PRINTING ON BALLOT.** (a) The ballot shall be printed in black ink on white paper.

(b) The type on the ballot may vary in size and style for the office titles, column headings, names of candidates, proposition headings, and propositions, but the type for each particular category must be uniform. (V.T.E.C. Arts. 6.05, Subdivs. 1, 6; 13.09(c).)

Sec. 52.062. **NUMBERING OF BALLOTS.** The ballots prepared by each authority responsible for having the official ballot prepared shall be numbered consecutively beginning with the number "1." (V.T.E.C. Art. 6.05, Subdiv. 2.)

Sec. 52.063. **DESIGNATION OF ELECTION AND DATE.** A designation of the nature of the election and the date of the election shall be printed at the top of the ballot. (V.T.E.C. Art. 6.05, Subdiv. 2.)

Sec. 52.064. **DESIGNATION AS OFFICIAL BALLOT.** "OFFICIAL BALLOT" shall be printed in large letters on the ballot immediately below the designation and date of the election. (V.T.E.C. Art. 6.05, Subdiv. 2.)

Sec. 52.065. **ARRANGEMENT OF BALLOT WITH PARTY NOMINEE.** (a) For an election in which a candidate's name is to appear on the ballot as the nominee of a political party, the ballot shall be arranged in vertical columns separated by parallel lines, as provided by this section.

(b) Each title of an office to be voted on shall be listed in the first column on the left of the ballot with "Candidates For:" printed at the top. The office titles shall be separated by parallel horizontal lines extending through each column on the ballot.

(c) The name of each political party with a nominee on the ballot shall be printed at the top of the second and as many succeeding columns as necessary. The name of the nominee of each party for each office shall appear opposite the office in the appropriate party column. The party columns shall be of uniform width.

(d) If the name of an independent candidate is to appear on the ballot, a column immediately following the party columns shall be provided, with "Independent" printed at the top. The name of each independent candidate shall appear in the column opposite the appropriate office title.

(e) If write-in votes are permitted by law in the election, a column immediately following the other columns shall be provided for write-in votes, with "Write-in" printed at the top. Adequate space shall be provided in the column for write-in votes. (V.T.E.C. Art. 6.05, Subdiv. 3; Art. 7.16, Sec. 2.)

Sec. 52.066. **ARRANGEMENT OF BALLOT WITH NO PARTY NOMINEE.** (a) For an election in which no party nominee is to appear on the ballot, the ballot shall be arranged as provided by this section.

(b) Each title of an office to be voted on shall be listed in a vertical column with the name of each candidate listed below the appropriate office title.

(c) If write-in votes are permitted by law in the election, a space underscored by a broken or solid line shall be provided for a write-in vote below the names of the candidates for each office. If more than one candidate is to be elected to an office, write-in spaces shall be provided in a number equal to the number of candidates to be elected.

(d) If the length of the ballot arranged as one column would exceed 18 inches, the office titles may be arranged in parallel vertical columns. (V.T.E.C. Art. 6.05, Subdiv. 5.)

Sec. 52.067. **NONALIGNED CANDIDATE DESIGNATED AS INDEPENDENT.** In an election in which the candidates' political party alignments are to be printed on the ballot next to the candidates' names, "Independent" shall be printed on the ballot next to the name of each candidate who is not aligned with a political party. (V.T.E.C. Art. 4.10, Subdiv. 3(c).)

Sec. 52.068. **OFFICE TITLE TO APPEAR ON BALLOT IF NO CANDIDATE FOR OFFICE.** (a) If no candidate's name is to appear on the ballot for a particular office to be voted on at the election, the authority responsible for having the ballot prepared shall have the office title printed on the ballot and, if write-in votes are permitted by law in the election, shall provide a space for a write-in vote as required by this code.

(b) If the authority fails to have the office title printed on the ballot, a person may not be declared elected to the office because of write-in votes that are cast by writing in the office title and the person's name unless the total number of votes cast for all write-in candidates for that office is more than 50 percent of the total number of voters participating in the election who are eligible to vote for the office. (V.T.E.C. Arts. 6.06a, 13.09(b), 13.12a(f).)

Sec. 52.069. **UNEXPIRED TERM.** If an office to be filled for an unexpired term is to be voted on at a general or primary election, "unexpired term" shall be printed on the ballot following the office title. (V.T.E.C. Art. 6.05d.)

Sec. 52.070. **VOTING SQUARE AND INSTRUCTION FOR CANDIDATES.** (a) A square for voting shall be printed to the left of each candidate's name on a ballot.

(b) Immediately below "OFFICIAL BALLOT," the following instruction shall be printed: "Vote for the candidate of your choice in each race by placing an 'X' in the square beside the candidate's name."

(c) Appropriate changes in the instruction shall be made if only one race appears on the ballot or if more than one candidate is to be elected in a race.

(d) If more than one candidate is to be elected in any race on the ballot, "Vote for" and the number of candidates to be elected shall be printed immediately below each office title appearing on the ballot.

(e) A square shall be printed to the left of each line provided for write-in voting under Section 52.066(c), but failure to place a mark in the square does not affect the counting of a write-in vote. (V.T.E.C. Art. 6.05, Subdiv. 7; New.)

Sec. 52.071. **VOTING SQUARE AND INSTRUCTION FOR STRAIGHT-PARTY VOTE.** (a) On a ballot on which a party column appears, a square larger than the square prescribed by Section 52.070(a) shall be printed to the left of each political party's name.

(b) The following instruction shall be added to the instruction required by Section 52.070(b): "You may cast a straight-party vote (that is, cast a vote for all the nominees of one party) by placing an 'X' in the square beside the name of the party of your choice." (V.T.E.C. Art. 6.05, Subdiv. 7; New.)

Sec. 52.072. **PROPOSITIONS.** (a) Except as otherwise provided by law, the authority ordering the election shall prescribe the wording of a proposition that is to appear on the ballot.

(b) A proposition shall be printed on the ballot in the form of a single statement and may appear on the ballot only once.

(c) Except as provided by Subsection (d), in an election in which an office and a measure are to be voted on, each proposition stating a measure shall appear on the ballot after the listing of offices.

(d) If an election of officers is contingent on the adoption of a proposition appearing on the same ballot, the proposition shall appear on the ballot before the listing of offices. (V.T.E.C. Art. 6.05, Subdiv. 8; Art. 6.07, Subdiv. 3; New.)

Sec. 52.073. **VOTING SQUARE AND INSTRUCTION FOR PROPOSITIONS.** (a) On a ballot on which a proposition is to appear, "FOR" and, below it, "AGAINST" shall be printed to the left of the proposition.

(b) A brace or other suitable device shall be printed to indicate to which proposition each "FOR" and "AGAINST" applies.

(c) A square for voting shall be printed to the left of each "FOR" and each "AGAINST."

(d) Immediately above the propositions, the following instruction shall be printed: "Place an 'X' in the square beside the statement indicating the way you wish to vote."

(e) The authority responsible for prescribing the wording of a proposition may substitute “YES” and “NO” on the ballot for “FOR” and “AGAINST” if the authority considers those words more appropriate. (V.T.E.C. Art. 6.05, Subdiv. 8; New.)

[Sections 52.074-52.090 reserved for expansion]

SUBCHAPTER D. ORDER OF PARTIES, OFFICES, NAMES, AND PROPOSITIONS ON BALLOT

Sec. 52.091. PARTY COLUMNS. (a) Party columns shall be arranged on the ballot in the following order, beginning on the left:

- (1) columns of parties with nominees for statewide or district offices;
- (2) columns of parties without nominees for statewide or district offices.

(b) Columns of parties specified by Subsection (a)(1) shall be arranged in descending order of the number of votes received statewide by each party’s candidate for governor in the most recent gubernatorial general election, beginning on the left with the party whose candidate received the highest number of votes. Columns of parties that did not have a candidate for governor in the most recent gubernatorial general election shall appear after the columns of parties that had a candidate, and the order of their columns shall be determined by a drawing conducted by the secretary of state. (V.T.E.C. Art. 6.05b; New.)

Sec. 52.092. OFFICES REGULARLY FILLED AT GENERAL ELECTION FOR STATE AND COUNTY OFFICERS. (a) For an election at which offices regularly filled at the general election for state and county officers are to appear on the ballot, the offices shall be listed in the following order:

- (1) offices of the federal government;
- (2) offices of the state government:
 - (A) statewide offices;
 - (B) district offices;
- (3) offices of the county government:
 - (A) county offices;
 - (B) precinct offices.
- (b) Offices of the federal government shall be listed in the following order:
 - (1) president and vice-president of the United States;
 - (2) United States senator;
 - (3) United States representative.
- (c) Statewide offices of the state government shall be listed in the following order:
 - (1) governor;
 - (2) lieutenant governor;
 - (3) attorney general;
 - (4) comptroller of public accounts;
 - (5) state treasurer;
 - (6) commissioner of the General Land Office;
 - (7) commissioner of agriculture;
 - (8) railroad commissioner;
 - (9) chief justice, supreme court;
 - (10) justice, supreme court;
 - (11) presiding judge, court of criminal appeals;
 - (12) judge, court of criminal appeals.
- (d) District offices of the state government shall be listed in the following order:
 - (1) member, State Board of Education;
 - (2) state senator;
 - (3) state representative;
 - (4) chief justice, court of appeals;
 - (5) associate justice, court of appeals;
 - (6) district judge;
 - (7) criminal district judge;
 - (8) family district judge;
 - (9) district attorney;
 - (10) criminal district attorney.
- (e) County offices shall be listed in the following order:
 - (1) county judge;

- (2) judge, county court at law;
- (3) judge, county criminal court;
- (4) judge, county probate court;
- (5) county attorney;
- (6) district clerk;
- (7) district and county clerk;
- (8) county clerk;
- (9) sheriff;
- (10) sheriff and tax assessor-collector;
- (11) county tax assessor-collector;
- (12) county treasurer;
- (13) county school trustee (county with population of two million or more);
- (14) county surveyor;
- (15) inspector of hides and animals.

(f) Precinct offices shall be listed in the following order:

- (1) county commissioner;
- (2) justice of the peace;
- (3) constable;
- (4) public weigher.

(g) If two or more offices having the same title except for a place number or other distinguishing number are to appear on the ballot, the number shall appear as part of the office title and the offices shall be listed in numerical order.

(h) The secretary of state shall assign a place number to each position to be filled at the general election for state and county officers for each full or unexpired term in the following offices:

- (1) justice, supreme court;
- (2) judge, court of criminal appeals; and

(3) associate justice, court of appeals in a court having a membership in excess of three, if distinguishing the positions to be filled is necessary.

(i) The secretary of state shall designate the position of new offices on the ballot. (V.T.E.C. Art. 6.05c, Subdiv. 1; Art. 13.09(d); Art. 13.59; New.)

Sec. 52.093. OFFICES OF POLITICAL SUBDIVISION OTHER THAN COUNTY. Except as otherwise provided by law, for an election at which offices of a political subdivision other than a county are to be voted on, the authority ordering the election shall determine the order of the offices on the ballot. (V.T.E.C. Art. 6.05c, Subdiv. 2.)

Sec. 52.094. NAMES OF CANDIDATES. (a) Except as otherwise provided by law, for an election at which the names of more than one candidate for the same office are to appear on the ballot in an independent column or are to appear on a general or special election ballot that does not contain a party nominee, the order of the candidates' names shall be determined by a drawing.

(b) The authority responsible for having the official ballot prepared for the election shall conduct the drawing.

(c) The authority conducting the drawing shall post in his office a notice of the date, hour, and place of the drawing. The notice must remain posted continuously for 72 hours immediately preceding the scheduled time of the drawing, except that for a runoff election or an election held to resolve a tie vote, the notice must remain posted for 24 hours immediately preceding the scheduled time of the drawing.

(d) For an election held at county expense or a city election, on receipt of a candidate's written request accompanied by a stamped, self-addressed envelope, the authority conducting the drawing shall mail written notice of the date, hour, and place of the drawing to the candidate. For an election held by any other political subdivision, the authority conducting the drawing shall mail written notice of the date, hour, and place of the drawing to each candidate, at the address stated on the candidate's application for a place on the ballot, not later than the fourth day before the date of the drawing.

(e) Each candidate affected by a drawing is entitled to be present or have a representative present at the drawing. (V.T.E.C. Art. 6.05c, Subdiv. 3; New.)

Sec. 52.095. PROPOSITIONS. Except as otherwise provided by law, the authority ordering an election in which more than one measure is to be voted on shall determine the order in which the propositions are to appear on the ballot. (New.)

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TITLE 6. CONDUCT OF ELECTIONS

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TITLE 6. CONDUCT OF ELECTIONS

CHAPTER 61. CONDUCT OF VOTING GENERALLY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 61.001. BYSTANDERS EXCLUDED. Except as permitted by this code, a person may not be in the polling place from the time the presiding judge arrives there on election day to make the preliminary arrangements until the precinct returns have been certified and the election records have been assembled for distribution following the election. (V.T.E.C. Art. 8.17; New.)

Sec. 61.002. OPENING POLLING PLACE FOR VOTING. At the official time for opening the polls for voting, an election officer shall open the polling place entrance and admit the voters. (New.)

Sec. 61.003. ELECTIONEERING AND LOITERING NEAR POLLING PLACE PROHIBITED. (a) A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person:

- (1) loiters; or
- (2) electioneers for or against any candidate, measure, or political party.

(b) In this section, "voting period" means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

(c) An offense under this section is a Class C misdemeanor. (V.T.E.C. Art. 8.27, Subsecs. (b), (c); New.)

Sec. 61.004. UNLAWFUL OPERATION OF SOUND TRUCK. (a) A person commits an offense if, during the voting period and within 1,000 feet of a building in which a polling place is located, the person operates a vehicle with a loudspeaker while the loudspeaker is being used for the purpose of:

- (1) making a political speech; or
- (2) electioneering for or against any candidate, measure, or political party.

(b) For the purpose of Subsection (a), a person operates a vehicle with a loudspeaker if the person drives the vehicle, uses the loudspeaker, or operates sound equipment in connection with the loudspeaker.

(c) In this section, "voting period" means the period prescribed by Section 61.003(b).

(d) An offense under this section is a Class C misdemeanor. (V.T.E.C. Art. 8.27, Subsecs. (a), (c); New.)

Sec. 61.005. SECURITY OF BALLOTS AND BALLOT BOXES. (a) From the time a presiding judge receives the official ballots for an election until the precinct returns for that election have been certified, the presiding judge shall take the precautions necessary to prevent access to the ballots and ballot boxes in a manner not authorized by law.

(b) The ballots and ballot boxes at a polling place shall be in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified.

(c) A presiding election judge commits an offense if the judge fails to prevent another person from handling a ballot box containing voters' marked ballots in an unauthorized manner or from making an unauthorized entry into the ballot box. An offense under this subsection is a Class A misdemeanor. (V.T.E.C. Arts. 8.17, 8.20, 15.25, 15.27, 15.65; New.)

Sec. 61.006. UNLAWFULLY DIVULGING VOTE. (a) A person commits an offense if the person was in a polling place for any purpose other than voting and knowingly communicates to another person information that he obtained at the polling place about how a voter has voted.

(b) An offense under this section is a felony of the third degree.

(c) This section does not apply to information presented in an official investigation or other official proceeding in which the information is relevant. (V.T.E.C. Art. 15.28.)

Sec. 61.007. UNLAWFULLY REVEALING INFORMATION BEFORE POLLS CLOSE. (a) An election officer, watcher, or other person serving at a polling place in an official capacity commits an offense if, before the polls close or the last voter has voted, whichever is later, the officer, watcher, or other person reveals:

- (1) the number of votes that have been received for a candidate or for or against a measure;
- (2) a candidate's position relative to other candidates in the tabulation of the votes;
- (3) whether a measure is passing or failing; or
- (4) the names of persons who have or have not voted in the election.

(b) An offense under this section is a Class C misdemeanor. (V.T.E.C. Art. 8.23; New.)

Sec. 61.008. UNLAWFULLY INFLUENCING VOTER. (a) A person commits an offense if the person indicates to a voter in a polling place by word, sign, or gesture how the person desires the voter to vote or not vote.

(b) An offense under this section is a Class B misdemeanor. (V.T.E.C. Arts. 8.14, 15.24; New.)

Sec. 61.009. INSTRUCTING VOTER ON CASTING BALLOT. On the request of a voter, an election officer shall instruct the voter on the proper procedure for casting a ballot. (V.T.E.C. Art. 7.14, Sec. 14; Art. 7.15, Subdiv. 13.)

[Sections 61.010-61.030 reserved for expansion]

SUBCHAPTER B. INTERPRETER

Sec. 61.031. USE OF ENGLISH LANGUAGE. (a) Except as provided by Subsection (b), an election officer may not use a language other than English in performing an official duty in connection with the election.

(b) If a voter cannot communicate in English, an election officer may communicate with the voter in a language that the voter and the officer understand. (V.T.E.C. Art. 8.13a.)

Sec. 61.032. INTERPRETER PERMITTED. If an election officer who attempts to communicate with a voter does not understand the language used by the voter, the voter may communicate through an interpreter selected by the voter. (V.T.E.C. Art. 8.13a.)

Sec. 61.033. ELIGIBILITY TO SERVE AS INTERPRETER. To be eligible to serve as an interpreter, a person must be a registered voter of the county in which the voter needing the interpreter resides. (V.T.E.C. Art. 8.13a; New.)

Sec. 61.034. TRANSLATING BALLOT. If a voter cannot comprehend the language in which the ballot is printed, an interpreter may accompany the voter to the voting station for the purpose of translating the ballot to the voter. (V.T.E.C. Art. 8.13, Subdiv. 1.)

Sec. 61.035. OATH. Before serving as an interpreter, the person selected as interpreter must take the following oath administered by an election officer:

“I swear (or affirm) that, to the best of my ability, I will correctly interpret and translate each question, answer, or statement addressed either to the voter by any election officer or to an election officer by the voter.” (V.T.E.C. Art. 8.13a.)

Sec. 61.036. TRANSLATION REQUIRED. (a) If an election officer and a voter communicate in a language other than English, any other election officer or watcher may request an English translation of anything communicated in the other language.

(b) If a translation request is made, the election officer communicating with the voter shall make the translation. (V.T.E.C. Art. 8.13a.)

CHAPTER 62. PRELIMINARY ARRANGEMENTS

Sec. 62.001. OFFICERS TO ASSEMBLE

Sec. 62.002. TIME FOR COMPLETING ARRANGEMENTS

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Sec. 62.014. MODIFICATION OF LIST OF REGISTERED VOTERS

Sec. 62.015. PLACING PENCIL IN STATION

CHAPTER 62. PRELIMINARY ARRANGEMENTS

Sec. 62.001. OFFICERS TO ASSEMBLE. On election day, the presiding judge and the election clerks the judge assigns to assist with preparing the polling place shall meet at the polling place in time to prepare it to receive the voters. (V.T.E.C. Art. 8.02.)

Sec. 62.002. TIME FOR COMPLETING ARRANGEMENTS. Except as otherwise provided by this chapter, the arrangements prescribed by this chapter shall be completed at a polling place before it is opened for voting. (V.T.E.C. Art. 8.02.)

Sec. 62.003. OATH OF ELECTION OFFICERS. (a) The presiding judge and the election clerks present at the polling place before the polls open shall repeat the following oath aloud:

“I swear (or affirm) that I will not in any manner request or seek to persuade or induce any voter to vote for or against any candidate or measure to be voted on, and that I will faithfully perform my duty as an officer of the election and guard the purity of the election.”

(b) A clerk who arrives after the oath is made shall repeat the oath aloud before performing any duties as an election officer. (V.T.E.C. Art. 8.01.)

Sec. 62.004. ARRANGING VOTING STATIONS. The voting stations shall be arranged so that:

(1) the voting area is in view of the election officers, watchers, and persons waiting to vote but is separated from the persons waiting to vote;

(2) access to the voting area through any entrance other than one designated by the presiding judge is prevented; and

(3) the voting area is adequately lighted. (V.T.E.C. Arts. 7.02, 7.03.)

Sec. 62.005. EXAMINING BALLOT BOXES. An election officer shall open and examine the ballot boxes and remove any contents from the boxes. (V.T.E.C. Art. 8.02.)

Sec. 62.006. PLACING BOX FOR DEPOSIT OF MARKED BALLOTS. The ballot box to be used by the voters to deposit marked ballots shall be locked and placed where it will be in

plain view of the election officers, watchers, and persons waiting to vote. (V.T.E.C. Arts. 8.02, 8.06.)

Sec. 62.007. EXAMINING BALLOTS. (a) An election officer shall unseal the ballot package, remove the ballots, and examine them to determine whether they are properly numbered and printed.

(b) An unnumbered or otherwise defectively printed ballot shall be placed in ballot box no.

4. (V.T.E.C. Art. 8.02.)

Sec. 62.008. PRESIDING JUDGE TO SIGN BALLOTS. (a) The presiding judge's signature shall be placed on the back of each ballot to be used at the polling place.

(b) The judge shall sign each ballot or an election officer shall stamp a facsimile of the judge's signature on each ballot.

(c) The signing of ballots need not be completed before the polls open, but an unsigned ballot may not be made available for selection by the voters. (V.T.E.C. Art. 8.11, Subdiv. 1; New.)

Sec. 62.009. DISARRANGING BALLOTS FOR VOTERS' SELECTION. (a) As needed for voting, an election officer shall disarrange a supply of the ballots so that they are in random numerical order.

(b) The disarranged ballots shall be placed face down on a table in a manner preventing an election officer or other person from ascertaining the number of a ballot selected by a voter. (V.T.E.C. Art. 8.11, Subdiv. 2.)

Sec. 62.010. DISTANCE MARKER. (a) An election officer shall place one or more distance markers at the outer limits of the area within which electioneering is prohibited.

(b) A distance marker must contain the following language printed in large letters: "Distance Marker. No electioneering or loitering between this point and the entrance to the polling place." (V.T.E.C. Art. 8.02.)

Sec. 62.011. INSTRUCTION POSTER. (a) An election officer shall post an instruction poster:

- (1) in each voting station; and
- (2) in one or more other locations in the polling place where it can be read by persons waiting to vote.

(b) The secretary of state shall prescribe the form and content of the instruction poster.

(c) The poster must include instructions applicable to the election on:

- (1) marking and depositing the ballot;
- (2) voting for a write-in candidate;
- (3) casting a straight-party vote; and
- (4) securing an additional ballot if the voter's original ballot is spoiled. (V.T.E.C. Art. 8.03; New.)

Sec. 62.012. POSTING SAMPLE BALLOT. If sample ballots are provided for a polling place, an election officer shall post a sample ballot in one or more locations in the polling place where it can be read by persons waiting to vote. (New.)

Sec. 62.013. UNAUTHORIZED POSTING OF SIGNS PROHIBITED. (a) An election officer commits an offense if the officer knowingly posts at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located, a sign, card, poster, or other similar material that:

- (1) is not authorized or required by law; or
- (2) is in a form or contains information that is not authorized or required by law.

(b) A person other than an election officer commits an offense if the person posts a sign, card, poster, or other similar material at a polling place, including the 100-foot area described by Subsection (a).

(c) An offense under this section is a Class C misdemeanor. (V.T.E.C. Art. 8.03a.)

Sec. 62.014. MODIFICATION OF LIST OF REGISTERED VOTERS. (a) If a registration correction list is provided for a polling place, an election officer shall make the changes to the list of registered voters that are necessary to make it conform to the registration correction list.

(b) An election officer shall enter "absentee voter" beside the name of each person on the list of registered voters whose name appears on the precinct absentee list furnished by the absentee voting clerk. (V.T.E.C. Art. 5.05, Subdiv. 11(b); Art. 5.19a(1).)

Sec. 62.015. PLACING PENCIL IN STATION. A black, soft-lead pencil shall be placed in each voting station. (V.T.E.C. Art. 7.04.)

CHAPTER 63. ACCEPTING VOTER

Sec. 63.001. REGULAR PROCEDURE FOR ACCEPTING VOTER

Sec. 63.002. SIGNATURE ROSTER

Sec. 63.003. POLL LIST

Sec. 63.004. COMBINATION FORM

Sec. 63.005. REGISTRATION OMISSIONS LIST

Sec. 63.006. VOTER WITH CORRECT CERTIFICATE WHO IS NOT ON LIST

Sec. 63.007. VOTER WITH INCORRECT CERTIFICATE WHO IS NOT ON LIST

Sec. 63.008. VOTER WITHOUT CERTIFICATE WHO IS ON LIST

Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST

Sec. 63.010. CHALLENGE OF VOTER

Sec. 63.011. WRITTEN COMMUNICATION PROHIBITED

Sec. 63.012. UNLAWFULLY ACCEPTING OR REFUSING TO ACCEPT VOTER

CHAPTER 63. ACCEPTING VOTER

Sec. 63.001. REGULAR PROCEDURE FOR ACCEPTING VOTER. (a) Except as otherwise provided by this code, acceptance of voters shall be conducted as provided by this section.

(b) On offering to vote, a voter must present his voter registration certificate to an election officer at the polling place.

(c) On presentation of a registration certificate, an election officer shall determine whether the voter's name on the registration certificate is on the list of registered voters for the precinct.

(d) If the voter's name is on the precinct list of registered voters, the voter shall be accepted for voting.

(e) On accepting a voter, an election officer shall indicate beside the voter's name on the list of registered voters that he is accepted for voting.

(f) After determining whether to accept a voter, an election officer shall return the voter's registration certificate to him. (V.T.E.C. Art. 8.08, Subdivs. 1, 2.)

Sec. 63.002. SIGNATURE ROSTER. (a) A signature roster shall be maintained by an election officer at the polling place.

(b) A voter who is accepted for voting must sign the roster before he is permitted to vote.

(c) If the voter cannot sign his name, an election officer shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster. (V.T.E.C. Art. 8.08, Subdivs. 1, 2.)

Sec. 63.003. POLL LIST. (a) A poll list shall be maintained by an election officer at the polling place.

(b) The poll list shall be maintained as an original and two copies.

(c) An election officer shall enter each accepted voter's name on the list after the voter signs the signature roster. The voters' names shall be entered on the poll list in the same order in which they appear on the signature roster. (V.T.E.C. Art. 3.02(b); Art. 8.08, Subdiv. 1.)

Sec. 63.004. COMBINATION FORM. (a) The secretary of state may prescribe forms that combine the poll list, the signature roster, or any other form used in connection with the acceptance of voters at polling places with each other or with the list of registered voters. The secretary shall prescribe any special instructions necessary for using the combination forms.

(b) The authority responsible for procuring the supplies for an election may furnish combination forms for use at the polling places.

(c) If a combination form is used, it shall be maintained in the number of copies specified by this code for the separate form incorporated into it for which the largest number of copies is required.

(d) An authority procuring lists of registered voters for use in an election may not require the voter registrar to furnish the lists in combination form without the registrar's consent. A registrar may not require an authority requesting the lists to accept them in combination form without the authority's consent. (V.T.E.C. Art. 3.02(b); New.)

Sec. 63.005. REGISTRATION OMISSIONS LIST. (a) A registration omissions list shall be maintained by an election officer at the polling place.

(b) With respect to each voter who is accepted for voting but whose name is not on the list of registered voters for the precinct in which he is accepted, the election officer shall record:

(1) the voter's name, residence address, and voter registration number, if known; and

(2) a notation of the section of this code under which the voter is accepted that provides for accepting voters who are not on the list. (New.)

Sec. 63.006. **VOTER WITH CORRECT CERTIFICATE WHO IS NOT ON LIST.** (a) A voter who, when offering to vote, presents a voter registration certificate indicating that the voter is currently registered in the precinct in which he is offering to vote, but whose name is not on the precinct list of registered voters, shall be accepted for voting.

(b) After the voter is accepted, an election officer shall indicate beside the voter's name on the poll list that the voter was accepted under this section. (V.T.E.C. Art. 5.16a, Subdiv. 3.)

Sec. 63.007. **VOTER WITH INCORRECT CERTIFICATE WHO IS NOT ON LIST.** (a) A voter who, when offering to vote, presents a voter registration certificate indicating that the voter is currently registered in a different precinct from the one in which he is offering to vote, and whose name is not on the precinct list of registered voters, shall be accepted for voting if the voter executes an affidavit stating that the voter:

- (1) is a resident of the precinct in which he is offering to vote or is otherwise entitled by law to vote in that precinct;
- (2) was a resident of the precinct in which he is offering to vote at the time that information on the voter's residence address was last provided to the voter registrar;
- (3) did not deliberately provide false information to secure registration in a precinct in which he does not reside; and
- (4) is voting only once in the election.

(b) After the voter is accepted, an election officer shall:

(1) indicate beside the voter's name on the poll list that the voter was accepted under this section; and

(2) enter on the registration omissions list the precinct of the voter's registration as indicated by the voter's registration certificate. (V.T.E.C. Art. 5.16a, Subdiv. 2; New.)

Sec. 63.008. **VOTER WITHOUT CERTIFICATE WHO IS ON LIST.** A voter who does not present a voter registration certificate when offering to vote, but whose name is on the list of registered voters for the precinct in which he is offering to vote, shall be accepted for voting if the voter executes an affidavit stating that he does not have his voter registration certificate in his possession at the polling place at the time of offering to vote. (V.T.E.C. Art. 5.16a, Subdiv. 7; Arts. 8.07, 8.08.)

Sec. 63.009. **VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST.** (a) A voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which he is offering to vote, may be accepted for voting if:

(1) an election officer can determine from the voter registrar that the person is a registered voter of the county; and

(2) the voter executes the affidavits required by Sections 63.007 and 63.008.

(b) After the voter is accepted, an election officer shall indicate beside the voter's name on the poll list that the voter was accepted under this section. (V.T.E.C. Art. 5.16a, Subdivs. 4, 7; New.)

Sec. 63.010. **CHALLENGE OF VOTER.** (a) The eligibility of a person offering to vote may be challenged by an election officer, watcher, or any other person lawfully in the polling place.

(b) A challenge by a person other than the presiding judge shall be directed to the judge.

(c) A challenge of a voter may occur before or after the voter is accepted for voting but may not occur after an accepted voter enters a voting station.

(d) The presiding judge shall inform a voter of a challenge and of the issues raised by the challenge.

(e) If the challenged voter executes an affidavit that states the facts necessary to support the voter's eligibility to vote, the voter shall be accepted, and "sworn" shall be entered on the poll list beside the voter's name. If the challenged voter does not execute an affidavit that states the facts necessary to support the voter's eligibility to vote, the voter may not be accepted for voting, and "rejected" shall be entered on the list of registered voters beside the voter's name.

(f) If a voter is challenged and rejected after having been accepted for voting, the presiding judge shall enter "challenged and rejected" beside the voter's name on the list of registered voters or registration omissions list and on the poll list, signature roster, and any affidavits executed by the voter under this chapter. (V.T.E.C. Art. 8.09; New.)

Sec. 63.011. **WRITTEN COMMUNICATION PROHIBITED.** (a) A voter may not have in his actual possession while marking the ballot a written communication that:

(1) was prepared and furnished to the voter by another person; and

(2) is marked or printed in a way that identifies one or more candidates or measures for which the voter has agreed to vote or has been requested to vote.

(b) A sample ballot that has not been marked or printed in a way that identifies candidates or measures for which to vote, that is obtained by the voter from a newspaper or another person,

and that the voter marks himself is one example of a written communication that is not prohibited under Subsection (a).

(c) An election officer may not accept a voter for voting if the officer knows that the voter has actual possession of a communication prohibited by Subsection (a) at the time he offers to vote.

(d) An election officer may require a voter to answer under oath whether the voter has actual possession of a communication prohibited by Subsection (a). If a voter has a prohibited communication, the voter may not receive an official ballot until the voter delivers the communication to the election officer.

(e) A person commits an offense if the person violates Subsection (a). The offense is a Class C misdemeanor. (V.T.E.C. Arts. 8.12, 15.51; New.)

Sec. 63.012. UNLAWFULLY ACCEPTING OR REFUSING TO ACCEPT VOTER. (a) An election officer commits an offense if the officer knowingly:

(1) permits an ineligible voter to vote without having been challenged; or

(2) refuses to accept a person for voting whose acceptance is required by this code.

(b) An offense under this section is a Class B misdemeanor. (V.T.E.C. Art. 8.08, Subdiv. 4; Arts. 15.22, 15.23; New.)

CHAPTER 64. VOTING PROCEDURES

SUBCHAPTER A. VOTING GENERALLY

Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT

Sec. 64.002. OCCUPANCY OF VOTING STATION

Sec. 64.003. MARKING THE BALLOT FOR CANDIDATE ON BALLOT

Sec. 64.004. MARKING THE BALLOT FOR STRAIGHT-PARTY VOTE

Sec. 64.005. MARKING THE BALLOT FOR WRITE-IN CANDIDATE

Sec. 64.006. MARKING THE BALLOT FOR MEASURE

Sec. 64.007. SPOILED BALLOT

Sec. 64.008. DEPOSITING BALLOT

Sec. 64.009. VOTER UNABLE TO ENTER POLLING PLACE

Sec. 64.010. UNLAWFULLY PERMITTING OR PREVENTING DEPOSIT OF BALLOT

Sec. 64.011. UNLAWFULLY DEPOSITING BALLOT

Sec. 64.012. ILLEGAL VOTING

[Sections 64.013-64.030 reserved for expansion]

SUBCHAPTER B. ASSISTING VOTER

Sec. 64.031. ELIGIBILITY FOR ASSISTANCE

Sec. 64.032. PERSONS PROVIDING ASSISTANCE

Sec. 64.033. READING BALLOT TO VOTER

Sec. 64.034. OATH

Sec. 64.035. DEPOSITING THE BALLOT

Sec. 64.036. UNLAWFUL ASSISTANCE

Sec. 64.037. UNAUTHORIZED ASSISTANCE VOIDS BALLOT

CHAPTER 64. VOTING PROCEDURES

SUBCHAPTER A. VOTING GENERALLY

Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT. After a voter is accepted for voting, the voter shall select a ballot, go to a voting station, and prepare the ballot. (V.T.E.C. Art. 8.08, Subdiv. 2.)

Sec. 64.002. OCCUPANCY OF VOTING STATION. (a) Except as otherwise provided by this code, only one person at a time may occupy a voting station.

(b) A child under 10 years of age may accompany his parent to a voting station. (V.T.E.C. Art. 8.13, Subdiv. 1; Art. 8.17.)

Sec. 64.003. MARKING THE BALLOT FOR CANDIDATE ON BALLOT. A vote for a particular candidate whose name is on the ballot must be indicated by placing an "X" or other

mark that clearly shows the voter's intent in the square beside the name of the candidate for whom the voter desires to vote. (V.T.E.C. Art. 6.06.)

Sec. 64.004. **MARKING THE BALLOT FOR STRAIGHT-PARTY VOTE.** In an election in which a single square is provided on the ballot for casting a straight-party vote, a straight-party vote must be indicated by placing an "X" or other mark that clearly shows the voter's intent in the square beside the name of the appropriate political party. (V.T.E.C. Art. 6.06.)

Sec. 64.005. **MARKING THE BALLOT FOR WRITE-IN CANDIDATE.** In an election in which write-in voting is permitted, a vote for a candidate who is not on the ballot must be indicated by writing the candidate's name in the appropriate place provided on the ballot. (V.T.E.C. Art. 6.06.)

Sec. 64.006. **MARKING THE BALLOT FOR MEASURE.** A vote on a particular measure must be indicated by placing an "X" or other mark that clearly shows the voter's intent in the appropriate square that is beside the proposition and that indicates the way the voter desires to vote on the measure. (V.T.E.C. Art. 6.06.)

Sec. 64.007. **SPOILED BALLOT.** (a) If a voter mismarks, damages, or otherwise spoils the ballot in the process of voting, the voter is entitled to receive a new ballot by returning the spoiled ballot to an election officer.

(b) A voter is not entitled to receive more than three ballots.

(c) An election officer shall maintain a register of spoiled ballots at the polling place. An election officer shall enter on the register the name of each voter who returns a spoiled ballot and the spoiled ballot's number.

(d) After making the appropriate entry on the register, the election officer shall deposit the spoiled ballot in ballot box no. 4. (V.T.E.C. Art. 8.16.)

Sec. 64.008. **DEPOSITING BALLOT.** After a voter has marked the ballot, the voter shall fold the ballot to conceal the way it is marked but to expose the presiding judge's signature, and shall deposit it in the ballot box used for the deposit of marked ballots. (V.T.E.C. Art. 8.15, Subdiv. 1.)

Sec. 64.009. **VOTER UNABLE TO ENTER POLLING PLACE.** (a) If a voter is physically unable to enter the polling place without personal assistance or likelihood of injuring his health, on the voter's request, an election officer shall deliver a ballot to the voter at the polling place entrance or curb.

(b) The regular voting procedures may be modified by the election officer to the extent necessary to conduct voting under this section.

(c) After the voter is accepted for voting, the voter shall mark the ballot and give it to the election officer who shall deposit it in the ballot box.

(d) On the voter's request, a person accompanying the voter shall be permitted to select the voter's ballot and deposit the ballot in the ballot box. (V.T.E.C. Art. 8.28; New.)

Sec. 64.010. **UNLAWFULLY PERMITTING OR PREVENTING DEPOSIT OF BALLOT.** (a) An election officer commits an offense if the officer:

(1) permits a person to deposit in the ballot box a ballot that the officer knows was not provided at the polling place to the voter who is depositing the ballot or for whom the deposit is made; or

(2) prevents the deposit in the ballot box of a marked and properly folded ballot that was provided at the polling place to the voter who is depositing it or for whom the deposit is attempted.

(b) An offense under this section is a Class B misdemeanor. (V.T.E.C. Arts. 15.23, 15.29; New.)

Sec. 64.011. **UNLAWFULLY DEPOSITING BALLOT.** (a) A person commits an offense if the person deposits or attempts to deposit in a ballot box a ballot that was not provided to the person who is depositing the ballot or for whom the deposit is made or attempted.

(b) An offense under this section is a Class A misdemeanor unless the person is convicted of an attempt. In that case, the offense is a Class B misdemeanor. (V.T.E.C. Art. 15.52; New.)

Sec. 64.012. **ILLEGAL VOTING.** (a) A person commits an offense if the person:

(1) votes or attempts to vote in an election in which the person knows he is not eligible to vote;

(2) knowingly votes or attempts to vote more than once in an election; or

(3) knowingly impersonates another person and votes or attempts to vote as the impersonated person.

(b) An offense under this section is a felony of the third degree unless the person is convicted of an attempt. In that case, the offense is a Class A misdemeanor. (V.T.E.C. Art. 5.14a, Subdiv. 3(a); Arts. 15.41, 15.45, 15.47, 15.48, 15.50; New.)

[Sections 64.013-64.030 reserved for expansion]

SUBCHAPTER B. ASSISTING VOTER

Sec. 64.031. ELIGIBILITY FOR ASSISTANCE. A voter is eligible to receive assistance in marking the ballot, as provided by this subchapter, if the voter cannot prepare the ballot because of:

- (1) a physical disability that renders the voter unable to write or see; or
- (2) an inability to read the language in which the ballot is written. (V.T.E.C. Art. 8.13, Subdiv. 1.)

Sec. 64.032. PERSONS PROVIDING ASSISTANCE. (a) Except as provided by Subsection (c), on a voter's request for assistance in marking the ballot, two election officers shall provide the assistance.

(b) If a voter is assisted by election officers in the general election for state and county officers, each officer must be aligned with a different political party unless there are not two or more election officers serving the polling place who are aligned with different parties.

(c) On the voter's request, the voter may be assisted by any person selected by the voter other than the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs.

(d) If assistance is provided by a person of the voter's choice, an election officer shall enter the person's name and address on the poll list beside the voter's name. (V.T.E.C. Art. 8.13, Subdivs. 1, 2; New.)

Sec. 64.033. READING BALLOT TO VOTER. (a) If a voter is assisted by election officers, one of them shall read the entire ballot to the voter unless the voter tells the officer that he desires to vote only on certain offices or measures. In that case, the officer shall read those items on the ballot specified by the voter.

(b) If a voter is assisted by a person of his choice, an election officer shall ask the voter being assisted whether he wants the entire ballot read to him. If so, the officer shall instruct the person assisting the voter to read the entire ballot to the voter. (V.T.E.C. Art. 8.13, Subdiv. 4.)

Sec. 64.034. OATH. A person selected to provide assistance to a voter must take the following oath, administered by an election officer at the polling place, before providing assistance:

"I swear (or affirm) that I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to answering the voter's questions, to stating propositions on the ballot, and to naming candidates and, if listed, their political parties; and I will prepare the voter's ballot as the voter directs." (V.T.E.C. Art. 8.13, Subdiv. 2.)

Sec. 64.035. DEPOSITING BALLOT. After assistance has been provided in marking a ballot, the ballot shall be folded and deposited in the ballot box by the voter or, on the voter's request, by the person assisting the voter. (New.)

Sec. 64.036. UNLAWFUL ASSISTANCE. (a) A person commits an offense if the person knowingly:

- (1) provides assistance to a voter who is not eligible for assistance;
- (2) while assisting a voter prepares the voter's ballot in a way other than the way the voter directs; or
- (3) while assisting a voter suggests by word, sign, or gesture how the voter should vote.

(b) A person commits an offense if the person knowingly assists a voter in violation of Section 64.032(c).

(c) An election officer commits an offense if the officer knowingly permits a person to provide assistance:

- (1) to a voter who is not eligible for assistance; or
- (2) in violation of Section 64.032(c).

(d) An offense under this section is a Class B misdemeanor. (V.T.E.C. Art. 15.30; New.)

Sec. 64.037. UNAUTHORIZED ASSISTANCE VOIDS BALLOT. If assistance is provided to a voter who is not eligible for assistance, the voter's ballot may not be counted. (V.T.E.C. Art. 8.13, Subdiv. 3.)

CHAPTER 65. COUNTING VOTES AND PREPARING RETURNS

Sec. 65.001. COUNTING OFFICERS

Sec. 65.002. TIME FOR COUNTING

Sec. 65.003. ROTATING BALLOT BOXES NO. 1 AND NO. 2

Sec. 65.004. TALLY LISTS

- Sec. 65.005. TALLYING THE VOTES
- Sec. 65.006. REPLACING MEMBER OF COUNTING TEAM
- Sec. 65.007. TALLYING STRAIGHT-PARTY VOTES
- Sec. 65.008. TALLYING WRITE-IN VOTES
- Sec. 65.009. COUNTING IRREGULARLY MARKED BALLOT
- Sec. 65.010. BALLOTS NOT COUNTED
- Sec. 65.011. OVERVOTING
- Sec. 65.012. DEPOSITING BALLOT IN BALLOT BOX NO. 3
- Sec. 65.013. BALLOT REGISTER
- Sec. 65.014. PREPARING THE PRECINCT RETURNS
- Sec. 65.015. ANNOUNCING PARTIAL RESULTS

CHAPTER 65. COUNTING VOTES AND PREPARING RETURNS

Sec. 65.001. COUNTING OFFICERS. At each polling place, the ballots shall be counted by one or more teams of election officers assigned by the presiding judge. Each team must consist of two or more election officers. (V.T.E.C. Art. 3.02(c).)

Sec. 65.002. TIME FOR COUNTING. (a) Subject to Subsection (b), the presiding judge may direct the counting of ballots to occur at any time after the polls have been open for one hour.

(b) While the polls are open and until voting is concluded after the polls close, the ballot box for the deposit of voters' marked ballots may not be opened for the purpose of counting the ballots unless there are at least 10 ballots in the box.

(c) After the polls close or the last voter has voted, whichever is later, the counting of ballots shall be conducted continuously until all the ballots are counted.

(d) This section does not apply to a local option election under the Alcoholic Beverage Code. (V.T.E.C. Art. 8.19; New.)

Sec. 65.003. ROTATING BALLOT BOXES NO. 1 AND NO. 2. (a) If the counting of the ballots is to begin before voting is concluded, ballot box no. 1 and ballot box no. 2 shall be used on a rotating basis at the polling place.

(b) When either ballot box no. 1 or no. 2 containing marked ballots is delivered to the election officers counting the ballots, the other box shall be immediately made available for the deposit of marked ballots.

(c) Before the ballot box is positioned for the receipt of marked ballots, an election officer shall examine it, remove its contents, and lock the box. (V.T.E.C. Art. 8.19.)

Sec. 65.004. TALLY LISTS. Three original tally lists shall be maintained at the polling place to record the number of votes received for the candidates and for and against the measures voted on. (V.T.E.C. Art. 3.02(c).)

Sec. 65.005. TALLYING THE VOTES. (a) One member of the counting team shall examine each ballot and clearly announce the name of each candidate for whom a vote has been received or whether a vote has been received for or against a measure. The other members of the counting team shall record the votes on the tally lists as they are announced.

(b) The counting team shall compare the tally lists periodically to determine whether discrepancies exist among them. If a discrepancy is discovered, the ballots shall be recounted and the necessary corrections shall be made on the lists.

(c) On completing the count, each member of the counting team assigned to tally votes shall compute the total number of votes tallied on the list the member has kept and enter the totals on the tally list. After verifying that the three lists are in agreement, each counting officer shall sign the list that the officer has kept. (V.T.E.C. Arts. 3.02(c), 8.19.)

Sec. 65.006. REPLACING MEMBER OF COUNTING TEAM. (a) A member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made.

(b) If a counting officer is replaced on a counting team after the tallying is begun, the officer to be replaced shall certify the accuracy of the list the officer has kept, as of the time of the replacement, by signing the list at that time. (New.)

Sec. 65.007. TALLYING STRAIGHT-PARTY VOTES. (a) In an election in which a single square is provided on the ballot for casting a straight-party vote, the tally lists shall contain spaces for tallying those votes.

(b) Except as provided by Subsection (c), each straight-party vote shall be tallied for the party receiving the vote instead of being tallied for the individual candidates of the party. The total number of straight-party votes tallied for each party shall be added to the total votes received for each of the party nominees individually.

(c) If a ballot indicates a straight-party vote and a vote for an opponent of one or more of that party's nominees, a vote shall be counted for the opponent and for each of the party's other nominees whether or not any of those nominees have received individual votes. (V.T.E.C. Art. 8.19a; New.)

Sec. 65.008. TALLYING WRITE-IN VOTES. (a) In an election in which write-in voting is permitted, the name of a write-in candidate shall be entered on the tally list and votes for that candidate shall be tallied in the same manner as votes for a candidate whose name appears on the ballot.

(b) A write-in vote may not be counted if a sticker containing a candidate's name is affixed to the ballot by the voter. (V.T.E.C. Arts. 6.05e, 8.19b.)

Sec. 65.009. COUNTING IRREGULARLY MARKED BALLOT. (a) Failure to mark a ballot in strict conformity with this code does not invalidate the ballot.

(b) Marking the ballot by marking through the names of candidates for whom or the statements beside the propositions for which the voter does not desire to vote does not invalidate the ballot.

(c) A vote on an office or measure shall be counted if the voter's intent is clearly ascertainable unless other law prohibits counting the vote. (V.T.E.C. Art. 6.06.)

Sec. 65.010. BALLOTS NOT COUNTED. (a) The following ballots may not be counted:

(1) a ballot that is not provided to the voter at the polling place; or

(2) two or more ballots that are folded together in a manner indicating that they were folded together when deposited in the ballot box.

(b) If a ballot is unnumbered or the signature of the presiding judge does not appear on the back of a ballot, the presiding judge shall examine it to determine whether the ballot is not to be counted under Subsection (a)(1).

(c) If a ballot is not counted, an election officer shall indicate on the back of the ballot the reason for not counting it. (V.T.E.C. Art. 8.21; New.)

Sec. 65.011. OVERVOTING. Except as provided by Section 65.007(c), if a voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, none of the votes may be counted for that office. (V.T.E.C. Art. 8.21.)

Sec. 65.012. DEPOSITING BALLOT IN BALLOT BOX NO. 3. (a) After a ballot is counted, it shall be deposited in ballot box no. 3.

(b) A voted ballot that is not counted shall also be deposited in ballot box no. 3. (V.T.E.C. Arts. 8.18, 8.19.)

Sec. 65.013. BALLOT REGISTER. (a) Each presiding judge shall prepare a ballot register as provided by this section.

(b) The register must state:

(1) the total number of ballots received for conducting voting at the polling place;

(2) the number of defectively printed ballots received;

(3) the number of ballots provided to voters as indicated by the number of voters on the poll list;

(4) the number of spoiled ballots returned by voters; and

(5) the number of unused ballots that are not accounted for as defectively printed ballots.

(c) The ballot register shall be prepared as an original and one copy, and on completing the register, the presiding judge shall sign each one to certify its accuracy. (V.T.E.C. Art. 8.18; New.)

Sec. 65.014. PREPARING THE PRECINCT RETURNS. (a) On completion of the vote count, the presiding judge shall prepare the returns of the election for the precinct.

(b) The returns must state:

(1) the total number of voters who voted at the polling place as indicated by the poll list; and

(2) the total number of votes counted for each candidate and for and against each measure.

(c) The returns shall be prepared as an original and three copies, and on completing the returns, the presiding judge shall sign each one to certify its accuracy.

(d) A presiding judge commits an offense if the judge knowingly fails:

(1) to include in the precinct returns the applicable information required by this code; or

(2) to complete the returns in time for them to be delivered by the deadline prescribed by Section 66.053(c) for delivery of the precinct election records.

(e) An offense under Subsection (d) is a Class B misdemeanor. (V.T.E.C. Arts. 8.29, 15.36b; New.)

Sec. 65.015. ANNOUNCING PARTIAL RESULTS. (a) Subject to Subsection (b), after the polls close and the last voter has voted, the presiding judge may announce the status of the vote count from time to time.

(b) The local canvassing authority may require the announcements or prohibit them.

(c) The announcements shall be made at the entrance to the polling place. (V.T.E.C. Art. 8.24; New.)

CHAPTER 66. DISPOSITION OF RECORDS AND SUPPLIES AFTER ELECTION

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CHAPTER 66. DISPOSITION OF RECORDS AND SUPPLIES AFTER ELECTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 66.001. GENERAL CUSTODIAN OF ELECTION RECORDS. The general custodian of election records is:

(1) the county clerk of each county wholly or partly situated in the territory covered by the election, for an election ordered by the governor or by a county authority or for a primary election;

(2) the city secretary, for an election ordered by a city authority; and

(3) the secretary of the political subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer, for an election ordered by an authority of a political subdivision other than a county or city. (New.)

Sec. 66.002. **PRECINCT ELECTION RECORDS.** In this chapter, "precinct election records" means the precinct election returns, voted ballots, and other records of an election that are assembled and distributed under this chapter. (New.)

Sec. 66.003. **ENVELOPES FOR DISTRIBUTION OF RECORDS.** (a) Three envelopes shall be furnished to each polling place for use in assembling and distributing the precinct election records.

(b) The envelopes shall be labeled and addressed as follows:

(1) "Envelope No. 1," addressed to the presiding officer of the local canvassing authority;

(2) "Envelope No. 2," addressed to the general custodian of election records; and

(3) "Envelope No. 3," addressed to the presiding judge. (V.T.E.C. Arts. 8.29, 8.29b, 13.24.)

[Sections 66.004-66.020 reserved for expansion]

SUBCHAPTER B. ASSEMBLING RECORDS FOR DISTRIBUTION

Sec. 66.021. **ASSEMBLING ELECTION RECORDS.** (a) On completing the election returns for the precinct, the presiding judge shall assemble the precinct election records and place them in the appropriate envelopes and ballot boxes for distribution.

(b) The judge shall seal envelopes no. 1 and no. 2 and lock ballot boxes no. 3 and no. 4 as soon as they are ready for distribution. (V.T.E.C. Art. 8.29; New.)

Sec. 66.022. **CONTENTS OF ENVELOPE NO. 1.** Envelope no. 1 must contain:

(1) the original of the election returns for the precinct; and

(2) a tally list. (V.T.E.C. Arts. 8.29, 8.29b.)

Sec. 66.023. **CONTENTS OF ENVELOPE NO. 2.** Envelope no. 2 must contain:

(1) a copy of the precinct returns;

(2) a tally list;

(3) the original of the poll list;

(4) the signature roster;

(5) the precinct list of registered voters;

(6) the registration correction list;

(7) the precinct absentee list;

(8) the registration omissions list;

(9) any affidavits completed at the polling place; and

(10) any certificates of appointment of watchers. (V.T.E.C. Arts. 3.07(b), 8.29, 8.29b;

New.)

Sec. 66.024. **CONTENTS OF ENVELOPE NO. 3.** Envelope no. 3 must contain:

(1) a copy of the precinct returns;

(2) a copy of the poll list; and

(3) a copy of the ballot register. (V.T.E.C. Arts. 8.29, 8.29b; New.)

Sec. 66.025. **CONTENTS OF BALLOT BOX NO. 3.** Ballot box no. 3 must contain:

(1) the voted ballots;

(2) a copy of the precinct returns;

(3) a tally list; and

(4) a copy of the poll list. (V.T.E.C. Arts. 8.18, 8.19, 8.29, 8.29b.)

Sec. 66.026. **CONTENTS OF BALLOT BOX NO. 4.** Ballot box no. 4 must contain:

(1) the original of the ballot register;

(2) the register of spoiled ballots;

(3) any spoiled ballots;

(4) any defectively printed ballots; and

(5) any other unused ballots. (V.T.E.C. Art. 8.18; New.)

[Sections 66.027-66.050 reserved for expansion]

SUBCHAPTER C. DISPOSITION OF RECORDS AND SUPPLIES

Sec. 66.051. **DISTRIBUTION OF ELECTION RECORDS.** (a) The presiding judge shall deliver envelope no. 1 in person to the presiding officer of the local canvassing authority. If the presiding officer of the local canvassing authority is unavailable, the envelope shall be delivered to the general custodian of election records who shall then deliver it to the local canvassing authority before the time set for convening the local canvass.

(b) The presiding judge shall deliver envelope no. 2, ballot box no. 3, and ballot box no. 4 and its key in person to the general custodian of election records.

(c) The presiding judge shall retain envelope no. 3. (V.T.E.C. Arts. 8.29, 8.29b, 13.24; New.)

Sec. 66.052. **DELIVERY BY ELECTION CLERK.** A delivery of election records or supplies that is to be performed by the presiding judge may be performed by an election clerk designated by the presiding judge. (V.T.E.C. Art. 3.02(d).)

Sec. 66.053. **TIME FOR DELIVERING ELECTION RECORDS.** (a) The precinct election records shall be delivered to the appropriate authorities immediately after the precinct returns are completed.

(b) If the presiding judge determines that the ballots will not be counted in time to allow delivery of the precinct election records by 2 a.m. of the day after election day, the presiding judge, between midnight of election day and 1 a.m. of the following day, shall notify the general custodian of election records by telephone of:

- (1) the total number of voters who voted at the polling place as indicated by the poll list;
- (2) the vote totals tallied for each candidate and for and against each measure at the time of notification; and
- (3) the expected time of finishing the count.

(c) The precinct election records shall be delivered not later than 24 hours after the polls close in each election. (V.T.E.C. Arts. 8.30, 8.32; New.)

Sec. 66.054. **FAILURE TO DELIVER ELECTION RETURNS AND VOTED BALLOTS.** (a) An election officer responsible for delivering precinct election returns or voted ballots commits an offense if the officer:

- (1) fails to make the delivery to the appropriate authority;
- (2) fails to make the delivery by the deadline prescribed by Section 66.053(c); or
- (3) fails to prevent another person from handling in an unauthorized manner the returns or voted ballots that the officer is responsible for delivering while they are in the officer's custody.

(b) If the officer is an election clerk, it is an exception to the application of Subsection (a)(2) that the election clerk did not receive the returns from the presiding judge in time to permit a timely delivery.

(c) An offense under this section is a Class B misdemeanor. (V.T.E.C. Arts. 15.31, 15.36b, 15.62, 15.63, 15.63a; New.)

Sec. 66.055. **JUDICIAL IMPOUNDMENT OF ELECTION RECORDS.** (a) If the precinct election records are not delivered by the deadline prescribed by Section 66.053(c), on application by a member of the canvassing authority, a district judge shall order the precinct election records to be impounded.

(b) The district judge shall supervise the activities necessary to complete the count, prepare the precinct returns, and distribute the records. (V.T.E.C. Art. 13.24; New.)

Sec. 66.056. **UNOFFICIAL TABULATION OF PRECINCT RESULTS.** (a) As the general custodian of election records receives the precinct election records from each polling place, the custodian shall:

- (1) open the envelopes and remove the precinct election returns; and
- (2) prepare a tabulation stating for each candidate and for and against each measure:
 - (A) the total number of votes received in each precinct; and
 - (B) the sum of the precinct totals tabulated under Paragraph (A).

(b) The custodian shall periodically make a public announcement of the current state of the tabulation made under Subsection (a).

(c) The tabulation made under Subsection (a) is unofficial and does not affect the outcome of the election.

(d) The custodian shall preserve the unofficial tabulation for the period for preserving the precinct election records. (V.T.E.C. Arts. 8.25, 8.32; New.)

Sec. 66.057. **REGULATING PUBLIC INSPECTION OF CERTAIN ELECTION RECORDS.** (a) The election returns for a particular precinct that are delivered to the general

custodian of election records do not become public information until the custodian completes the unofficial tabulation of the results for that precinct.

(b) The general custodian of election records or his designee shall be present at all times when the records delivered in ballot box no. 4 are inspected.

(c) The election records in envelope no. 3 become public information when delivery of the precinct election records is completed. (New.)

Sec. 66.058. PRESERVATION OF PRECINCT ELECTION RECORDS. (a) Except as otherwise provided by this code, the precinct election records shall be preserved by the authority to whom they are distributed for 60 days after election day.

(b) The voted ballots shall be preserved securely in a locked room in the locked ballot box in which they are delivered to the general custodian of election records. Except as permitted by this code, a ballot box containing voted ballots may not be opened during the preservation period.

(c) If during the preservation period an authorized entry is made into a ballot box containing voted ballots, when the purpose for the entry is fulfilled, the box shall be relocked and the box and key returned to the custodian.

(d) A custodian of a ballot box containing voted ballots commits an offense if, during the preservation period prescribed by Subsection (a), the custodian:

(1) makes an unauthorized entry into the box; or

(2) fails to prevent another person from handling the box in an unauthorized manner or from making an unauthorized entry into the box.

(e) An offense under Subsection (d) is a Class A misdemeanor.

(f) The records in ballot box no. 4 may be preserved in that box or by any other method chosen by the custodian. If the records are removed from the box, they may not be commingled with any other election records kept by the custodian.

(g) The precinct election records in an election involving a federal office shall be preserved by the authority to whom they are distributed for at least 22 months after election day in accordance with federal law. The secretary of state shall instruct the affected authorities on the actions necessary for compliance with federal law. (42 U.S.C.A. Sec. 1974; V.T.E.C. Arts. 8.20, 8.29, 8.32, 15.66; New.)

Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS. (a) On written application by the presiding officer of the local canvassing authority or the presiding judge of the election precinct, a district judge of the county in which a ballot box containing voted ballots is in custody may order the box opened to retrieve an election record that was erroneously placed in the box.

(b) The district judge shall post a notice of the date, hour, and place for opening the box on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision served by the general custodian of election records. The notice must remain posted continuously for the 24 hours immediately preceding the hour set for opening the box.

(c) Any interested person may observe the opening of the box.

(d) The district judge shall issue the orders necessary to safeguard the contents of a ballot box opened under this section. (New.)

Sec. 66.060. DELIVERY AND PRESERVATION OF KEY TO BALLOT BOX NO.

3. (a) The presiding judge shall deliver the key to ballot box no. 3 in person to the following authority:

(1) the sheriff, for an election ordered by the governor or a county authority or for a primary election;

(2) the chief of police or city marshal, for an election ordered by a city authority; or

(3) the constable of the justice precinct in which the office of the political subdivision's governing body is located, or if the office of constable is vacant, the sheriff of the county in which the governing body's office is located, for an election ordered by an authority of a political subdivision other than a county or city.

(b) The ballot box key shall be delivered at the same time as the precinct election records.

(c) The custodian of the key to ballot box no. 3 shall keep the key for the period for preserving the precinct election records except for the time the key is temporarily out of his custody in accordance with this code.

(d) A person commits an offense if the person is the custodian of the key to a ballot box containing voted ballots and, during the period for keeping the key, the person knowingly relinquishes custody of the key except as permitted by law. An offense under this subsection is a Class B misdemeanor.

(e) After the period for keeping a key to ballot box no. 3 expires, the key's custodian shall return the key to the custodian of the ballot box. (V.T.E.C. Arts. 7.06, 8.29a, 8.32; New.)

Sec. 66.061. CUSTODY OF LIST OF REGISTERED VOTERS TO BE REUSED IN SUBSEQUENT ELECTION. The custodian of a precinct list of registered voters that is to be reused in a subsequent election occurring during the preservation period shall return the list to the authority responsible for delivering the election supplies not earlier than the fourth day before the date it is needed for the subsequent election. (New.)

Sec. 66.062. DISPOSITION OF REGISTRATION OMISSIONS LIST. Not later than the 10th day after election day, the general custodian of election records shall deliver the registration omissions list to the voter registrar. (V.T.E.C. Art. 5.16a, Subdiv. 5.)

Sec. 66.063. RETURNING EQUIPMENT AND SUPPLIES. (a) At the same time the precinct election records are delivered, the unused election supplies shall be delivered to the authority responsible for distributing the election supplies.

(b) The presiding judge shall follow the directions of the authority responsible for distributing the election supplies regarding the storage or return after the election of ballot boxes no. 1 and no. 2, the keys to those boxes, voting booths, and other election equipment. (V.T.E.C. Art. 8.31; New.)

CHAPTER 67. CANVASSING ELECTIONS

Sec. 67.001. APPLICABILITY OF CHAPTER

Sec. 67.002. CANVASS OF PRECINCT RETURNS

Sec. 67.003. TIME FOR LOCAL CANVASS

Sec. 67.004. PROCEDURE FOR LOCAL CANVASS

Sec. 67.005. DETERMINING OFFICIAL RESULT OF ELECTION NOT CANVASSED AT STATE LEVEL

Sec. 67.006. LOCAL ELECTION REGISTER

Sec. 67.007. COUNTY ELECTION RETURNS

Sec. 67.008. SEPARATE COUNTY RETURNS FOR GOVERNOR AND LIEUTENANT GOVERNOR

Sec. 67.009. FORMS AND INSTRUCTIONS FOR COUNTY RETURNS

Sec. 67.010. COUNTY RETURNS CANVASSED BY STATE BOARD

Sec. 67.011. COUNTY RETURNS CANVASSED BY LEGISLATURE

Sec. 67.012. TIME FOR CANVASS BY STATE BOARD

Sec. 67.013. PROCEDURE FOR CANVASS BY STATE BOARD

Sec. 67.014. DETERMINING OFFICIAL RESULT OF ELECTION CANVASSED AT STATE LEVEL

Sec. 67.015. STATE ELECTION REGISTER

Sec. 67.016. CERTIFICATE OF ELECTION

Sec. 67.017. REPORTING PRECINCT RESULTS TO SECRETARY OF STATE

CHAPTER 67. CANVASSING ELECTIONS

Sec. 67.001. APPLICABILITY OF CHAPTER. This chapter applies to each general or special election conducted in this state. (New.)

Sec. 67.002. CANVASS OF PRECINCT RETURNS. (a) Except as otherwise provided by law, the precinct election returns for each election shall be canvassed by the following authority:

(1) for an election ordered by the governor or by a county authority, the commissioners court of each county in which the election is held; and

(2) for an election ordered by an authority of a political subdivision other than a county, the political subdivision's governing body.

(b) The canvass of precinct returns shall be conducted in accordance with this chapter except as otherwise provided by this code. (V.T.E.C. Art. 8.29a.)

Sec. 67.003. TIME FOR LOCAL CANVASS. (a) Each local canvassing authority shall convene to conduct the local canvass not earlier than the second day or later than the sixth day after election day at the time set by the canvassing authority's presiding officer.

(b) This section does not apply to a local option election under the Alcoholic Beverage Code. (V.T.E.C. Art. 8.34; New.)

Sec. 67.004. **PROCEDURE FOR LOCAL CANVASS.** (a) At the time set for convening the canvassing authority for the local canvass, the presiding officer of the canvassing authority shall deliver the sealed precinct returns to the authority. The authority shall open the returns for each precinct and canvass them as provided by this section.

(b) The canvassing authority shall prepare a tabulation stating for each candidate and for and against each measure:

- (1) the total number of votes received in each precinct; and
- (2) the sum of the precinct totals tabulated under Subdivision (1).

(c) The canvassing authority may prepare the tabulation as a separate document or may enter the tabulation directly in the local election register maintained for the authority.

(d) The canvassing authority may compare the precinct returns with the corresponding tally list. If a discrepancy is discovered between the vote totals shown on the returns and those shown on the tally list for a precinct, the presiding judge of the precinct shall examine the returns and tally list and make the necessary corrections on the returns.

(e) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the tabulation to the custodian of the local election register unless it is entered directly in the election register. The custodian shall preserve the tabulation for the period for preserving the precinct election records.

(f) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the precinct returns and tally lists used in the canvass to the general custodian of election records. The custodian shall preserve them for the period for preserving the precinct election records. (V.T.E.C. Arts. 8.35, 13.25; New.)

Sec. 67.005. **DETERMINING OFFICIAL RESULT OF ELECTION NOT CANVASSED AT STATE LEVEL.** (a) Except as provided by Subsection (b), the official result of an election that is not canvassed at the state level is determined from the canvass of the precinct returns conducted by the local canvassing authority.

(b) In an election in which there is more than one local canvassing authority but no canvass at the state level, the official result is determined in the manner prescribed by the law providing for the election. (V.T.E.C. Arts. 8.34, 13.25; New.)

Sec. 67.006. **LOCAL ELECTION REGISTER.** (a) An election register shall be maintained for each local canvassing authority.

(b) For each election, the election register must contain in tabulated form the information required to appear in the tabulation of precinct results prepared by the local canvassing authority.

(c) The general custodian of election records for the elections canvassed by a local canvassing authority is the custodian of the authority's election register.

(d) On receipt of the local canvassing authority's tabulation of votes, the custodian shall make the appropriate entries in the election register.

(e) The election register shall be preserved as a permanent record. (V.T.E.C. Arts. 8.34, 13.24; New.)

Sec. 67.007. **COUNTY ELECTION RETURNS.** (a) For each election for a statewide or district office, a statewide measure, or president and vice-president of the United States, the county clerk of each county in the territory covered by the election shall prepare county election returns.

(b) The county election returns shall state, for each candidate and for and against each measure, the total number of votes received in the county as stated by the local canvassing authority's tabulation of votes.

(c) The county clerk shall sign the county returns to certify their accuracy.

(d) Not later than 24 hours after completion of the local canvass, the county clerk shall deliver to the secretary of state, in the manner directed by the secretary, the county returns in a sealed envelope. The envelope shall be labeled: "Election Returns for _____ County, for
(name)

_____,"
(election)

(e) The county clerk shall retain a copy of the county returns for the period for preserving the precinct election records. (V.T.E.C. Art. 4.12, Subdiv. 2; Arts. 8.37, 8.42; New.)

Sec. 67.008. **SEPARATE COUNTY RETURNS FOR GOVERNOR AND LIEUTENANT GOVERNOR.** (a) In addition to the returns required by Section 67.007, each county clerk shall prepare separate county election returns of an election for the office of governor or lieutenant governor that contain the same information as the returns for those offices prepared under Section 67.007.

(b) The returns shall be delivered to the secretary of state as provided by Section 67.007, except that the envelope shall be labeled: "Returns of Election for Governor/Lieutenant Governor, _____ County, for _____."

(name) (election)

(c) The secretary of state shall retain the returns in their sealed condition until the first day of the next regular legislative session, when the secretary shall deliver the returns to the speaker of the house of representatives.

(d) The county clerk shall retain a copy of the county returns for the offices of governor and lieutenant governor for the period for preserving the precinct election records. (V.T.E.C. Art. 8.40; New.)

Sec. 67.009. FORMS AND INSTRUCTIONS FOR COUNTY RETURNS. (a) Before each election for which county election returns are required, the secretary of state shall deliver to each county clerk in the territory covered by the election two copies of the officially prescribed form for reporting county election returns. The secretary shall also deliver two copies of the official form for the separate returns for the offices of governor and lieutenant governor, if applicable.

(b) With the delivery of the official county returns forms, the secretary of state shall deliver:

(1) written instructions on the preparation and delivery of the county election returns; and

(2) the officially prescribed envelopes for delivering the returns to the secretary. (V.T.E.C. Art. 8.37.)

Sec. 67.010. COUNTY RETURNS CANVASSED BY STATE BOARD. (a) The county election returns for an election for a statewide office other than governor or lieutenant governor, a statewide measure, a district office, or president and vice-president of the United States shall be canvassed by the state board of canvassers.

(b) The state board of canvassers consists of:

(1) the secretary of state, as presiding officer;

(2) the governor; and

(3) a citizen of the state appointed by the governor with the advice and consent of the senate.

(c) The citizen member serves a two-year term beginning on February 15 of each odd-numbered year. The member is entitled to the same allowances for travel expenses as those granted to state employees.

(d) The canvass of county returns shall be conducted in accordance with this chapter except as otherwise provided by this code. (V.T.E.C. Arts. 8.35, 8.38, 9.29; New.)

Sec. 67.011. COUNTY RETURNS CANVASSED BY LEGISLATURE. (a) The county election returns for an election for the office of governor or lieutenant governor shall be canvassed by the legislature and the official result declared by the speaker of the house of representatives in accordance with Article IV, Section 3, of the Texas Constitution.

(b) On completion of the canvass, the speaker of the house of representatives shall deliver the county returns to the secretary of state, who shall retain them for the period for preserving precinct election records. (V.T.E.C. Art. 8.40; New.)

Sec. 67.012. TIME FOR CANVASS BY STATE BOARD. The state board of canvassers shall convene to conduct the state canvass not earlier than the 15th day or later than the 21st day after election day at the time set by the board's presiding officer. (V.T.E.C. Art. 8.38; New.)

Sec. 67.013. PROCEDURE FOR CANVASS BY STATE BOARD. (a) At the time set for convening the state board of canvassers for the state canvass, the presiding officer of the board shall deliver the county returns to the board.

(b) The board shall prepare a tabulation stating for each candidate and for and against each measure required to be canvassed by the board:

(1) the total number of votes received in each county; and

(2) the sum of the county totals tabulated under Subdivision (1).

(c) At the canvass of an election in which the office of governor or lieutenant governor is voted on, the board shall prepare a separate tabulation on the candidates for governor and lieutenant governor, indicating for each candidate the information required by Subsection (b).

(d) The presiding officer of the board shall retain the county election returns used in the canvass and the tabulations for the period for preserving precinct election records. (V.T.E.C. Arts. 8.38, 13.27; New.)

Sec. 67.014. DETERMINING OFFICIAL RESULT OF ELECTION CANVASSED AT STATE LEVEL. The official result of an election canvassed by the state board of canvassers or by the legislature is determined from the canvass of the county returns conducted by that authority. (V.T.E.C. Arts. 8.38, 13.27; New.)

Sec. 67.015. STATE ELECTION REGISTER. (a) An election register shall be maintained for the state board of canvassers.

(b) Except as provided by Subsection (e), for each election the election register shall contain in tabulated form the information required to appear in the tabulations of the county results prepared by the state board of canvassers.

(c) The secretary of state is the custodian of the election register for the state board of canvassers.

(d) After each canvass conducted by the board, the secretary of state shall make the appropriate entries in the election register.

(e) If a discrepancy exists between the legislature's canvass of the election for governor or lieutenant governor and the register entries pertaining to either of those offices that are made from the board's tabulation, the secretary of state shall make the entries in the register necessary to make it correspond to the legislature's canvass.

(f) The election register shall be preserved as a permanent record of the state. (V.T.E.C. Arts. 8.38, 13.24; New.)

Sec. 67.016. CERTIFICATE OF ELECTION. (a) After the completion of a canvass, the presiding officer of the local canvassing authority shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority's canvass.

(b) The governor shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by the canvass conducted by the state board of canvassers.

(c) A certificate of election must contain:

- (1) the candidate's name;
- (2) the office to which the candidate is elected;
- (3) a statement of election to an unexpired term, if applicable;
- (4) the date of the election;
- (5) the signature of the officer preparing the certificate; and
- (6) any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

(d) After the canvass of a presidential election, the secretary of state shall prepare a certificate of election for each presidential elector candidate who is elected.

(e) The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared.

(f) A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

(g) This section does not apply to the offices of governor and lieutenant governor. (V.T.E.C. Arts. 1.06, 8.36, 8.39; New.)

Sec. 67.017. REPORTING PRECINCT RESULTS TO SECRETARY OF STATE. (a) After each election for a statewide office, the county clerk shall prepare a report of the number of votes received in each county election precinct for each candidate for a statewide office. In a presidential election year, the report must include the number of votes received in each precinct for each set of candidates for president and vice-president of the United States.

(b) The county clerk shall deliver the report to the secretary of state not later than:

- (1) the 70th day after election day, for a report of a general election; or
- (2) the 30th day after election day, for a report of a special election.

(c) The report may be:

- (1) a transcribed or photographic copy of the precinct returns;
- (2) a transcribed or photographic copy of the tabulation prepared by the local canvassing authority; or
- (3) in any other form approved by the secretary of state.

(d) The secretary of state shall preserve a report received under this section for 10 years unless the secretary prepares a written tabulation of the information contained in the report received. In that case, the secretary shall preserve the original report for two years and the tabulation for 10 years after receipt of the original report.

(e) After the applicable preservation period prescribed by Subsection (d) expires, the secretary of state shall transfer the report or tabulation to the state library. (V.T.E.C. Art. 8.43a.)

CHAPTER 68. TABULATION OF UNOFFICIAL RESULTS OF CERTAIN RACES BY SECRETARY OF STATE

SUBCHAPTER A. CONDUCT OF TABULATION

- Sec. 68.001. DUTY TO TABULATE GENERALLY
 - Sec. 68.002. ACCESS TO TABULATION SYSTEM
 - Sec. 68.003. DISPLAY TERMINALS FOR CERTAIN STATE OFFICERS
 - Sec. 68.004. PERIODIC REPORTS DURING TABULATION
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 - Sec. 68.006. REPORT OF RECEIPT OF COUNTY RESULTS
 - Sec. 68.007. POSTING REPORTS FOR PUBLIC INSPECTION
 - Sec. 68.008. BACKUP SYSTEM Sec. 68.009. OPERATIONS MANUAL
 - Sec. 68.010. DISPOSITION OF FUNDS
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SUBCHAPTER B. DUTIES OF LOCAL ELECTION OFFICIALS FOR CERTAIN RACES

- Sec. 68.031. APPLICABILITY OF SUBCHAPTER
 - Sec. 68.032. DELIVERY OF RETURNS AND VOTED BALLOTS
 - Sec. 68.033. COUNTING OF ABSENTEE BALLOTS
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- [Sections 68.035-68.050 reserved for expansion]

SUBCHAPTER C. ELECTIONS ADVISORY COMMITTEE

- Sec. 68.051. MEMBERSHIP
- Sec. 68.052. CHAIRMAN AND MEETINGS
- Sec. 68.053. REVIEW OF OPERATIONS MANUAL
- Sec. 68.054. MEMBERS PRESENT DURING TABULATION
- Sec. 68.055. EVALUATION AND RECOMMENDATIONS REGARDING TABULATION

CHAPTER 68. TABULATION OF UNOFFICIAL RESULTS OF CERTAIN RACES BY SECRETARY OF STATE

SUBCHAPTER A. CONDUCT OF TABULATION

Sec. 68.001. DUTY TO TABULATE GENERALLY. (a) The secretary of state shall tabulate the unofficial results as provided by this subchapter in each primary election and general election for state and county officers on each proposed amendment to the state constitution and for each contested race for nomination or election to:

- (1) a federal office or statewide office of the state government;
- (2) the office of state senator;
- (3) the office of state representative; and
- (4) the office of member, State Board of Education.

(b) The secretary may tabulate the unofficial results for other contested races, political party referenda, and any special elections ordered by the governor. (V.T.E.C. Art. 1.03a, Subdiv. 1.)

Sec. 68.002. ACCESS TO TABULATION SYSTEM. (a) During the tabulation, the secretary of state shall provide a sufficient number of display terminals for representatives of the news media to monitor the tabulation. The secretary shall provide direct lines between computers for use by the media, if practicable.

(b) The secretary shall charge reasonable fees, which shall approximate actual costs, to defray the costs of providing the news media access to the tabulation system. (V.T.E.C. Art. 1.03a, Subdivs. 3(a), (b), (c).)

Sec. 68.003. **DISPLAY TERMINALS FOR CERTAIN STATE OFFICERS.** (a) For monitoring the tabulations, the secretary of state shall provide display terminals without charge to the governor, lieutenant governor, and speaker of the house of representatives in their Capitol offices. The secretary shall also provide printers at those locations if printers are made available at any location.

(b) The officers who are provided terminals or printers under this section may not provide access to data from those terminals or printers to members of the working news media. (V.T.E.C. Art. 1.03a, Subdiv. 3(d).)

Sec. 68.004. **PERIODIC REPORTS DURING TABULATION.** (a) Periodically during the tabulation, the secretary of state shall publish reports covering the races being tabulated.

(b) The periodic reports may include:

- (1) vote totals for all contested races being tabulated;
- (2) vote totals by county for federal offices and statewide offices of the state government;
- (3) vote totals for federal offices and statewide offices of the state government in each of the six most populous counties, the total for the next 19 most populous counties, and the total for the remaining 229 counties; and
- (4) any other information the secretary of state determines to be relevant.

(c) The secretary shall distribute the periodic reports on publication to the participating news media. (V.T.E.C. Art. 1.03a, Subdiv. 4(a).)

Sec. 68.005. **FINAL REPORTS OF TABULATION.** (a) After completion of the tabulation, the secretary of state shall publish a final report covering the races being tabulated.

(b) The final report may include:

- (1) the information described by Section 68.004(b);
- (2) vote totals by county for all races being tabulated; and
- (3) vote totals for federal offices and statewide offices of the state government in a minimum of eight regions designated by the secretary on the basis of the geographic scope of the electronic media markets.

(c) The secretary shall distribute a copy of the final report on publication to the participating news media, governor, lieutenant governor, speaker of the house of representatives, and members of the elections advisory committee. A copy of the report shall also be furnished to other persons on payment of a reasonable fee prescribed by the secretary to defray the costs of preparing and furnishing the copy. (V.T.E.C. Art. 1.03a, Subdivs. 5(a), (c).)

Sec. 68.006. **REPORT OF RECEIPT OF COUNTY RESULTS.** The secretary of state shall publish a report indicating the times the first and last reports of results from each county were received by the secretary. (V.T.E.C. Art. 1.03a, Subdiv. 5(b).)

Sec. 68.007. **POSTING REPORTS FOR PUBLIC INSPECTION.** (a) The secretary of state shall post for public inspection, on publication, one copy of each report published under Section 68.004.

(b) The secretary of state may post for public inspection any of the reports prepared under this subchapter. (V.T.E.C. Art. 1.03a, Subdivs. 4(b), 6(b).)

Sec. 68.008. **BACKUP SYSTEM.** The secretary of state shall provide a backup system for the tabulation of the results. (V.T.E.C. Art. 1.03a, Subdiv. 6(a).)

Sec. 68.009. **OPERATIONS MANUAL.** Not later than the 90th day before the date of each election covered by this subchapter, the secretary of state shall prepare an operations manual that explains the procedures to be used by the secretary in tabulating the results. (V.T.E.C. Art. 1.03a, Subdiv. 2(c).)

Sec. 68.010. **DISPOSITION OF FUNDS.** Funds collected under this chapter may be appropriated only to the secretary of state for the administration of this chapter. (V.T.E.C. Art. 1.03a, Subdiv. 3(c).)

Sec. 68.011. **ADDITIONAL PROCEDURES PRESCRIBED BY SECRETARY OF STATE.** The secretary of state shall prescribe any additional procedures necessary to implement the tabulation of unofficial results. (V.T.E.C. Art. 1.03a, Subdiv. 8.)

[Sections 68.012-68.030 reserved for expansion]

SUBCHAPTER B. DUTIES OF LOCAL ELECTION OFFICIALS FOR CERTAIN RACES

Sec. 68.031. **APPLICABILITY OF SUBCHAPTER.** This subchapter applies to each election covered by Subchapter A in addition to and notwithstanding other provisions of this code. (V.T.E.C. Art. 1.03a, Subdiv. 7(a).)

Sec. 68.032. **DELIVERY OF RETURNS AND VOTED BALLOTS.** (a) In precincts using paper ballots, voting machines, or electronic voting system ballot counters, the copy of the

returns required to be delivered to the county clerk shall be delivered not later than two hours, or as soon thereafter as practicable, after the closing of the polls or after the last person voted, whichever is later.

(b) In a precinct using electronic voting system ballots to be counted at a central counting station, the ballots shall be delivered to the station not later than two hours, or as soon thereafter as practicable, after the closing of the polls or after the last person voted, whichever is later. The copy of the returns required to be delivered to the county clerk shall be delivered by the presiding judge of the counting station immediately on completion of the returns. (V.T.E.C. Art. 1.03a, Subdivs. 7(b), (c).)

Sec. 68.033. COUNTING OF ABSENTEE BALLOTS. The absentee ballot board shall count the absentee ballots periodically throughout the day. (V.T.E.C. Art. 1.03a, Subdiv. 7(e).)

Sec. 68.034. TRANSMISSION OF RESULTS TO SECRETARY OF STATE. (a) The county clerk shall transmit periodically, by telephone or other electronic means, to the secretary of state the results for the races being tabulated by the secretary. The results shall be transmitted continuously until complete.

(b) The county clerk shall transmit the complete or partial results of the absentee voting for the appropriate races at 7 p.m. on election day. If only partial results are available, the results shall be transmitted periodically until complete.

(c) Costs of transmission of the results may be paid by the state. (V.T.E.C. Art. 1.03a, Subdivs. 7(d), (e).)

[Sections 68.035-68.050 reserved for expansion]

SUBCHAPTER C. ELECTIONS ADVISORY COMMITTEE

Sec. 68.051. MEMBERSHIP. (a) Not later than February 1 of each odd-numbered year, the lieutenant governor, speaker of the house of representatives, and secretary of state shall each appoint six persons to serve on an elections advisory committee in connection with the tabulation and reporting of election results under this chapter.

(b) Each member of the committee serves a two-year term beginning on February 1 of odd-numbered years.

(c) Appointments to the committee shall be made without regard to race, creed, sex, religion, and national origin.

(d) Instead of making one of the required appointments, each appointing officer or his designee may serve on the committee.

(e) Each appointing officer shall allocate at least four of his appointments among members of the various media organizations covering elections in this state.

(f) The following persons or their designees shall also serve on the committee:

(1) the president of the Texas Association of Broadcasters;

(2) the president of the Texas Press Association;

(3) the president of the Texas Daily Newspaper Association; and

(4) the chief state executive officers of the Associated Press and United Press International. (V.T.E.C. Art. 1.03a, Subdiv. 2(a).)

Sec. 68.052. CHAIRMAN AND MEETINGS. (a) The secretary of state shall designate a chairman and vice-chairman of the committee from among the media organization membership.

(b) Meetings of the committee shall be held at the call of the chairman. (V.T.E.C. Art. 1.03a, Subdiv. 2(b).)

Sec. 68.053. REVIEW OF OPERATIONS MANUAL. The committee shall review the operations manual prepared under Section 68.009 and make any recommendations it considers appropriate. (V.T.E.C. Art. 1.03a, Subdiv. 2(c).)

Sec. 68.054. MEMBERS PRESENT DURING TABULATION. One or more members chosen by the committee shall be present during the tabulation of the results at each election. (V.T.E.C. Art. 1.03a, Subdiv. 2(d).)

Sec. 68.055. EVALUATION AND RECOMMENDATIONS REGARDING TABULATION. The committee shall submit a written report after each election to the secretary of state, governor, lieutenant governor, and speaker of the house of representatives evaluating the tabulation process and making any recommendations it considers appropriate. (V.T.E.C. Art. 1.03a, Subdiv. 2(e).)

TITLE 7. ABSENTEE VOTING

SUBTITLE A. ABSENTEE VOTING

Chapter 81. General Provisions

Chapter 82. Eligibility to Vote Absentee

- Chapter 83. Officer Conducting Absentee Voting
- Chapter 84. Application for Ballot
- Chapter 85. Conduct of Voting by Personal Appearance
- Chapter 86. Conduct of Voting by Mail
- Chapter 87. Processing Absentee Results
- Chapter 88. Challenge of Person Voting by Mail
- SUBTITLE B. SPECIAL FORMS OF ABSENTEE VOTING
 - Chapter 101. Voting by Resident Federal Postcard Applicant
 - Chapter 102. Late Absentee Voting by Disabled Voter
 - Chapter 103. Late Absentee Voting Because of Death in Immediate Family
 - Chapter 104. Voting on Election Day by Disabled Voter From Voting System Precinct
- SUBTITLE C. RESTRICTED BALLOT
 - Chapter 111. General Provisions
 - Chapter 112. Voting Limited Ballot After Changing County of Residence
 - Chapter 113. Voting Presidential Ballot by Former Resident
 - Chapter 114. Voting Federal Ballot by Overseas Citizen

TITLE 7. ABSENTEE VOTING
SUBTITLE A. ABSENTEE VOTING
CHAPTER 81. GENERAL PROVISIONS

- Sec. 81.001. ABSENTEE VOTING REQUIRED
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TITLE 7. ABSENTEE VOTING
SUBTITLE A. ABSENTEE VOTING
CHAPTER 81. GENERAL PROVISIONS

Sec. 81.001. ABSENTEE VOTING REQUIRED. In each election in this state, absentee voting shall be conducted by personal appearance at an absentee polling place and by mail. (V.T.E.C. Art. 5.05, Subdivs. 1(b), 1a(1).)

Sec. 81.002. APPLICABILITY OF OTHER CODE PROVISIONS. The other titles of this code apply to absentee voting except provisions that are inconsistent with this title or that cannot feasibly be applied to absentee voting. (V.T.E.C. Art. 5.05, Subdivs. 2b, 3a(b), (d), 4f, 6(e), 15(b); New.)

Sec. 81.003. SUBSTITUTION OF ELECTRONIC SYSTEM BALLOTS FOR PAPER BALLOTS. In an election in which an electronic voting system is used in regular voting but not for all or part of the absentee voting, the electronic system ballots prepared for use in regular voting may be used for absentee voting, if practicable, at the discretion of the authority responsible for having the official ballot prepared for the election. (V.T.E.C. Art. 7.15, Subdiv. 9(d).)

Sec. 81.004. LOCATION OF PUBLIC ELECTION RECORDS. Election records for which the absentee voting clerk is custodian and that are public information shall be kept:

- (1) for an election in which a county clerk or city secretary is the absentee voting clerk, at the absentee clerk's main business office; or
- (2) for any other election, at a location designated by the authority appointing the clerk. (New.)

CHAPTER 82. ELIGIBILITY TO VOTE ABSENTEE

- Sec. 82.001. ABSENCE FROM COUNTY OF RESIDENCE
- Sec. 82.002. DISABILITY
- Sec. 82.003. AGE
- Sec. 82.004. RELIGION
- Sec. 82.005. CONFINEMENT IN JAIL

Sec. 82.006. SERVING IN ELECTION

CHAPTER 82. ELIGIBILITY TO VOTE ABSENTEE

Sec. 82.001. ABSENCE FROM COUNTY OF RESIDENCE. (a) A qualified voter is eligible to vote absentee by personal appearance if the voter expects to be absent from the county of the voter's residence on election day.

(b) Subject to Subsection (c), a qualified voter is eligible to vote absentee by mail if the voter expects to be absent from the county of the voter's residence on election day and during the regular hours for conducting absentee voting at the main absentee polling place for that part of the period for voting absentee by personal appearance remaining after the voter's absentee ballot application is submitted to the absentee voting clerk.

(c) If a voter's absentee ballot application is submitted on or after the first day of the period for voting absentee by personal appearance, the voter is ineligible to vote absentee by mail unless the voter is absent from the county when the application is submitted and satisfies the requirements prescribed by Subsection (b). (V.T.E.C. Art. 5.05, Subdivs. 1(a), 1(c)(ii), 1(c)(iii).)

Sec. 82.002. DISABILITY. (a) A qualified voter is eligible to vote absentee by personal appearance or by mail if the voter has a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring his health.

(b) Expected or likely confinement for childbirth on election day is sufficient cause to entitle a voter to vote absentee under Subsection (a). (V.T.E.C. Art. 5.05, Subdivs. 1(a), 1(c)(i), 2(b), 2(c); New.)

Sec. 82.003. AGE. A qualified voter is eligible to vote absentee by personal appearance or by mail if the voter is 65 years of age or older on election day. (V.T.E.C. Art. 5.05, Subdivs. 1(a), 1(c)(i).)

Sec. 82.004. RELIGION. A qualified voter is eligible to vote absentee by personal appearance or by mail if the voter is forbidden by religious conviction to vote during all or part of the time the polls are open on election day. (V.T.E.C. Art. 5.05, Subdivs. 1(a), 1(c)(i).)

Sec. 82.005. CONFINEMENT IN JAIL. (a) A qualified voter is eligible to vote absentee by personal appearance or by mail if, at the time the voter's absentee ballot application is submitted, the voter is confined in jail:

- (1) serving a misdemeanor sentence for a term that ends on or after election day;
- (2) pending trial after denial of bail;
- (3) without bail pending an appeal of a felony conviction; or
- (4) pending trial or appeal on a bailable offense for which release on bail before election day is unlikely.

(b) A voter confined in jail who is eligible to vote absentee is not entitled to vote absentee by personal appearance unless the authority in charge of the jail, in his discretion, permits the voter to do so. (V.T.E.C. Art. 5.05, Subdivs. 1(a), 1(b).)

Sec. 82.006. SERVING IN ELECTION. (a) A qualified voter is eligible to vote absentee by personal appearance if:

- (1) the voter expects to serve on election day as an election officer or watcher in the election or in another election held on the same day; and
- (2) the location at which the voter expects to serve is not the polling place at which he would vote in the election in which he desires to vote absentee.

(b) A qualified voter is eligible to vote absentee by personal appearance if the voter expects, by reason of his employment, to perform official functions in the administration of an election during all or part of the voting hours on election day. (V.T.E.C. Art. 5.05, Subdiv. 1(a); New.)

CHAPTER 83. OFFICER CONDUCTING ABSENTEE VOTING

SUBCHAPTER A. ABSENTEE VOTING CLERK

Sec. 83.001. ABSENTEE VOTING CLERK GENERALLY

Sec. 83.002. COUNTY CLERK AS ABSENTEE VOTING CLERK

Sec. 83.003. CLERK FOR LESS-THAN-COUNTYWIDE ELECTIONS HELD AT COUNTY EXPENSE

Sec. 83.004. CLERK FOR ELECTIONS ORDERED BY COUNTY AUTHORITY NOT HELD AT COUNTY EXPENSE

Sec. 83.005. CLERK FOR CITY ELECTIONS

Sec. 83.006. CLERK FOR ELECTIONS OF OTHER POLITICAL SUBDIVISIONS

Sec. 83.007. CLERK FOR OTHER ELECTIONS

Sec. 83.008. ADDITIONAL CLERKS FOR CERTAIN ELECTIONS

Sec. 83.009. EMPLOYEE OF POLITICAL SUBDIVISION SERVING AS CLERK

Sec. 83.010. PUBLIC NOTICE OF CLERK'S MAILING ADDRESS

[Sections 83.011-83.030 reserved for expansion]

SUBCHAPTER B. DEPUTY CLERK

Sec. 83.031. DEPUTY ABSENTEE VOTING CLERK GENERALLY

Sec. 83.032. DEPUTY FOR COUNTY CLERK OR CITY SECRETARY

Sec. 83.033. DEPUTY FOR OTHER CLERKS

Sec. 83.034. EMPLOYEE OF POLITICAL SUBDIVISION SERVING AS DEPUTY

[Sections 83.035-83.050 reserved for expansion]

SUBCHAPTER C. COMPENSATION

Sec. 83.051. COMPENSATION OF COUNTY CLERK OR CITY SECRETARY

Sec. 83.052. COMPENSATION OF OTHER CLERKS AND THEIR DEPUTIES

Sec. 83.053. SERVICE WITHOUT COMPENSATION BY PUBLIC EMPLOYEE

CHAPTER 83. OFFICER CONDUCTING ABSENTEE VOTING

SUBCHAPTER A. ABSENTEE VOTING CLERK

Sec. 83.001. ABSENTEE VOTING CLERK GENERALLY. (a) The absentee voting clerk shall conduct the absentee voting in each election.

(b) The clerk is an officer of the election in which the clerk serves.

(c) The clerk has the same duties and authority with respect to absentee voting as a presiding election judge has with respect to regular voting, except as otherwise provided by this title. (V.T.E.C. Art. 5.05, Subdivs. 1a(1), 13.)

Sec. 83.002. COUNTY CLERK AS ABSENTEE VOTING CLERK. The county clerk is the absentee voting clerk for the county in:

(1) the general election for state and county officers and any other countywide election held at county expense;

(2) a primary election; and

(3) a special election ordered by the governor. (V.T.E.C. Art. 5.05, Subdivs. 1a(2), 1a(5), 1a(8).)

Sec. 83.003. CLERK FOR LESS-THAN-COUNTYWIDE ELECTIONS HELD AT COUNTY EXPENSE. (a) In a less-than-countywide election ordered by the commissioners court, county judge, county board of school trustees, or any other county authority and held at county expense, the county clerk is the absentee voting clerk unless the authority appoints a person other than the county clerk.

(b) To be eligible for appointment as absentee voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the county and is not required to be a qualified voter of any other particular territory. (V.T.E.C. Art. 5.05, Subdiv. 1a(3); New.)

Sec. 83.004. CLERK FOR ELECTIONS ORDERED BY COUNTY AUTHORITY NOT HELD AT COUNTY EXPENSE. (a) In an election ordered by the commissioners court, county judge, county board of school trustees, or any other county authority and not held at county expense, the authority ordering the election shall appoint the absentee voting clerk.

(b) If the county clerk is appointed as absentee voting clerk under this section, the county clerk shall serve in that capacity, and the authority responsible for paying the expenses of the election shall reimburse the county for the time spent by the county clerk as the absentee voting clerk and by the county clerk's deputies as deputy absentee voting clerks.

(c) To be eligible for appointment as absentee voting clerk under this section, a person other than the county clerk must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the county and is not required to be a qualified voter of any other particular territory. (V.T.E.C. Art. 5.05, Subdiv. 1a(3); New.)

Sec. 83.005. CLERK FOR CITY ELECTIONS. The city secretary is the absentee voting clerk for an election ordered by an authority of a city. (V.T.E.C. Art. 5.05, Subdivs. 1a(4), 1a(5).)

Sec. 83.006. CLERK FOR ELECTIONS OF OTHER POLITICAL SUBDIVISIONS. (a) In an election ordered by an authority of a political subdivision other than a county or city, the authority ordering the election shall appoint the absentee voting clerk.

(b) To be eligible for appointment as absentee voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that:

(1) an appointee must be a qualified voter of the political subdivision and is not required to be a qualified voter of any other particular territory; and

(2) in an election in which an officer of the political subdivision is a candidate, an appointee's status as an employee of the political subdivision does not make the appointee ineligible for appointment as the clerk. (V.T.E.C. Art. 5.05, Subdivs. 1a(6), 1a(8); New.)

Sec. 83.007. CLERK FOR OTHER ELECTIONS. (a) In an election for which this code does not provide for an absentee voting clerk, the authority ordering the election shall appoint the absentee voting clerk.

(b) To be eligible for appointment as absentee voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the territory covered by the election and is not required to be a qualified voter of any other particular territory. (New.)

Sec. 83.008. ADDITIONAL CLERKS FOR CERTAIN ELECTIONS. (a) In an election on the creation, organization, functioning, or existence of one or more political subdivisions that affects more than one political subdivision, more than one absentee voting clerk may be appointed.

(b) An area within the territory covered by the election may not be served by more than one clerk.

(c) Each clerk shall serve the one or more political subdivisions designated by the authority appointing the clerk. (V.T.E.C. Art. 5.05, Subdiv. 1a(3).)

Sec. 83.009. EMPLOYEE OF POLITICAL SUBDIVISION SERVING AS CLERK. An employee of a political subdivision may serve as absentee voting clerk in an election affecting the political subdivision if the political subdivision's governing body approves the appointment. (V.T.E.C. Art. 5.05, Subdivs. 1a(6), 1a(8).)

Sec. 83.010. PUBLIC NOTICE OF CLERK'S MAILING ADDRESS. An election order and the election notice must state the absentee voting clerk's official mailing address, except for an election in which a county clerk or city secretary is the absentee voting clerk under Section 83.002 or 83.005. (V.T.E.C. Art. 5.05, Subdiv. 1a(7).)

[Sections 83.011-83.030 reserved for expansion]

SUBCHAPTER B. DEPUTY CLERK

Sec. 83.031. DEPUTY ABSENTEE VOTING CLERK GENERALLY. (a) Deputy absentee voting clerks may be appointed as provided by this subchapter to assist the absentee voting clerk.

(b) A deputy is an officer of the election in which the deputy serves.

(c) A deputy absentee voting clerk has the same authority as the absentee voting clerk in conducting absentee voting, subject to the absentee voting clerk's supervision. (V.T.E.C. Art. 5.05, Subdivs. 1a(3), 1a(6), 12, 13; New.)

Sec. 83.032. DEPUTY FOR COUNTY CLERK OR CITY SECRETARY. (a) In an election in which a county clerk or a city secretary is the absentee voting clerk, the county clerk or city secretary by written order may appoint one or more of that officer's permanent deputies as deputy absentee voting clerks. The clerk or secretary may appoint temporary deputies to serve as deputy absentee voting clerks in accordance with the law applicable to the appointment of deputies generally.

(b) For a temporary deputy to be eligible for appointment as a deputy absentee voting clerk under this section, the temporary deputy must meet the requirements for eligibility for service as a presiding election judge, except that:

(1) an appointee is not required to be a qualified voter of any particular territory other than the county, in the case of an appointment by a county clerk, or the city, in the case of an appointment by a city secretary; and

(2) in an election in which the absentee voting clerk is a candidate, an appointee's status as an employee of the clerk does not make the appointee ineligible for appointment as a deputy absentee voting clerk. (V.T.E.C. Art. 5.05, Subdivs. 1a(3), 1a(8); New.)

Sec. 83.033. DEPUTY FOR OTHER CLERKS. (a) In an election in which a person other than a county clerk or a city secretary is the absentee voting clerk, the authority appointing the clerk, by written order, may appoint one or more deputy absentee voting clerks.

(b) To be eligible for appointment as a deputy absentee voting clerk under this section, a person must meet the requirements for eligibility for appointment as the absentee voting clerk. (V.T.E.C. Art. 5.05, Subdiv. 1a(6); New.)

Sec. 83.034. **EMPLOYEE OF POLITICAL SUBDIVISION SERVING AS DEPUTY.** An employee of a political subdivision may serve as deputy absentee voting clerk in an election affecting the political subdivision if the political subdivision's governing body approves the appointment. (V.T.E.C. Art. 5.05, Subdivs. 1a(6), 1a(8).)

[Sections 83.035-83.050 reserved for expansion]

SUBCHAPTER C. COMPENSATION

Sec. 83.051. **COMPENSATION OF COUNTY CLERK OR CITY SECRETARY.** A county clerk or a city secretary is not entitled to receive additional compensation for serving as absentee voting clerk. (V.T.E.C. Art. 5.05, Subdiv. 1a(8).)

Sec. 83.052. **COMPENSATION OF OTHER CLERKS AND THEIR DEPUTIES.** An absentee voting clerk who is not a county clerk or city secretary and the deputy absentee voting clerks appointed to assist the clerk are entitled to compensation in an amount fixed by the authority ordering the election. (V.T.E.C. Art. 5.05, Subdiv. 1a(8).)

Sec. 83.053. **SERVICE WITHOUT COMPENSATION BY PUBLIC EMPLOYEE.** (a) An employee of the authority ordering an election who is appointed as absentee voting clerk or deputy absentee voting clerk may be appointed to serve without additional compensation.

(b) An employee of a political subdivision who is appointed as absentee voting clerk or deputy clerk for an election affecting the political subdivision may be appointed to serve without additional compensation if the political subdivision's governing body approves appointment on that basis. (V.T.E.C. Art. 5.05, Subdiv. 1a(8).)

CHAPTER 84. APPLICATION FOR BALLOT

SUBCHAPTER A. APPLICATION FOR BALLOT

Sec. 84.001. **APPLICATION REQUIRED**

Sec. 84.002. **CONTENTS OF APPLICATION**

Sec. 84.003. **SIGNING APPLICATION BY WITNESS**

Sec. 84.004. **UNLAWFULLY WITNESSING APPLICATION**

Sec. 84.005. **APPLICATION COMPONENTS**

Sec. 84.006. **MAKING APPLICATION FOR BALLOT VOTED BY PERSONAL APPEARANCE**

Sec. 84.007. **SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: GENERAL RULE**

Sec. 84.008. **SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: PERSONAL DELIVERY**

Sec. 84.009. **SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: CONFINEMENT IN JAIL**

Sec. 84.010. **PRESERVATION OF APPLICATION**

Sec. 84.011. **OFFICIAL APPLICATION FORM**

Sec. 84.012. **CLERK TO MAIL APPLICATION FORM ON REQUEST**

Sec. 84.013. **APPLICATION FORMS FURNISHED BY SECRETARY OF STATE**

[Sections 84.014-84.030 reserved for expansion]

SUBCHAPTER B. CANCELING APPLICATION FOR BALLOT TO BE VOTED BY MAIL

Sec. 84.031. **CANCELLATION OF APPLICATION**

Sec. 84.032. **REQUEST FOR CANCELLATION**

Sec. 84.033. **ACTION ON REQUEST BY CLERK**

Sec. 84.034. **NOTICE OF DENIAL**

Sec. 84.035. **BALLOT SENT TO APPLICANT**

Sec. 84.036. DISPOSITION OF RETURNED BALLOT

Sec. 84.037. PRESERVATION OF DOCUMENTS

CHAPTER 84. APPLICATION FOR BALLOT

SUBCHAPTER A. APPLICATION FOR BALLOT

Sec. 84.001. APPLICATION REQUIRED. (a) To be entitled to vote absentee, a person who is eligible to vote absentee must make an application for an absentee ballot as provided by this title.

(b) An application must be in writing and signed by the applicant.

(c) An applicant is not required to use an official application form.

(d) An absentee ballot voted by a person who has not made an application as provided by this title may not be counted. (V.T.E.C. Art. 5.05, Subdivs. 1(c), 2(a).)

Sec. 84.002. CONTENTS OF APPLICATION. (a) An absentee ballot application must include:

(1) the applicant's name and residence address and, for an application for a ballot to be voted by mail, the address to which the ballot is to be mailed and the date on or after which the applicant can receive mail at that address; and

(2) an indication of the ground of eligibility to vote absentee.

(b) An application for a ballot to be voted by mail on the ground of absence from the county of residence must indicate that the applicant satisfies the requirements prescribed by Section 82.001. (V.T.E.C. Art. 5.05, Subdivs. 1(c), 1(d), 2(a), 2(b).)

Sec. 84.003. SIGNING APPLICATION BY WITNESS. An absentee ballot application signed for the applicant by a witness other than the absentee voting clerk or a deputy must indicate the witness's relationship to the applicant or, if unrelated, indicate that fact. (V.T.E.C. Art. 5.05, Subdiv. 2(e).)

Sec. 84.004. UNLAWFULLY WITNESSING APPLICATION. (a) A person commits an offense if, in the same election, the person signs an absentee ballot application as a witness for more than one applicant.

(b) It is an exception to the application of Subsection (a) that the person signed absentee ballot applications for more than one applicant:

(1) as an absentee voting clerk or deputy absentee voting clerk; or

(2) and the person is related to the additional applicants as a parent, grandparent, spouse, child, or sibling.

(c) A violation of this section does not affect the validity of an application involved in the offense.

(d) Each application signed by the witness in violation of this section constitutes a separate offense.

(e) An offense under this section is a Class B misdemeanor. (V.T.E.C. Art. 5.05, Subdivs. 2(e), 2(f).)

Sec. 84.005. APPLICATION COMPONENTS. Each document that contains information required for an absentee ballot application and that is submitted to the absentee voting clerk and any envelope in which an application is submitted are part of the absentee ballot application. (New.)

Sec. 84.006. MAKING APPLICATION FOR BALLOT VOTED BY PERSONAL APPEARANCE. An applicant for a ballot to be voted by personal appearance must make an application at the absentee polling place when he desires to vote. (V.T.E.C. Art. 5.05, Subdiv. 3(b).)

Sec. 84.007. SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: GENERAL RULE. (a) Except as provided by Sections 84.008 and 84.009, an application for a ballot to be voted by mail must be submitted as provided by this section.

(b) An application must be submitted to the absentee voting clerk by mail.

(c) An application must be submitted on or after the 60th day before election day and before the close of regular business in the absentee voting clerk's office or 12 noon, whichever is later, on the seventh day before election day unless that day is a Saturday, Sunday, or legal state or national holiday, in which case the last day is the first preceding regular business day.

(d) An application is considered to be submitted at the time of its receipt by the clerk. (V.T.E.C. Art. 5.05, Subdivs. 1(c)(i)-(iii), 4(a); New.)

Sec. 84.008. SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: PERSONAL DELIVERY. (a) An applicant for a ballot to be voted by mail may submit his application by delivering it in person to the absentee voting clerk if the application is submitted not later than the close of regular business in the clerk's office on the day before the first day of the period for voting absentee by personal appearance.

(b) This section does not apply to an application submitted under Chapter 101, 102, or 103. (V.T.E.C. Art. 5.05, Subdiv. 1(c)(ii); New.)

Sec. 84.009. SUBMITTING APPLICATION FOR BALLOT VOTED BY MAIL: CONFINEMENT IN JAIL. (a) On request of the applicant, an application for a ballot to be voted by mail on the ground of confinement in jail may be submitted, at the discretion of the authority in charge of the jail, by personal delivery by the jail authority or by a designated subordinate of the authority.

(b) An application submitted under this section may not be submitted before the 20th day before election day. (V.T.E.C. Art. 5.05, Subdiv. 1(c)(iv).)

Sec. 84.010. PRESERVATION OF APPLICATION. Each absentee ballot application shall be preserved after the election for the period for preserving the precinct election records. (V.T.E.C. Art. 5.05, Subdivs. 1(c)(i), 1(c)(iv), 3a(a), 6(b), 6(c); Art. 5.05d, Subdiv. 2.)

Sec. 84.011. OFFICIAL APPLICATION FORM. The officially prescribed application form for an absentee ballot must include:

(1) immediately preceding the signature space the statement: "I certify that the information given in this application is true, and I understand that giving false information in this application is a crime.";

(2) a statement informing voters of the offense prescribed by Section 84.004; and

(3) spaces for entering an applicant's voter registration number and county election precinct of registration, with a statement informing the applicant that failure to furnish that information does not invalidate the application. (V.T.E.C. Art. 5.05, Subdivs. 2(a), 2(b), 2(d), 2(f); New.)

Sec. 84.012. CLERK TO MAIL APPLICATION FORM ON REQUEST. The absentee voting clerk shall mail without charge an appropriate official application form for an absentee ballot to each person requesting the clerk to send him an application form. (V.T.E.C. Art. 5.05, Subdiv. 2(a).)

Sec. 84.013. APPLICATION FORMS FURNISHED BY SECRETARY OF STATE. The secretary of state shall maintain a supply of the official application forms for ballots to be voted by mail and shall furnish the forms in reasonable quantities without charge to individuals or organizations requesting them for distribution to voters. (V.T.E.C. Art. 5.05, Subdiv. 2(a).)

[Sections 84.014-84.030 reserved for expansion]

SUBCHAPTER B. CANCELING APPLICATION FOR BALLOT TO BE VOTED BY MAIL

Sec. 84.031. CANCELLATION OF APPLICATION. (a) An application for an absentee ballot to be voted by mail that has been submitted to the absentee voting clerk may be canceled only as provided by this subchapter.

(b) A person whose application is canceled, if otherwise eligible, may vote in the same manner as if the application had not been submitted. (V.T.E.C. Art. 5.05, Subdiv. 4d.)

Sec. 84.032. REQUEST FOR CANCELLATION. (a) A person desiring to cancel his application for a ballot to be voted by mail must submit a request for the cancellation to the absentee voting clerk.

(b) A request must:

(1) be in writing and signed by the applicant;

(2) specify the election for which the application was made; and

(3) except as provided by Subsection (c), be received by the absentee voting clerk:

(A) not later than the third day before election day; and

(B) if an absentee ballot sent to the applicant is returned to the clerk as a marked ballot, before the marked ballot's arrival at the address on the carrier envelope.

(c) An applicant may submit a request after the close of voting absentee by personal appearance by appearing in person and:

(1) returning the ballot to be voted by mail to the absentee voting clerk; or

(2) executing an affidavit that the applicant has not received the ballot to be voted by mail. (V.T.E.C. Art. 5.05, Subdiv. 4d; New.)

Sec. 84.033. ACTION ON REQUEST BY CLERK. (a) The absentee voting clerk shall review each cancellation request to determine whether it complies with Section 84.032.

(b) If the request complies, the clerk shall cancel the application and enter on the application "canceled" and the date of cancellation. If the request does not comply, the clerk shall deny the request and enter on the request "denied" and the date of and reason for the denial. (New.)

Sec. 84.034. NOTICE OF DENIAL. Immediately after denying a cancellation request, the absentee voting clerk shall notify the applicant of the denial. The notice must state the reason for the denial. (New.)

Sec. 84.035. **BALLOT SENT TO APPLICANT.** If the absentee voting clerk cancels an application by an applicant to whom an absentee ballot has been sent, the clerk shall:

- (1) remove the applicant's name from the absentee roster; and
- (2) make any other entries in the records and take any other action necessary to prevent the ballot from being counted if returned. (V.T.E.C. Art. 5.05, Subdiv. 4d.)

Sec. 84.036. **DISPOSITION OF RETURNED BALLOT.** If an absentee ballot sent to an applicant whose application is canceled is returned to the absentee voting clerk as a marked ballot, the ballot shall be treated as a marked ballot not timely returned. (New.)

Sec. 84.037. **PRESERVATION OF DOCUMENTS.** The absentee voting clerk shall preserve each cancellation request for the period for preserving the precinct election records. If the application is canceled, the clerk shall attach it to the cancellation request and preserve it with the request. (New.)

CHAPTER 85. CONDUCT OF VOTING BY PERSONAL APPEARANCE

SUBCHAPTER A. TIME AND PLACE FOR VOTING

- Sec. 85.001. **ABSENTEE VOTING PERIOD**
 - Sec. 85.002. **MAIN ABSENTEE POLLING PLACE**
 - Sec. 85.003. **VOTERS SERVED BY MAIN POLLING PLACE**
 - Sec. 85.004. **PUBLIC NOTICE OF MAIN POLLING PLACE LOCATION**
 - Sec. 85.005. **REGULAR DAYS AND HOURS FOR VOTING**
 - Sec. 85.006. **VOTING ON SATURDAY OR SUNDAY**
 - Sec. 85.007. **PUBLIC NOTICE OF TIME FOR VOTING**
- [Sections 85.008-85.030 reserved for expansion]

SUBCHAPTER B. POLLING PLACE PROCEDURE

- Sec. 85.031. **ACCEPTING VOTER**
 - Sec. 85.032. **SECURITY OF ABSENTEE BALLOT BOX**
 - Sec. 85.033. **SECURITY OF VOTING MACHINE**
 - Sec. 85.034. **VOTER UNABLE TO ENTER POLLING PLACE**
 - Sec. 85.035. **ASSISTING VOTER**
 - Sec. 85.036. **ELECTIONEERING PROHIBITED**
- [Sections 85.037-85.060 reserved for expansion]

SUBCHAPTER C. BRANCH ABSENTEE POLLING PLACE

- Sec. 85.061. **PERMANENT BRANCH POLLING PLACE**
- Sec. 85.062. **TEMPORARY BRANCH POLLING PLACE**
- Sec. 85.063. **DAYS AND HOURS FOR VOTING: PERMANENT BRANCH**
- Sec. 85.064. **DAYS AND HOURS FOR VOTING: TEMPORARY BRANCH IN POPULOUS COUNTY**
- Sec. 85.065. **DAYS AND HOURS FOR VOTING: TEMPORARY BRANCH IN LESS POPULOUS COUNTY**
- Sec. 85.066. **VOTERS SERVED BY BRANCH POLLING PLACE**
- Sec. 85.067. **PUBLIC NOTICE OF BRANCH VOTING SCHEDULE**
- Sec. 85.068. **PUBLIC NOTICE OF ADDITIONAL VOTING TIME ORDERED BY CLERK**
- Sec. 85.069. **OFFICER IN CHARGE OF BRANCH POLLING PLACE**
- Sec. 85.070. **DELIVERY OF APPLICATIONS TO MAIN POLLING PLACE**
- Sec. 85.071. **DELIVERY OF BALLOTS TO MAIN POLLING PLACE**
- Sec. 85.072. **BRANCH DAILY REGISTER**

CHAPTER 85. CONDUCT OF VOTING BY PERSONAL APPEARANCE

SUBCHAPTER A. TIME AND PLACE FOR VOTING

Sec. 85.001. ABSENTEE VOTING PERIOD. (a) The period for voting absentee by personal appearance begins on the 20th day before election day and continues through the fourth day before election day, except as otherwise provided by this section.

(b) For a special runoff election for the office of state senator or state representative or for a runoff primary election, the period begins on the 10th day before election day.

(c) If the date prescribed by Subsection (a) or (b) for beginning the period is a Saturday, Sunday, or legal state holiday, the period begins on the next regular business day.

(d) If because of the date for which an election is ordered it is not possible to begin absentee voting by personal appearance on the prescribed date, the absentee voting period shall begin on the earliest date practicable after the prescribed date as set by the authority ordering the election. (V.T.E.C. Art. 5.05, Subdivs. 3(a), 4a, 4b, 4c; New.)

Sec. 85.002. MAIN ABSENTEE POLLING PLACE. (a) Absentee voting by personal appearance for each election shall be conducted at the main absentee polling place.

(b) In an election in which a county clerk or city secretary is the absentee voting clerk under Section 83.002 or 83.005, the main absentee polling place shall be located in any room selected by the absentee voting clerk in the building that houses the main business office of the county clerk or city secretary, as applicable. However, if the commissioners court or city governing body determines that locating the polling place in that building is impracticable, the commissioners court or city governing body may designate a different location in the city in which the business office is located that is as near as practicable to the business office.

(c) In an election in which a county clerk is the absentee voting clerk under Section 83.003 or 83.004, the authority authorized to appoint the clerk shall designate the location of the main absentee polling place. The location must be in the territory covered by the election or in any room selected by the clerk in the building that houses the county clerk's main business office, whether or not the office is located in the territory covered by the election. However, if the commissioners court determines that locating the polling place in that building is impracticable, the commissioners court may designate a different location in the city in which the business office is located that is as near as practicable to the business office.

(d) In an election in which a person other than a county clerk or city secretary is absentee voting clerk, the authority appointing the clerk shall designate the location of the main absentee polling place. The location must be in the territory covered by the election. (V.T.E.C. Art. 5.05, Subdivs. 1(b), 1a(3), 1a(7); New.)

Sec. 85.003. VOTERS SERVED BY MAIN POLLING PLACE. Any person entitled to vote absentee by personal appearance may do so at the main absentee polling place. (V.T.E.C. Art. 5.05, Subdiv. 1(b).)

Sec. 85.004. PUBLIC NOTICE OF MAIN POLLING PLACE LOCATION. The election order and the election notice must state the location of the main absentee polling place. (V.T.E.C. Art. 5.05, Subdiv. 1a(7); New.)

Sec. 85.005. REGULAR DAYS AND HOURS FOR VOTING. (a) In an election in which a county clerk or city secretary is the absentee voting clerk under Section 83.002 or 83.005, absentee voting by personal appearance at the main absentee polling place shall be conducted on the weekdays of the absentee voting period and during the hours that the county clerk's or city secretary's main business office is regularly open for business.

(b) In an election to which Subsection (a) does not apply, absentee voting by personal appearance at the main absentee polling place shall be conducted at least eight hours each weekday of the absentee voting period that is not a legal state holiday unless the territory covered by the election has fewer than 1,000 registered voters. In that case, the voting shall be conducted at least three hours each day. The authority ordering the election, or the county clerk if that person is the absentee voting clerk, shall determine which hours the voting is to be conducted. (V.T.E.C. Art. 5.05, Subdivs. 1a(7), 3(a); New.)

Sec. 85.006. VOTING ON SATURDAY OR SUNDAY. (a) Except as provided by Subsection (b), the authority ordering an election may order absentee voting by personal appearance at the main absentee polling place to be conducted on one or more Saturdays or the last Sunday of the absentee voting period.

(b) In an election in which a county clerk or city secretary is the absentee voting clerk under Section 83.002 or 83.005, only the absentee voting clerk may order voting on a Saturday or Sunday. The clerk must do so by written order.

(c) The authority ordering voting on a Saturday or Sunday shall determine the hours during which voting is to be conducted. (V.T.E.C. Art. 5.05, Subdiv. 3d; New.)

Sec. 85.007. PUBLIC NOTICE OF TIME FOR VOTING. (a) The election order and the election notice must state:

- (1) the date that absentee voting will begin if under Section 85.001(d) the absentee voting period is to begin later than the prescribed date;
- (2) the regular dates and hours that voting will be conducted under Section 85.005(b); and
- (3) the dates and hours that voting on Saturday or Sunday is ordered to be conducted under Section 85.006(a).

(b) The absentee voting clerk shall post notice for each election stating the dates and hours that voting on a Saturday or Sunday is ordered to be conducted under Section 85.006(b).

(c) Notice under Subsection (b) shall be posted continuously for at least 72 hours immediately preceding the first hour that the voting to which the notice pertains will be conducted. The notice shall be posted on the bulletin board used for posting notice of meetings of the commissioners court if the absentee voting clerk is the county clerk, or of the city governing body if the absentee voting clerk is the city secretary. (V.T.E.C. Art. 5.05, Subdivs. 1a(7), 3d; New.)

[Sections 85.008-85.030 reserved for expansion]

SUBCHAPTER B. POLLING PLACE PROCEDURE

Sec. 85.031. ACCEPTING VOTER. (a) If an applicant is entitled to vote absentee by personal appearance, the absentee voting clerk shall follow the procedure for accepting a regular voter on election day, with the modifications necessary for the conduct of absentee voting.

(b) A signature roster is not required to be maintained at an absentee polling place.

(c) If an applicant does not enter his voter registration number or county election precinct of residence on the application, or enters an incorrect number or precinct, the clerk shall enter the appropriate information on the application before permitting the applicant to vote.

(d) If the applicant is accepted to vote, the clerk shall indicate beside the applicant's name on the list of registered voters or registration omissions list that he was accepted to vote by personal appearance unless the form of either list makes it impracticable to do so, and the clerk shall enter his name on the poll list. (V.T.E.C. Art. 5.05, Subdivs. 2(b), 3a(a); New.)

Sec. 85.032. SECURITY OF ABSENTEE BALLOT BOX. (a) The procedure for rotating two ballot boxes applicable to a precinct polling place does not apply to an absentee polling place. Once locked for use in an election, the absentee ballot box may not be unlocked except as provided by this subtitle.

(b) The ballot box in which voters deposit their marked absentee ballots must have two locks, each with a different key.

(c) During the period for voting absentee by personal appearance, the absentee voting clerk shall keep the key to one of the locks to the absentee ballot box, and the custodian of keys to ballot boxes for preserving voted ballots after the election shall keep the key to the second lock.

(d) Each custodian shall retain possession of the key entrusted to him until it is delivered to the absentee ballot board under Subchapter B, Chapter 87.

(e) A sealed case may be used for transferring voted absentee ballots in accordance with procedures approved by the secretary of state. (V.T.E.C. Art. 5.05, Subdiv. 3a(c); New.)

Sec. 85.033. SECURITY OF VOTING MACHINE. At the close of absentee voting each day, the absentee voting clerk shall secure each voting machine used for absentee voting in the manner prescribed by the secretary of state so that its unauthorized operation is prevented. The clerk shall unsecure the machine before the beginning of absentee voting the following day. (V.T.E.C. Art. 7.14, Sec. 7; New.)

Sec. 85.034. VOTER UNABLE TO ENTER POLLING PLACE. (a) Absentee voting by personal appearance by a voter who is voting outside the absentee polling place under Section 64.009 shall be conducted in accordance with this section if voting at the absentee polling place is by voting machine or voting device unless the absentee voting clerk chooses to transport a voting device to the voter.

(b) The absentee voting clerk shall furnish each accepted voter with the absentee ballot used for voting by mail and the official ballot envelope.

(c) The voter must mark the ballot and seal it in the envelope.

(d) Immediately after sealing the ballot envelope, the voter must give it to the clerk. Before depositing the envelope in the ballot box, the clerk shall indicate on the envelope that the ballot was voted outside the polling place under this section.

(e) The secretary of state may provide for the use of envelopes or other containers instead of ballot boxes in which to deposit ballots voted under this section. (New.)

Sec. 85.035. ASSISTING VOTER. A person voting absentee by personal appearance who is assisted in preparing his ballot by election officers under Subchapter B, Chapter 64, may be assisted by a single officer. (V.T.E.C. Art. 5.05, Subdiv. 15(a).)

Sec. 85.036. ELECTIONEERING PROHIBITED. (a) During the time an absentee polling place is open for the conduct of absentee voting, a person may not electioneer for or against any candidate, measure, or political party:

(1) in the room in which the absentee polling place is located; or

(2) in any corridor in the building in which the polling place is located within a distance of 30 feet from the entrance to the room in which the polling place is located.

(b) During the absentee voting period, the absentee voting clerk shall keep continuously posted:

(1) at the entrance to the room in which the absentee polling place is located, a sign on which is printed in large letters "Absentee Polling Place"; and

(2) in each corridor leading to the entrance to the room in which the polling place is located, 30 feet from the entrance, a sign on which is printed in large letters "Distance Marker. No electioneering between this point and the entrance to the absentee polling place."

(c) A person commits an offense if the person electioneers in violation of Subsection (a).

(d) An offense under this section is a Class C misdemeanor.

(e) Sections 61.003 and 61.004 do not apply to absentee polling places. (V.T.E.C. Art. 5.05, Subdiv. 18; Art. 8.27; New.)

[Sections 85.037-85.060 reserved for expansion]

SUBCHAPTER C. BRANCH ABSENTEE POLLING PLACE

Sec. 85.061. PERMANENT BRANCH POLLING PLACE. (a) In a countywide election in which the county clerk is the absentee voting clerk under Section 83.002, an absentee polling place shall be located at each branch office that is regularly maintained for conducting general clerical functions of the county clerk, except as provided by Subsection (b).

(b) In an election in which a temporary branch polling place is established under Section 85.062(a)(1), the commissioners court may provide by resolution, order, or other official action that any one or more of the county clerk's regularly maintained branch clerical offices are not to be branch absentee polling places in the election. In an election in which a temporary branch polling place is established under Section 85.062(d), the county clerk's regularly maintained branch clerical offices may not be branch absentee polling places.

(c) In this subchapter, "permanent branch polling place" means an absentee polling place established under this section. (V.T.E.C. Art. 5.05, Subdivs. 14(a), 14a(a); New.)

Sec. 85.062. TEMPORARY BRANCH POLLING PLACE. (a) One or more absentee polling places other than the main absentee polling place may be established by:

(1) the commissioners court, for an election in which the county clerk is the absentee voting clerk; or

(2) the governing body of the political subdivision served by the authority ordering the election, for an election in which a person other than the county clerk is the absentee voting clerk.

(b) A polling place established under this section may be located at any place in the territory served by the absentee voting clerk and may be located in any structure, whether stationary or movable, as directed by the authority establishing the branch office.

(c) In any election, the location of a polling place established under this section shall be fixed at one place for the duration of the period that voting is required to be conducted at the polling place.

(d) In a county with a population of more than two million, the commissioners court shall establish one or more absentee polling places other than the main absentee polling place in one or more justice precincts containing territory covered by an election in which the county clerk is the absentee voting clerk. The number of polling places in each justice precinct may not exceed the number of justices of the peace elected in that precinct. This subsection supersedes any provision of this subchapter to the extent of any conflict.

(e) In this subchapter, "temporary branch polling place" means an absentee polling place established under this section. (V.T.E.C. Art. 5.05, Subdivs. 14(b), 14a(a); New.)

Sec. 85.063. DAYS AND HOURS FOR VOTING: PERMANENT BRANCH. Absentee voting by personal appearance at each permanent branch polling place shall be conducted on the same days and during the same hours as voting is conducted at the main absentee polling place. (V.T.E.C. Art. 5.05, Subdiv. 14(a).)

Sec. 85.064. DAYS AND HOURS FOR VOTING: TEMPORARY BRANCH IN POPULOUS COUNTY. (a) This section applies only to an election in which the territory served by

the absentee voting clerk is situated in a county with a population of 100,000 or more. In an election in which the territory served by the clerk is situated in more than one county, this section applies if the sum of the populations of the counties is 100,000 or more.

(b) Absentee voting by personal appearance at each temporary branch polling place shall be conducted on the days and during the hours that voting is required to be conducted at the main absentee polling place under Section 85.005.

(c) The authority authorized under Section 85.006 to order absentee voting on a Saturday or Sunday may also order, in the manner prescribed by that section, absentee voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. (V.T.E.C. Art. 5.05, Subdiv. 14(b); New.)

Sec. 85.065. DAYS AND HOURS FOR VOTING: TEMPORARY BRANCH IN LESS POPULOUS COUNTY. (a) This section applies only to an election in which the territory served by the absentee voting clerk is situated in a county with a population under 100,000. In an election in which the territory served by the clerk is situated in more than one county, this section applies if the sum of the populations of the counties is under 100,000.

(b) Voting at a temporary branch polling place may be conducted on any one or more days and during any hours of the period for voting absentee by personal appearance, as determined by the authority establishing the branch.

(c) The schedules for conducting voting are not required to be uniform among the temporary branch polling places. (V.T.E.C. Art. 5.05, Subdiv. 14(b); New.)

Sec. 85.066. VOTERS SERVED BY BRANCH POLLING PLACE. (a) Except as otherwise provided by this section, any voter who is entitled to vote absentee by personal appearance may do so at any branch polling place in the territory served by the absentee voting clerk.

(b) For an election in which a branch polling place is established under Section 85.061 or 85.062(a)(1), the commissioners court may limit voting at a branch polling place to the qualified voters of a justice precinct.

(c) The voting at a branch polling place established under Section 85.062(d) is limited to the qualified voters of the particular justice precinct.

(d) For elections in which the county clerk is not the absentee voting clerk, the governing body of the political subdivision served by the authority ordering the election may limit voting at a branch polling place to the qualified voters of particular election precincts. To the extent practicable, the election precincts shall be grouped so that the branch polling places serve substantially equal numbers of voters. (V.T.E.C. Art. 5.05, Subdivs. 14(c), 14a(b), (e); New.)

Sec. 85.067. PUBLIC NOTICE OF BRANCH VOTING SCHEDULE. (a) The absentee voting clerk shall post for each election a schedule stating:

(1) the location of each permanent and temporary branch polling place at which voting will be conducted; and

(2) except as provided by Subsection (b), the dates and hours that temporary branch voting will be conducted.

(b) The schedule is not required to include dates and hours for which public notice is posted under Section 85.068.

(c) The schedule shall be posted continuously for a period beginning not later than the 10th day before the first day of the period for voting absentee by personal appearance and ending on the last day of that period.

(d) The schedule shall be posted on the bulletin board used for posting notice of meetings of the governing body of the political subdivision served by the authority ordering the election or, if the absentee voting clerk is the county clerk or city secretary, meetings of the commissioners court or city governing body, as applicable.

(e) The absentee voting clerk shall make copies of the schedule available to the public in reasonable quantities without charge during the posting period. (V.T.E.C. Art. 5.05, Subdiv. 14(b); New.)

Sec. 85.068. PUBLIC NOTICE OF ADDITIONAL VOTING TIME ORDERED BY CLERK. (a) The absentee voting clerk shall post notice for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Section 85.064(c), if the absentee voting clerk is a county clerk or city secretary under Section 83.002 or 83.005.

(b) The notice is not required to include the dates and hours that appear in the branch office voting schedule posted under Section 85.067.

(c) The notice shall be posted as provided by Section 85.007(c). (New.)

Sec. 85.069. OFFICER IN CHARGE OF BRANCH POLLING PLACE. The absentee voting clerk shall designate for each branch polling place a deputy absentee voting clerk as the election officer in charge of the polling place. (V.T.E.C. Art. 5.05, Subdiv. 14(c).)

Sec. 85.070. **DELIVERY OF APPLICATIONS TO MAIN POLLING PLACE.** Each absentee ballot application submitted at a branch polling place shall be delivered by an election officer to the main polling place not later than 1 p.m. on the day after the date the application is submitted. (V.T.E.C. Art. 5.05, Subdivs. 14(c), 14a(d).)

Sec. 85.071. **DELIVERY OF BALLOTS TO MAIN POLLING PLACE.** (a) During the period for voting absentee by personal appearance, the ballots voted at a branch polling place, other than those cast on a voting machine, shall be:

(1) retained securely at the branch polling place in a locked room accessible only to election officers; or

(2) delivered by an election officer or designated law enforcement officer to the main absentee polling place at the close of voting each day.

(b) The unvoted ballots at the branch polling place, other than voting machine ballots, shall be retained or delivered with the voted ballots but in a separate locked container.

(c) All voted and unvoted ballots shall be delivered by an election officer or designated law enforcement officer to the main polling place at the close of voting on the last day of voting at the branch polling place. (V.T.E.C. Art. 5.05, Subdiv. 14(c); New.)

Sec. 85.072. **BRANCH DAILY REGISTER.** (a) Each day absentee voting is conducted at a branch polling place, an election officer in charge of the branch shall prepare a register listing the voters who cast ballots at the branch that day.

(b) The register must include for each voter the information necessary for entering the voter's name on the absentee roster for the election.

(c) The election officer preparing the register shall deliver it to the absentee voting clerk at the close of each day's voting at the branch polling place.

(d) The absentee voting clerk shall preserve each daily register for the period for preserving the precinct election records.

(e) A current copy of the register shall be kept at the branch polling place during the period voting is conducted there. (V.T.E.C. Art. 5.05, Subdivs. 14(c), 14a(c).)

CHAPTER 86. CONDUCT OF VOTING BY MAIL

Sec. 86.001. **REVIEWING APPLICATION AND PROVIDING BALLOT**

Sec. 86.002. **ADDITIONAL BALLOTING MATERIALS**

Sec. 86.003. **METHOD OF PROVIDING BALLOT TO VOTER; REQUIRED ADDRESS**

Sec. 86.004. **TIME FOR PROVIDING BALLOT TO VOTER**

Sec. 86.005. **MARKING AND SEALING BALLOT**

Sec. 86.006. **METHOD OF RETURNING MARKED BALLOT**

Sec. 86.007. **DEADLINE FOR RETURNING MARKED BALLOT**

Sec. 86.008. **DEFECTIVE APPLICATION**

Sec. 86.009. **PROVIDING CORRECTED BALLOT TO VOTER**

Sec. 86.010. **ASSISTING VOTER**

Sec. 86.011. **ACTION BY CLERK ON RETURN OF BALLOT**

Sec. 86.012. **OFFICIAL BALLOT ENVELOPE**

Sec. 86.013. **OFFICIAL CARRIER ENVELOPE**

CHAPTER 86. CONDUCT OF VOTING BY MAIL

Sec. 86.001. **REVIEWING APPLICATION AND PROVIDING BALLOT.** (a) The absentee voting clerk shall review each application for a ballot to be voted by mail.

(b) If the applicant is entitled to vote absentee by mail, the clerk shall provide an official ballot to the applicant as provided by this chapter.

(c) Except as provided by Section 86.008, if the applicant is not entitled to vote absentee by mail, the clerk shall reject the application and enter on the application "rejected" and the reason for and date of rejection. A ballot may not be provided to an applicant whose application is rejected.

(d) If the application does not include the applicant's correct voter registration number or county election precinct of residence, the clerk shall enter the appropriate information on the application before providing a ballot to the applicant.

(e) If a ballot is provided to the applicant, the clerk shall indicate beside the applicant's name on the list of registered voters that a ballot to be voted by mail was provided to him and the date

of providing the ballot unless the form of the list makes it impracticable to do so. (V.T.E.C. Art. 5.05, Subdivs. 2(b), 4(b); New.)

Sec. 86.002. **ADDITIONAL BALLOTING MATERIALS.** (a) The absentee voting clerk shall provide an official ballot envelope and carrier envelope with each ballot provided to a voter.

(b) Before providing the balloting materials to the voter, the clerk shall enter on the carrier envelope the identity and date of the election.

(c) The clerk may enter on a carrier envelope the voter's name in printed form and any other information the clerk determines necessary for proper processing of the ballot. (V.T.E.C. Art. 5.05, Subdivs. 3b(a), 4(b); New.)

Sec. 86.003. **METHOD OF PROVIDING BALLOT TO VOTER; REQUIRED ADDRESS.** (a) The balloting materials for voting by mail shall be provided to the voter by mail. A ballot provided by any other method may not be counted.

(b) Subject to Subsection (c), the balloting materials shall be addressed to the mailing address specified in the voter's application. If no mailing address is specified, the materials shall be mailed to the voter's residence address unless a different address is required by Subsection (c). The election officer providing the ballot may not knowingly mail the materials to an address other than that prescribed by this section.

(c) The mailing address must be the voter's residence or temporary living quarters unless:

(1) the ground for voting absentee is absence from the county of residence, in which case the address must be an address outside the voter's county of residence; or

(2) the ground for voting absentee is confinement in jail, in which case the address must be the jail.

(d) If the mailing address specified in a voter's application is an address other than that prescribed by Subsection (c), the voter's ballot may not be counted. (V.T.E.C. Art. 5.05, Subdiv. 1(c).)

Sec. 86.004. **TIME FOR PROVIDING BALLOT TO VOTER.** The balloting materials for voting by mail shall be mailed to voters as soon as practicable after the ballots become available but not earlier than the 45th day before election day. (V.T.E.C. Art. 5.05, Subdivs. 4(b), 4a, 4b, 4e; New.)

Sec. 86.005. **MARKING AND SEALING BALLOT.** (a) A voter must mark a ballot voted by mail in accordance with the instructions on the ballot envelope.

(b) A voter may mark the ballot at any time after receiving it.

(c) After marking the ballot, the voter must place it in the official ballot envelope and then seal the ballot envelope, place the ballot envelope in the official carrier envelope and then seal the carrier envelope, and sign the certificate on the carrier envelope.

(d) Failure to use the official ballot envelope does not affect the validity of the ballot.

(e) After the carrier envelope is sealed by the voter, it may not be opened except as provided by Chapter 87. (V.T.E.C. Art. 5.05, Subdivs. 4(a), 4(c), 5; New.)

Sec. 86.006. **METHOD OF RETURNING MARKED BALLOT.** (a) A marked ballot voted by mail must be returned to the absentee voting clerk by mail in the official carrier envelope. A ballot returned by any other method may not be counted.

(b) A carrier envelope may not be returned in an envelope or package containing another carrier envelope. A ballot returned in violation of this subsection may not be counted. (V.T.E.C. Art. 5.05, Subdivs. 1(c), 4(c); New.)

Sec. 86.007. **DEADLINE FOR RETURNING MARKED BALLOT.** (a) A marked ballot voted by mail must arrive at the address on the carrier envelope before the time the polls are required to close on election day.

(b) If the absentee 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.

(c) A marked ballot that is not timely returned may not be counted. (V.T.E.C. Art. 5.05, Subdiv. 4(a); New.)

Sec. 86.008. **DEFECTIVE APPLICATION.** (a) If on reviewing an application for a ballot to be voted by mail that was received on or before the 12th day before election day the absentee voting clerk determines that the application does not fully comply with the applicable requirements prescribed by this title, the clerk shall mail an official application form to the applicant.

(b) The clerk shall include with the application form mailed to the applicant a written notice containing:

(1) a brief explanation of each defect in the noncomplying application;

(2) a statement informing the voter that he is not entitled to vote absentee unless the application complies with all legal requirements; and

(3) instructions for submitting the second application.

(c) If an application that does not fully comply with the applicable requirements prescribed by this title is received after the 12th day before election day and before the end of the period for voting absentee by personal appearance, the clerk shall mail a notice to the voter containing the information prescribed by Subdivisions (1) and (2) of Subsection (b), including a statement that the application was late, if applicable. (New.)

Sec. 86.009. **PROVIDING CORRECTED BALLOT TO VOTER.** (a) If, after a ballot to be voted by mail is provided to a voter, the official ballot is changed in a way that affects the choices available to the voter in the election or the validity of the ballot provided to the voter if cast, the absentee voting clerk shall mail a corrected ballot and corresponding balloting materials to the voter unless in the clerk's opinion there is not sufficient time for the voter to timely return the corrected ballot to the clerk.

(b) The clerk shall include with the balloting materials provided to the voter a written notice containing:

(1) a brief explanation of the reason for providing another ballot; and

(2) an instruction to destroy the defective ballot if it has not already been returned to the clerk.

(c) Before mailing the corrected ballot to the voter, the clerk shall place a notation on the carrier envelope indicating that the ballot is a corrected ballot being provided under this section. The clerk shall also indicate on the voter's application that he was provided a corrected ballot.

(d) The clerk shall prepare a list containing the name of each voter who is provided a corrected ballot under this section. The clerk shall preserve the list for the period for preserving the precinct election records.

(e) A voter's defective ballot that is timely returned to the clerk as a marked ballot shall be treated as:

(1) a marked ballot not timely returned if the corrected ballot is timely returned as a marked ballot; or

(2) as the voter's ballot for the election if the corrected ballot is not timely returned. (V.T.E.C. Art. 5.05, Subdiv. 4e; New.)

Sec. 86.010. **ASSISTING VOTER.** (a) A voter casting a ballot by mail who would be eligible under Section 64.031 to receive assistance at a polling place may select a person as provided by Section 64.032(c) to assist the voter in preparing the ballot.

(b) Assistance rendered under this section is limited to that authorized by this code at a polling place.

(c) If a voter is assisted in violation of this section, the voter's ballot may not be counted. (V.T.E.C. Art. 5.05, Subdiv. 15(a); New.)

Sec. 86.011. **ACTION BY CLERK ON RETURN OF BALLOT.** (a) The absentee voting clerk shall determine whether the return of a voter's official carrier envelope for a ballot voted by mail is timely.

(b) If the return is timely, the clerk shall enclose the carrier envelope and the voter's absentee ballot application in a jacket envelope.

(c) If the return is not timely, the clerk shall enter the time of receipt on the carrier envelope and retain it for the period for preserving the precinct election records. The clerk shall destroy the unopened envelope and its contents after the preservation period. (V.T.E.C. Art. 5.05, Subdiv. 5.)

Sec. 86.012. **OFFICIAL BALLOT ENVELOPE.** (a) "Ballot Envelope" must be printed on the face of each officially prescribed ballot envelope for a ballot to be voted by mail.

(b) The following textual material, as prescribed by the secretary of state, must be printed on the face of each official ballot envelope and may be continued on the reverse side if necessary:

(1) instructions for marking the ballot and returning the marked ballot to the absentee voting clerk;

(2) the deadline for returning the marked ballot to the clerk;

(3) limitations on assistance to the voter; and

(4) criminal penalties for unlawful assistance in preparing the ballot. (V.T.E.C. Art. 5.05, Subdivs. 3b(a), 4(b).)

Sec. 86.013. **OFFICIAL CARRIER ENVELOPE.** (a) "Carrier Envelope for Absentee Ballot," the name and official title of the absentee voting clerk as addressee, and the clerk's official mailing address must be printed on the face of each official carrier envelope for a ballot to be voted by mail.

(b) Spaces for indicating the identity and date of the election must appear on the reverse side of the official carrier envelope.

(c) A certificate in substantially the following form must be printed on the reverse side of the official carrier envelope:

“I certify that the enclosed ballot expresses my wishes independent of any dictation or undue persuasion by any person.

Signature of voter
By:

Signature of person assisting voter, if applicable
(see Ballot Envelope for restrictions and penalties)

Printed name of person assisting voter, if applicable

Residence address of person assisting voter, if applicable“

(d) The prohibition prescribed by Section 86.006(b), in wording prescribed by the secretary of state, must be printed on the reverse side of the official carrier envelope. (V.T.E.C. Art. 5.05, Subdivs. 3b(a), 4(b); New.)

CHAPTER 87. PROCESSING ABSENTEE RESULTS

SUBCHAPTER A. ABSENTEE BALLOT BOARD

- Sec. 87.001. BOARD CREATED; JURISDICTION
- Sec. 87.002. COMPOSITION OF BOARD
- Sec. 87.003. ELIGIBILITY FOR BOARD MEMBERSHIP
- Sec. 87.004. BOARD COMPOSED OF PRECINCT ELECTION OFFICERS
- Sec. 87.005. COMPENSATION OF MEMBERS
- [Sections 87.006-87.020 reserved for expansion]

SUBCHAPTER B. DELIVERING MATERIALS TO BOARD

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- Sec. 87.082. REGISTERING VOTES BY MAIL ON MACHINE
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- Sec. 87.101. PREPARATION OF BALLOTS; DELIVERY TO COUNTING STATION
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- Sec. 87.121. ABSENTEE ROSTER
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- Sec. 87.124. PRESERVATION OF ABSENTEE ELECTION RECORDS GENERALLY

CHAPTER 87. PROCESSING ABSENTEE RESULTS

SUBCHAPTER A. ABSENTEE BALLOT BOARD

Sec. 87.001. BOARD CREATED; JURISDICTION. An absentee ballot board shall be created in each election to process absentee voting results from the territory served by the absentee voting clerk. (V.T.E.C. Art. 5.05, Subdiv. 6(a); New.)

Sec. 87.002. COMPOSITION OF BOARD. (a) The absentee ballot board consists of a presiding judge and at least two other members.

(b) The presiding judge is appointed in the same manner as a presiding election judge. The other members are appointed by the presiding judge in the same manner as the precinct election clerks. (V.T.E.C. Art. 5.05, Subdiv. 6(a).)

Sec. 87.003. ELIGIBILITY FOR BOARD MEMBERSHIP. To be eligible for appointment to the absentee ballot board, a person must meet the requirements for eligibility for service as a presiding election judge, except that the appointee must be a qualified voter of the territory served by the absentee voting clerk and is not required to be a qualified voter of any other particular territory. (V.T.E.C. Art. 5.05, Subdiv. 6(f).)

Sec. 87.004. BOARD COMPOSED OF PRECINCT ELECTION OFFICERS. In an election other than the general election for state and county officers or a primary election, the authority ordering the election may direct by resolution, order, or other official action that the precinct election officers serving one of the election precincts also serve as the absentee ballot board for the election. In that case, the presiding election judge of the precinct serves as the board's presiding officer. (New.)

Sec. 87.005. COMPENSATION OF MEMBERS. (a) Members of the absentee ballot board are entitled to the same compensation as presiding election judges, except as provided by Subsection (b).

(b) If the board concludes its work in less than 10 hours, the members may be paid greater compensation than that regularly payable for the amount of time worked, but not to exceed the amount payable for 10 hours' work.

(c) Precinct officers serving as board members under Section 87.004 may not be compensated for both positions. (V.T.E.C. Art. 5.05, Subdiv. 6(f); New.)

[Sections 87.006-87.020 reserved for expansion]

SUBCHAPTER B. DELIVERING MATERIALS TO BOARD

Sec. 87.021. **BALLOTS AND OTHER MATERIALS DELIVERED TO BOARD.** The absentee voting clerk shall deliver to the absentee ballot board:

- (1) each ballot box containing the absentee ballots voted by personal appearance and the clerk's key to each box;
- (2) the jacket envelopes containing the absentee ballots voted by mail;
- (3) the poll lists prepared in connection with absentee voting by personal appearance; and
- (4) the list of registered voters used in conducting absentee voting. (V.T.E.C. Art. 5.05, Subdiv. 6(a).)

Sec. 87.022. **TIME OF DELIVERY: GENERAL RULE.** Except as provided by Section 87.023 or 87.024, the materials shall be delivered to the absentee ballot board under this subchapter during the time the polls are open on election day, or as soon after the polls close as practicable, at the time or times specified by the presiding judge of the board. (V.T.E.C. Art. 5.05, Subdiv. 6(a).)

Sec. 87.023. **TIME OF DELIVERY: AUTOMATICALLY COUNTED BALLOTS.** (a) In an election in which absentee ballots are to be counted by automatic tabulating equipment at a central counting station, the ballots to be automatically counted may be delivered to the board between the end of the period for absentee voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable, at intervals specified by the presiding judge of the board.

(b) The absentee voting clerk shall post notice of each delivery of ballots under this section that is to be made before the time for opening the polls on election day. The notice shall be posted at the main absentee polling place continuously for at least 24 hours immediately preceding the delivery.

(c) At least 24 hours before the first delivery of ballots covered by Subsection (b), the absentee voting clerk shall notify the county chairman of each political party having a nominee on the ballot of the time the first delivery is to be made. (V.T.E.C. Art. 7.15, Subdiv. 9(b).)

Sec. 87.024. **TIME OF DELIVERY: VOTING MACHINE ELECTION.** (a) In an election in which absentee votes by personal appearance are cast on voting machines, the jacket envelopes containing the absentee ballots voted by mail may be delivered to the board between the end of the period for absentee voting by personal appearance and the closing of the polls on election day, or as soon after closing as practicable, at a time specified by the presiding judge of the board.

(b) The absentee voting clerk shall post notice of the delivery of materials under this section that is to be made before the time for opening the polls on election day. The notice shall be posted at the main absentee polling place continuously for at least 24 hours immediately preceding the delivery.

(c) At least 24 hours before the delivery, the absentee voting clerk shall notify the county chairman of each political party having a nominee on the ballot of the time the delivery is to be made. (New.)

Sec. 87.025. **DELIVERING SECOND BALLOT BOX KEY TO BOARD.** On request of the presiding officer of the absentee ballot board, the custodian of the key to the second lock on the absentee ballot boxes shall deliver his key for each box to the presiding officer. (V.T.E.C. Art. 5.05, Subdiv. 6(a).)

[Sections 87.026-87.040 reserved for expansion]

SUBCHAPTER C. ACCEPTING ABSENTEE BALLOT VOTED BY MAIL

Sec. 87.041. **ACCEPTING VOTER.** (a) The absentee ballot board shall open each jacket envelope for an absentee ballot voted by mail and determine whether to accept the voter's ballot.

(b) A ballot may not be accepted unless:

- (1) the carrier envelope certificate is properly executed;
- (2) the voter's signature on the ballot application matches the signature on the carrier envelope certificate, unless signed by a witness;
- (3) the voter's ballot application complies with the applicable requirements of this title and states a legal ground for voting absentee by mail;
- (4) the ballot was timely returned to the absentee voting clerk by the proper method;
- (5) if registration is required by law, the voter is registered to vote; and
- (6) if the ground for voting absentee is absence from the county of residence, the address to which the ballot was mailed to the voter, as indicated by his application, was outside the voter's county of residence.

(c) If a ballot is accepted, the board shall enter the voter's name on the poll list unless the form of the list makes it impracticable to do so. The names of the voters casting ballots by mail shall be listed separately on the poll list from those casting ballots by personal appearance.

(d) A ballot shall be rejected if any requirement prescribed by Subsection (b) is not satisfied. In that case, the board shall indicate the rejection by entering "rejected" on the carrier envelope and on the corresponding jacket envelope. (V.T.E.C. Art. 5.05, Subdivs. 6(b), (c); New.)

Sec. 87.042. DISPOSITION OF ACCEPTED BALLOT. (a) The absentee ballot board shall open each carrier envelope containing an accepted ballot without defacing the certificate on the carrier envelope and remove the ballot envelope from the carrier envelope.

(b) Except as provided by Subsection (c), the board shall place the ballot envelope containing an accepted ballot in the ballot box containing the absentee ballots voted by personal appearance.

(c) The ballot envelope may be placed in a separate container if the procedure for counting the absentee votes cast by personal appearance is different from that for counting the votes cast by mail.

(d) An accepted ballot that was not returned in the official ballot envelope shall be treated as an accepted ballot that was returned in the ballot envelope. (V.T.E.C. Art. 5.05, Subdiv. 6(b); New.)

Sec. 87.043. DISPOSITION OF REJECTED BALLOT. (a) The absentee ballot board shall place the carrier envelopes containing rejected ballots in an envelope and shall seal the envelope. More than one envelope may be used if necessary.

(b) The envelope for the rejected ballots must indicate the date and identity of the election and must be labeled "rejected absentee ballots" and signed by the board's presiding judge.

(c) A board member shall deliver the envelope containing the rejected ballots to the general custodian of election records to be preserved for the period for preserving the precinct election records. (V.T.E.C. Art. 5.05, Subdiv. 6(c).)

Sec. 87.044. DISPOSITION OF APPLICATION. (a) The absentee ballot board shall place each application for a ballot voted by mail in its corresponding jacket envelope. If the voter's ballot was accepted, the board shall also place the carrier envelope in the jacket envelope. However, if the jacket envelope is to be used in a subsequent election, the carrier envelope shall be retained elsewhere.

(b) A board member shall deliver the jacket envelope, carrier envelope, and application to the general custodian of election records, to be retained for the period for preserving the precinct election records. (V.T.E.C. Art. 5.05, Subdivs. 6(b), (c); New.)

[Sections 87.045-87.060 reserved for expansion]

SUBCHAPTER D. PROCESSING MANUALLY COUNTED BALLOTS

Sec. 87.061. AUTHORITY RESPONSIBLE FOR COUNTING BALLOTS. The absentee ballot board shall count the absentee ballots that are to be counted manually. (V.T.E.C. Art. 5.05, Subdivs. 6(a), 7; Art. 7.15, Subdiv. 9(c).)

Sec. 87.062. COUNTING BALLOTS AND PREPARING RETURNS. (a) On the direction of the presiding judge, the absentee ballot board shall open the container for the absentee ballots that are to be counted by the board, remove the contents from the container, and remove any ballots enclosed in ballot envelopes from their envelopes.

(b) The board shall count the ballots and prepare the returns in accordance with the procedure applicable to paper ballots cast at a precinct polling place.

(c) The results of all absentee ballots counted by the board under this subchapter shall be included in the same return. (V.T.E.C. Art. 5.05, Subdiv. 6(d).)

Sec. 87.063. DISPOSITION OF BALLOTS AND OTHER ITEMS. (a) Except as provided by Subsection (b), the presiding judge of the absentee ballot board shall deliver the absentee ballots counted by the board, absentee election returns, other absentee election records, and ballot box keys, to the appropriate authorities in accordance with the procedures applicable to distribution of corresponding items from a precinct polling place using paper ballots.

(b) If part of the absentee ballots are counted by automatic tabulating equipment at a central counting station, instead of delivering a copy of the absentee election returns and other absentee election records to the canvassing authority and to the general custodian of election records, those records shall be delivered to the presiding judge of the central counting station. (V.T.E.C. Art. 5.05, Subdiv. 6(g); New.)

[Sections 87.064-87.080 reserved for expansion]

SUBCHAPTER E. PROCESSING MECHANICAL VOTING MACHINE RESULTS

Sec. 87.081. **AUTHORITY RESPONSIBLE FOR PROCESSING VOTING MACHINE RESULTS.** The absentee votes registered on a mechanical voting machine and the absentee write-in votes recorded on the machine shall be processed by the absentee ballot board. (V.T.E.C. Art. 7.14, Secs. 7, 7a, 7b; New.)

Sec. 87.082. **REGISTERING VOTES BY MAIL ON MACHINE.** (a) At the discretion of the presiding judge, the absentee ballot board may register the absentee votes cast by mail on a mechanical voting machine.

(b) The determination of whether to accept the ballots voted by mail may be made before election day but the votes may not be registered on a machine until election day. (New.)

Sec. 87.083. **PROCESSING RESULTS.** (a) On the direction of the presiding judge, the absentee ballot board shall process the election results for each mechanical voting machine used for absentee voting in accordance with the procedure applicable to mechanical voting machines used at a precinct polling place.

(b) The results of all absentee votes processed by the board under this subchapter shall be included in the same return. The results of any manually counted absentee ballots shall also be included in the return. (V.T.E.C. Art. 7.14, Secs. 7, 18(b).)

Sec. 87.084. **DISPOSITION OF RETURNS AND OTHER ITEMS.** (a) Except as provided by Subsection (b), the presiding judge of the absentee ballot board shall deliver the absentee election returns containing the mechanical voting machine results, other absentee voting records, and voting machine keys to the appropriate authorities in accordance with the procedures applicable to distribution of corresponding items from a precinct polling place using mechanical voting machines.

(b) If part of the absentee ballots are counted by automatic tabulating equipment at a central counting station, instead of delivering a copy of the absentee election returns and other absentee election records to the canvassing authority and to the general custodian of election records, those records shall be delivered to the presiding judge of the central counting station. (V.T.E.C. Art. 7.14, Sec. 7; New.)

[Sections 87.085-87.100 reserved for expansion]

SUBCHAPTER F. PROCESSING BALLOTS COUNTED AT CENTRAL COUNTING STATION

Sec. 87.101. **PREPARATION OF BALLOTS; DELIVERY TO COUNTING STATION.** (a) On the direction of the presiding judge, the absentee ballot board shall open the container for the absentee electronic system ballots that are to be counted by automatic tabulating equipment at a central counting station, remove the ballots from the container, and remove any ballots enclosed in ballot envelopes from their envelopes.

(b) On the direction of the presiding judge, the absentee ballot board may prepare the ballots for delivery to the central counting station at any time after they are received and shall deliver them in accordance with the procedure applicable to electronic system ballots cast at a precinct polling place. (V.T.E.C. Art. 7.15, Subdiv. 9(b).)

Sec. 87.102. **DUPLICATING PAPER BALLOTS FOR AUTOMATIC COUNTING.** (a) The authority adopting an electronic voting system in which ballots are counted at a central counting station may direct by resolution, order, or other official action that the absentee regular paper ballots cast in an election be duplicated as electronic system ballots for automatic counting at the central counting station.

(b) Absentee ballots that are to be duplicated under this section shall be delivered to the central counting station as prescribed by Section 87.101 and shall be treated in the same manner as damaged electronic system ballots that are duplicated for automatic counting. (V.T.E.C. Art. 7.15, Subdiv. 9(e).)

Sec. 87.103. **COUNTING BALLOTS AND PREPARING RETURNS.** (a) The absentee electronic system ballots counted at a central counting station shall be tabulated separately from the ballots cast at precinct polling places and shall be separately reported on the returns.

(b) The absentee returns prepared at the central counting station must include any absentee voting results obtained by the absentee ballot board under Subchapters D and E. (V.T.E.C. Art. 7.15, Subdiv. 9(b).)

Sec. 87.104. **DISPOSITION OF ABSENTEE BALLOT BOARD RETURNS AND OTHER RECORDS.** Absentee returns or other absentee election records to be delivered to the central counting station under Section 87.063(b) or 87.084(b) shall be delivered to the appropriate authorities with the counting station records. (V.T.E.C. Art. 7.15, Subdiv. 9(b).)

[Sections 87.105-87.120 reserved for expansion]

SUBCHAPTER G. MISCELLANEOUS PROVISIONS

Sec. 87.121. **ABSENTEE ROSTER.** (a) The absentee voting clerk shall maintain for each election a roster listing each person who votes absentee by personal appearance and each person to whom an absentee ballot to be voted by mail is sent.

(b) For each person listed, the roster must include:

- (1) the person's name, address, and voter registration number;
- (2) an identification of the person's county election precinct of registration;
- (3) an indication of whether the person voted by personal appearance or was sent a ballot to be voted by mail; and
- (4) the date of voting or the date the ballot was mailed to the person, as applicable.

(c) The roster shall be updated daily.

(d) The roster may be maintained in any form approved by the secretary of state.

(e) The clerk shall preserve the roster after the election for the period for preserving the precinct election records. (V.T.E.C. Art. 5.05, Subdivs. 11(a), (c); New.)

Sec. 87.122. **PRECINCT ABSENTEE LIST.** (a) For each election precinct in the territory served by the absentee voting clerk, the clerk shall prepare a list containing the name, address, and voter registration number of each person registered in the precinct who votes absentee by personal appearance and to whom an absentee ballot to be voted by mail is sent.

(b) If an election precinct is situated in more than one county election precinct, the list must indicate each voter's county election precinct of residence.

(c) The clerk shall deliver the list to the presiding judge of the election precinct not later than the day before election day.

(d) The clerk shall preserve a copy of each precinct absentee list prepared for the general election for state and county officers for two years after election day. (V.T.E.C. Art. 5.05, Subdivs. 11(b), 17.)

Sec. 87.123. **DELIVERING OTHER RECORDS AND SUPPLIES.** Not later than the second day after election day, the absentee voting clerk shall deliver:

(1) the absentee voting records and supplies, other than those required to be delivered to the absentee ballot board, to the authority to whom the corresponding precinct election records are delivered after the election; and

(2) the applications for absentee ballots voted by personal appearance to the general custodian of election records, to be retained for the period for preserving the precinct election records. (New.)

Sec. 87.124. **PRESERVATION OF ABSENTEE ELECTION RECORDS GENERALLY.** The absentee election returns, voted absentee ballots, and other absentee election records shall be preserved after the election in the same manner as the corresponding precinct election records. (New.)

CHAPTER 88. CHALLENGE OF PERSON VOTING BY MAIL

Sec. 88.001. **CHALLENGE AUTHORIZED**

Sec. 88.002. **INITIATING CHALLENGE**

Sec. 88.003. **DISPOSING OF CHALLENGE**

Sec. 88.004. **NOTICE OF OUTCOME TO VOTER**

CHAPTER 88. CHALLENGE OF PERSON VOTING BY MAIL

Sec. 88.001. **CHALLENGE AUTHORIZED.** The eligibility to vote of a person voting absentee by mail may be challenged as provided by this chapter by:

- (1) the absentee voting clerk;
- (2) a member of the absentee ballot board;
- (3) a watcher observing the absentee ballot board; or
- (4) a registered voter who is eligible to vote in the election. (V.T.E.C. Art. 5.05, Subdiv. 6(c); New.)

Sec. 88.002. **INITIATING CHALLENGE.** (a) A person other than a member of the absentee ballot board may challenge a voter under this chapter by filing with the presiding judge of the absentee ballot board a written statement of the challenge as provided by this section.

(b) To be effective, a statement must:

- (1) state the challenger's full name and the ground for the challenge;

(2) state the challenger's residence address if the challenger is in the class described by Section 88.001(3) or (4);

(3) be signed by the challenger; and

(4) be filed before the challenged voter's ballot is accepted. (V.T.E.C. Art. 5.05, Subdiv. 6(c); New.)

Sec. 88.003. **DISPOSING OF CHALLENGE.** (a) The procedure for disposing of a challenge under this chapter is the same as the procedure prescribed by this code for disposing of a challenge to a voter at a polling place, except as provided by this section.

(b) The presiding judge of the absentee ballot board shall determine the challenge.

(c) A challenge shall be determined only on the basis of information in governmental records unless the voter appears in person to respond to the challenge.

(d) If information in a governmental record is a basis for a challenge, a copy of the record certified by its custodian may be introduced instead of the original record. If the original record is not readily available and a certified copy is not introduced by the challenger, the presiding judge may overrule the challenge.

(e) In this chapter, "governmental record" means a document:

(1) filed, prepared, or preserved under this code; or

(2) belonging to, received by, or kept by the state, a political subdivision, or any branch or agency of the state or a political subdivision, for information.

(f) The presiding judge shall attach the challenger's written statement to the challenged voter's ballot application and indicate on the statement the disposition of the challenge and the date of that action. The statement is part of the application. (V.T.E.C. Art. 5.05, Subdiv. 6(c); New.)

Sec. 88.004. **NOTICE OF OUTCOME TO VOTER.** (a) If as a result of a challenge under this chapter a ballot is not accepted, the absentee voting clerk shall deliver written notice of the result of the challenge to the challenged voter.

(b) If the notice is delivered by mail, it shall be sent to the voter's residence address.

(c) The notice shall be delivered not later than the third day after the date the challenge is determined. (New.)

SUBTITLE B. SPECIAL FORMS OF ABSENTEE VOTING

CHAPTER 101. VOTING BY RESIDENT FEDERAL POSTCARD APPLICANT

Sec. 101.001. **ELIGIBILITY**

Sec. 101.002. **GENERAL CONDUCT OF VOTING**

Sec. 101.003. **FORM AND CONTENTS OF APPLICATION**

Sec. 101.004. **SUBMITTING APPLICATION**

Sec. 101.005. **APPLYING FOR MORE THAN ONE ELECTION IN SAME APPLICATION**

Sec. 101.006. **FPCA VOTER REGISTRATION**

Sec. 101.007. **METHOD OF PROVIDING BALLOT; REQUIRED ADDRESS**

Sec. 101.008. **RETURN OF VOTED BALLOT**

Sec. 101.009. **NOTING FPCA REGISTRATION ON POLL LIST**

Sec. 101.010. **NOTING FPCA REGISTRATION ON ABSENTEE ROSTER**

Sec. 101.011. **EXCLUDING FPCA REGISTRANT FROM PRECINCT ABSENTEE LIST**

Sec. 101.012. **OFFICIAL CARRIER ENVELOPE**

SUBTITLE B. SPECIAL FORMS OF ABSENTEE VOTING

CHAPTER 101. VOTING BY RESIDENT FEDERAL POSTCARD APPLICANT

Sec. 101.001. **ELIGIBILITY.** A person is eligible to vote absentee by mail as provided by this chapter if:

(1) the person is qualified to vote in this state or, if not registered to vote in this state, would be qualified if registered; and

(2) the person is:

(A) a member of the armed forces of the United States, or the spouse or a dependent of a member;

(B) a member of the merchant marine of the United States, or the spouse or a dependent of a member; or

(C) domiciled in this state but temporarily living outside the territorial limits of the United States and the District of Columbia. (V.T.E.C. Art. 5.05, Subdiv. 2a(a).)

Sec. 101.002. GENERAL CONDUCT OF VOTING. Voting under this chapter shall be conducted and the results shall be processed as provided by Subtitle A for absentee voting by mail, except as otherwise provided by this chapter. (V.T.E.C. Art. 5.05, Subdiv. 2a(a).)

Sec. 101.003. FORM AND CONTENTS OF APPLICATION. (a) An application for a ballot to be voted under this chapter must:

(1) be submitted on an official federal postcard application form; and

(2) include the information necessary to indicate that the applicant is eligible to vote in the election for which the ballot is requested.

(b) In this chapter, "federal postcard application" means an application for a ballot to be voted under this chapter submitted on the official federal form prescribed under the Federal Voting Assistance Act of 1955. (V.T.E.C. Art. 5.05, Subdiv. 2a(a).)

Sec. 101.004. SUBMITTING APPLICATION. (a) A federal postcard application must be submitted by mailing it to the absentee voting clerk for the election who serves the election precinct of the applicant's residence.

(b) A federal postcard application may be submitted at any time during the calendar year or voting year in which the election for which a ballot is requested occurs, but not later than the deadline for submitting a regular application for a ballot to be voted by mail. (V.T.E.C. Art. 5.05, Subdivs. 2a(a), 2a(b); New.)

Sec. 101.005. APPLYING FOR MORE THAN ONE ELECTION IN SAME APPLICATION. (a) A person may apply with a single federal postcard application for a ballot for any one or more elections in which the absentee voting clerk to whom the application is submitted conducts absentee voting.

(b) An application that does not identify the election for which a ballot is requested shall be treated as if it requests a ballot for:

(1) each general election in which the clerk conducts absentee voting; and

(2) the general primary election if the application indicates party preference and is submitted to the absentee voting clerk for the primary.

(c) An application shall be treated as if it requests a ballot for a runoff election that results from an election for which a ballot is requested.

(d) An application requesting a ballot for more than one election shall be preserved until the expiration of the period for preserving the official election returns of the last election for which the application is effective. (V.T.E.C. Art. 5.05, Subdiv. 2a(b); New.)

Sec. 101.006. FPCA VOTER REGISTRATION. (a) The submission of a federal postcard application that complies with the applicable requirements by an unregistered applicant constitutes registration by the applicant only for the purpose of voting in the election for which a ballot is requested.

(b) In this chapter, "FPCA registrant" means a person registered to vote under this section. (V.T.E.C. Art. 5.05, Subdivs. 2a(c), (d).)

Sec. 101.007. METHOD OF PROVIDING BALLOT; REQUIRED ADDRESS. (a) The balloting materials provided under this chapter shall be airmailed to the voter free of United States postage, as provided by the Federal Voting Assistance Act of 1955, in an envelope labeled "Official Election Balloting Material - via Airmail." The secretary of state shall provide absentee voting clerks with instructions on compliance with this subsection.

(b) The address to which the balloting materials are sent to a voter must be:

(1) an address outside the county of the voter's residence; or

(2) an address in the United States for forwarding or delivery to the voter at a location outside the United States. (V.T.E.C. Art. 5.05, Subdivs. 2a(a), 2a(e).)

Sec. 101.008. RETURN OF VOTED BALLOT. A ballot voted under this chapter may be returned to the absentee voting clerk by mail, common or contract carrier, or courier. (V.T.E.C. Art. 5.05, Subdiv. 2a(a-1).)

Sec. 101.009. NOTING FPCA REGISTRATION ON POLL LIST. For each FPCA registrant accepted to vote, a notation shall be made beside the voter's name on the absentee poll list indicating that the voter is an FPCA registrant. (New.)

Sec. 101.010. NOTING FPCA REGISTRATION ON ABSENTEE ROSTER. The entry on the absentee roster pertaining to a voter under this chapter who is an FPCA registrant must include a notation indicating that the voter is an FPCA registrant. (New.)

Sec. 101.011. EXCLUDING FPCA REGISTRANT FROM PRECINCT ABSENTEE LIST. A person to whom a ballot is provided under this chapter is not required to be included on the precinct absentee list if the person is an FPCA registrant. (V.T.E.C. Art. 5.05, Subdiv. 2a(f).)

Sec. 101.012. OFFICIAL CARRIER ENVELOPE. The officially prescribed carrier envelope for voting under this chapter shall be prepared so that it can be mailed free of United States postage, as provided by the Federal Voting Assistance Act of 1955, and must contain the label prescribed by Section 101.007(a) for the envelope in which the balloting materials are sent to a voter. The secretary of state shall provide absentee voting clerks with instructions on compliance with this section. (V.T.E.C. Art. 5.05, Subdiv. 2a(e).)

CHAPTER 102. LATE ABSENTEE VOTING BY DISABLED VOTER

Sec. 102.001. ELIGIBILITY

Sec. 102.002. CONTENTS OF APPLICATION

Sec. 102.003. SUBMITTING APPLICATION

Sec. 102.004. REVIEWING APPLICATION AND PROVIDING BALLOTING MATERIALS

Sec. 102.005. MARKING AND SEALING BALLOT

Sec. 102.006. METHOD OF RETURNING MARKED BALLOT; DEADLINE

Sec. 102.007. PROCESSING RESULTS

Sec. 102.008. ENTRY ON ABSENTEE ROSTER

Sec. 102.009. ENTRY ON PRECINCT ABSENTEE LIST

Sec. 102.010. OFFICE HOURS

CHAPTER 102. LATE ABSENTEE VOTING BY DISABLED VOTER

Sec. 102.001. ELIGIBILITY. (a) A qualified voter is eligible to vote a late absentee ballot as provided by this chapter if the voter has a sickness or physical condition described by Section 82.002 that originates on or after the day before the last day for submitting an application for a ballot to be voted by mail.

(b) In this chapter, "late absentee ballot" means a ballot voted under this chapter. (V.T.E.C. Art. 5.05, Subdiv. 3e(a); New.)

Sec. 102.002. CONTENTS OF APPLICATION. An application for a late absentee ballot must comply with the applicable provisions of Section 84.002 and must include or be accompanied by a certificate of a licensed physician or chiropractor or accredited Christian Science practitioner in substantially the following form:

"This is to certify that I know that _____ has a sickness or physical condition that will prevent him or her from appearing at the polling place for an election to be held on the _____ day of _____, 19_____, without a likelihood of needing personal assistance or of injuring his or her health and that the sickness or physical condition originated on or after _____.

"Witness my hand at _____, Texas, this _____ day of _____, 19_____.

(signature of physician, chiropractor,
or practitioner)"

(V.T.E.C. Art. 5.05, Subdiv. 3e(a); New.)

Sec. 102.003. SUBMITTING APPLICATION. (a) An application for a late absentee ballot must be submitted in person to the absentee voting clerk at the main absentee polling place by a representative of the applicant. However, if the absentee ballots voted by mail are processed at a location other than the main absentee polling place, the absentee voting clerk may require the application to be submitted at that location.

(b) An application may be submitted after the last day of the period for voting absentee by personal appearance and before 12 noon on election day.

(c) To be eligible to serve as an applicant's representative, a person:

(1) must be at least 18 years of age;

(2) must not be employed by or related within the third degree by consanguinity or affinity to a candidate whose name appears on the ballot; and

(3) must not have served in the election as the representative for another applicant. (V.T.E.C. Art. 5.05, Subdiv. 3e(a); New.)

Sec. 102.004. REVIEWING APPLICATION AND PROVIDING BALLOTING MATERIALS. (a) An application submitted under this chapter shall be reviewed and the applicant's registration status verified by the absentee voting clerk in the same manner as for absentee voting by mail.

(b) The clerk shall provide the balloting materials for voting absentee by mail to the representative who submits the voter's application. Before providing the materials, the clerk shall enter the representative's name and residence address on the application and secure the representative's signature beside the name.

(c) The voter's representative shall deliver the balloting materials in person to the voter.

(d) A late absentee ballot provided to a voter by any method other than that prescribed by this section may not be counted. (V.T.E.C. Art. 5.05, Subdiv. 3e(a); New.)

Sec. 102.005. MARKING AND SEALING BALLOT. A late absentee ballot must be marked and sealed by the voter in the same manner as an absentee ballot voted by mail. (V.T.E.C. Art. 5.05, Subdiv. 3e(c).)

Sec. 102.006. METHOD OF RETURNING MARKED BALLOT; DEADLINE. (a) A marked late absentee ballot must be delivered to the absentee voting clerk in person by the representative who submitted the voter's application. The ballot must be delivered in the official carrier envelope. A ballot returned by any other method may not be counted.

(b) The clerk shall enter the representative's name and residence address on a returned carrier envelope and secure the representative's signature beside the name.

(c) The deadline for returning a marked late absentee ballot is the same as that for an absentee ballot voted by mail. (V.T.E.C. Art. 5.05, Subdiv. 3e(c); New.)

Sec. 102.007. PROCESSING RESULTS. The results of voting under this chapter shall be processed in accordance with the procedures applicable to processing absentee ballots voted by mail. (V.T.E.C. Art. 5.05, Subdiv. 3e(c).)

Sec. 102.008. ENTRY ON ABSENTEE ROSTER. The absentee roster must include the name of each person to whom a late absentee ballot is provided with a notation indicating that the ballot was a late absentee ballot under this chapter. (V.T.E.C. Art. 5.05, Subdiv. 3e(b).)

Sec. 102.009. ENTRY ON PRECINCT ABSENTEE LIST. The precinct absentee list must contain the name of each person to whom a late absentee ballot has been provided as of the time of delivery of the list. (V.T.E.C. Art. 5.05, Subdiv. 3e(b); New.)

Sec. 102.010. OFFICE HOURS. The main absentee polling place or the location at which the absentee ballots voted by mail are processed, if applicable, shall be kept open on election day until the deadline for returning marked late absentee ballots. (New.)

CHAPTER 103. LATE ABSENTEE VOTING BECAUSE OF DEATH IN IMMEDIATE FAMILY

Sec. 103.001. ELIGIBILITY

Sec. 103.002. FORM AND CONTENTS OF APPLICATION

Sec. 103.003. SUBMITTING APPLICATION

Sec. 103.004. VOTING PROCEDURE; PROCESSING RESULTS

Sec. 103.005. ENTRY ON ABSENTEE ROSTER

Sec. 103.006. ENTRY ON PRECINCT ABSENTEE LIST

CHAPTER 103. LATE ABSENTEE VOTING BECAUSE OF DEATH IN IMMEDIATE FAMILY

Sec. 103.001. ELIGIBILITY. (a) A qualified voter is eligible to vote a late absentee ballot as provided by this chapter if:

- (1) the voter will be absent from the county of residence on election day because of the death of a person related to the voter within the first degree by consanguinity or affinity; and
- (2) the death occurs on or after the fifth day before election day.

(b) In this chapter, "late absentee ballot" means a ballot voted under this chapter. (V.T.E.C. Art. 5.05, Subdiv. 3f(b).)

Sec. 103.002. FORM AND CONTENTS OF APPLICATION. An application for a late absentee ballot must:

- (1) be in the form of an affidavit; and

(2) include, in addition to the information required by the applicable provisions of Section 84.002, the date of death of the decedent and a statement of the relationship of the voter to the decedent. (V.T.E.C. Art. 5.05, Subdiv. 3f(c); New.)

Sec. 103.003. **SUBMITTING APPLICATION.** (a) An application for a late absentee ballot must be submitted in person by the applicant to the absentee voting clerk at the main absentee polling place. However, if the absentee ballots voted by mail are processed at a location other than the main absentee polling place, the absentee voting clerk may require the application to be submitted at that location.

(b) An application may be submitted after the last day of the period for voting absentee by personal appearance and before the close of business on the day before election day. (V.T.E.C. Art. 5.05, Subdiv. 3f(c); New.)

Sec. 103.004. **VOTING PROCEDURE; PROCESSING RESULTS.** (a) On submission of an application to the absentee voting clerk, the clerk shall review the application and verify the applicant's registration status in accordance with the procedure applicable to absentee voting by mail.

(b) The voting shall be conducted with the balloting materials for voting absentee by mail.

(c) The voter must mark and seal the ballot in the same manner as if voting absentee by mail except that the certificate on the carrier envelope need not be completed.

(d) On sealing the carrier envelope, the voter must give it to the clerk, who shall note on the envelope that the ballot is voted under this chapter.

(e) The results shall be processed in accordance with the procedures applicable to processing absentee ballots voted by mail. (V.T.E.C. Art. 5.05, Subdiv. 3f(c); New.)

Sec. 103.005. **ENTRY ON ABSENTEE ROSTER.** The absentee roster must include the name of each person voting a late absentee ballot with a notation indicating that the late absentee ballot was voted under this chapter. (V.T.E.C. Art. 5.05, Subdiv. 11(a).)

Sec. 103.006. **ENTRY ON PRECINCT ABSENTEE LIST.** The precinct absentee list must contain the name of each person who has voted a late absentee ballot as of the time of delivery of the list. (New.)

CHAPTER 104. VOTING ON ELECTION DAY BY DISABLED VOTER FROM VOTING SYSTEM PRECINCT

Sec. 104.001. **ELIGIBILITY**

Sec. 104.002. **FORM AND CONTENTS OF APPLICATION**

Sec. 104.003. **TIME AND PLACE FOR VOTING**

Sec. 104.004. **VOTING PROCEDURE**

Sec. 104.005. **PROCESSING RESULTS**

Sec. 104.006. **ENTRY ON ABSENTEE ROSTER**

CHAPTER 104. VOTING ON ELECTION DAY BY DISABLED VOTER FROM VOTING SYSTEM PRECINCT

Sec. 104.001. **ELIGIBILITY.** A qualified voter in whose precinct polling place voting is conducted by voting machine or voting device is eligible to vote by the absentee procedure provided by this chapter if the voter has a sickness or physical condition that prevents him from voting in the regular manner without personal assistance or a likelihood of injuring his health. (V.T.E.C. Art. 5.05, Subdiv. 3c; New.)

Sec. 104.002. **FORM AND CONTENTS OF APPLICATION.** An application for a ballot voted under this chapter must:

(1) be in the form of an affidavit; and

(2) include, in addition to the information required by the applicable provisions of Section 84.002, a statement that the applicant has not previously voted in the election. (V.T.E.C. Art. 5.05, Subdiv. 3c.)

Sec. 104.003. **TIME AND PLACE FOR VOTING.** Voting under this chapter shall be conducted on election day, beginning at 8 a.m. and concluding at 2 p.m., at the main absentee polling place. However, if the absentee ballots voted by mail are processed at a location other than the main absentee polling place, the absentee voting clerk may require the voting to be conducted at that location. (V.T.E.C. Art. 5.05, Subdiv. 3c; New.)

Sec. 104.004. **VOTING PROCEDURE.** (a) On submission of an application to the absentee voting clerk, the clerk shall review the application and verify the applicant's registration status in accordance with the procedure applicable to absentee voting by mail.

(b) The voting shall be conducted with the balloting materials for voting absentee by mail.

(c) The voter must mark and seal the ballot in the same manner as if voting absentee by mail except that the certificate on the carrier envelope need not be completed.

(d) On sealing the carrier envelope, the voter must give it to the clerk, who shall note on the envelope that the ballot is voted under this chapter.

(e) If the voter is physically unable to enter the absentee polling place without personal assistance or a likelihood of injuring his health, the clerk shall deliver the balloting materials to the voter at the polling place entrance or curb. (V.T.E.C. Art. 5.05, Subdiv. 3c; New.)

Sec. 104.005. PROCESSING RESULTS. The results of voting under this chapter shall be processed in accordance with the procedures applicable to processing absentee ballots voted by mail. (V.T.E.C. Art. 5.05, Subdiv. 3c.)

Sec. 104.006. ENTRY ON ABSENTEE ROSTER. The absentee roster must include the name of each person voting under this chapter with a notation indicating that the person voted under this chapter. (V.T.E.C. Art. 5.05, Subdiv. 11(a).)

SUBTITLE C. RESTRICTED BALLOT

CHAPTER 111. GENERAL PROVISIONS

Sec. 111.001. RESTRICTED BALLOT

Sec. 111.002. GENERAL CONDUCT OF VOTING

Sec. 111.003. APPLICATION REQUIRED

Sec. 111.004. CONTENTS OF APPLICATION

Sec. 111.005. PREPARING RESTRICTED BALLOT

Sec. 111.006. MANUALLY COUNTING ELECTRONIC SYSTEM BALLOT

Sec. 111.007. RESTRICTED BALLOT ROSTER

Sec. 111.008. NOTING RESTRICTED BALLOT VOTER ON POLL LIST AND REGISTERED VOTER LIST

Sec. 111.009. EXCLUDING VOTER FROM PRECINCT ABSENTEE LIST

SUBTITLE C. RESTRICTED BALLOT

CHAPTER 111. GENERAL PROVISIONS

Sec. 111.001. RESTRICTED BALLOT. In this subtitle, "restricted ballot" means a ballot that is restricted to the offices and propositions stating measures on which a person is entitled to vote under Chapter 112, 113, or 114. (New.)

Sec. 111.002. GENERAL CONDUCT OF VOTING. The voting of restricted ballots under this subtitle shall be conducted and the results of voting shall be processed as provided by Subtitle A for absentee voting, except as otherwise provided by this subtitle. (V.T.E.C. Art. 5.05b, Subdivs. 2, 3, 4; Art. 5.05c, Subdiv. 3.)

Sec. 111.003. APPLICATION REQUIRED. (a) To be entitled to vote a restricted ballot, a person must make an application for the ballot.

(b) A restricted ballot application is subject to the applicable provisions of Chapter 84. (V.T.E.C. Art. 5.05b, Subdiv. 2; Art. 5.05c, Subdiv. 3.)

Sec. 111.004. CONTENTS OF APPLICATION. An application for a restricted ballot must include, in addition to the information required by the applicable provisions of Section 84.002, the information necessary to indicate that the applicant is eligible to vote the restricted ballot requested. (New.)

Sec. 111.005. PREPARING RESTRICTED BALLOT. (a) The absentee voting clerk shall prepare a voter's restricted ballot.

(b) If a regular paper ballot is used, the restricted ballot shall be prepared by striking from an official absentee ballot the offices and propositions stating measures on which the voter is not entitled to vote.

(c) If an electronic system ballot is used, the restricted ballot shall be prepared by marking, punching, or otherwise identifying an official absentee ballot so that votes on offices and propositions stating measures on which the voter is not entitled to vote may not be counted. (V.T.E.C. Art. 5.05b, Subdiv. 3; Art. 5.05c, Subdiv. 4; New.)

Sec. 111.006. MANUALLY COUNTING ELECTRONIC SYSTEM BALLOT. If a restricted electronic system ballot cannot be automatically counted with other electronic system ballots voted in the election that are to be counted automatically, the restricted ballot shall be counted manually. (New.)

Sec. 111.007. **RESTRICTED BALLOT ROSTER.** (a) The absentee voting clerk shall maintain a roster for each election listing each person who votes a restricted ballot by personal appearance and each person to whom a restricted ballot to be voted by mail is provided.

(b) For each person listed, the roster must include:

- (1) the person's name and residence address;
- (2) an indication of the type of restricted ballot voted or provided, as applicable; and
- (3) the date of voting or the date the ballot was mailed to the person, as applicable.

(c) Except as provided by this section, the restricted ballot roster is subject to the provisions applicable to the absentee roster. A person included on the restricted ballot roster may not be included on the absentee roster. (V.T.E.C. Art. 5.05d, Subdiv. 1.)

Sec. 111.008. **NOTING RESTRICTED BALLOT VOTER ON POLL LIST AND REGISTERED VOTER LIST.** For each voter accepted to vote a restricted ballot, a notation shall be made beside the voter's name on the absentee poll list indicating that a restricted ballot was voted and the type of restricted ballot. If the voter's name appears on the list of registered voters used for conducting absentee voting, a similar notation shall be made on that list unless the form of the list makes it impracticable to do so. (V.T.E.C. Art. 5.05b, Subdiv. 3; New.)

Sec. 111.009. **EXCLUDING VOTER FROM PRECINCT ABSENTEE LIST.** The name of a person voting a limited ballot by personal appearance under Chapter 112 or to whom a limited or federal ballot to be voted by mail is provided under Chapter 112 or 114 is not required to be included on the precinct absentee list. (V.T.E.C. Art. 5.05d, Subdiv. 1.)

CHAPTER 112. VOTING LIMITED BALLOT AFTER CHANGING COUNTY OF RESIDENCE

Sec. 112.001. **LIMITED BALLOT**

Sec. 112.002. **ELIGIBILITY**

Sec. 112.003. **RESIDENCE IN PRECINCT SITUATED IN MORE THAN ONE COUNTY**

Sec. 112.004. **OFFICES AND MEASURES ON WHICH VOTER ENTITLED TO VOTE**

Sec. 112.005. **SUBMITTING APPLICATION FOR MAIL BALLOT**

Sec. 112.006. **PLACE FOR VOTING BY PERSONAL APPEARANCE**

Sec. 112.007. **VERIFYING REGISTRATION STATUS OF APPLICANT FOR BALLOT**

Sec. 112.008. **DETERMINING OFFICES AND MEASURES TO BE VOTED ON**

Sec. 112.009. **PREPARING VOTING MACHINE**

Sec. 112.010. **SUBSTITUTING MAIL BALLOTS FOR VOTING MACHINE**

Sec. 112.011. **INFORMATION ON DISTRICT COMPOSITION**

CHAPTER 112. VOTING LIMITED BALLOT AFTER CHANGING COUNTY OF RESIDENCE

Sec. 112.001. **LIMITED BALLOT.** In this code, "limited ballot" means a ballot voted under this chapter that is restricted to the offices and propositions stating measures on which a person is entitled to vote under Section 112.004. (V.T.E.C. Art. 5.05c, Subdiv. 1.)

Sec. 112.002. **ELIGIBILITY.** (a) After changing residence to another county, a person is eligible to vote a limited ballot by personal appearance or by mail if:

- (1) the person would have been eligible to vote in the county of former residence on election day if still residing in that county;
- (2) the date of the election is not more than 90 days after the new residence is established;

and

- (3) a voter registration for the person in the county of new residence is not effective on or before election day.

(b) A person is not eligible to vote a limited ballot by mail unless, in addition to satisfying the eligibility requirements prescribed by Subsection (a), the person is eligible to vote absentee by mail under Chapter 82. (V.T.E.C. Art. 5.05c, Subdivs. 1, 2, 3; Art. 5.18a, Subdiv. 3(a).)

Sec. 112.003. **RESIDENCE IN PRECINCT SITUATED IN MORE THAN ONE COUNTY.** A person who changes his county of residence may vote in the regular manner in an election ordered by an authority of a political subdivision situated in more than one county if the person resides in the same election precinct both before and after changing his county of residence and his voter registration in the county of former residence is effective at the time he offers to vote. (V.T.E.C. Art. 5.05c, Subdiv. 2; Art. 5.18a, Subdiv. 3(b); New.)

Sec. 112.004. OFFICES AND MEASURES ON WHICH VOTER ENTITLED TO VOTE. A person voting a limited ballot is entitled to vote only on:

(1) each office and proposition stating a measure to be voted on statewide; and

(2) each office and proposition stating a measure to be voted on in a territorial unit of which the person was a resident both before changing his county of residence and after the change. (V.T.E.C. Art. 5.05c, Subdiv. 2; Art. 5.18a, Subdiv. 3(b); New.)

Sec. 112.005. SUBMITTING APPLICATION FOR MAIL BALLOT. An application for a limited ballot to be voted by mail must be submitted to the absentee voting clerk serving the election precinct in which the applicant resides. (V.T.E.C. Art. 5.05c, Subdiv. 3.)

Sec. 112.006. PLACE FOR VOTING BY PERSONAL APPEARANCE. (a) Except as provided by Subsection (b), a person may vote a limited ballot by personal appearance only at an absentee polling place serving the voters of the election precinct in which the person resides.

(b) In a county with a population of more than 1,500,000, a person may vote a limited ballot by personal appearance only at the main absentee polling place. (V.T.E.C. Art. 5.05c, Subdiv. 3; New.)

Sec. 112.007. VERIFYING REGISTRATION STATUS OF APPLICANT FOR BALLOT. Before accepting an applicant to vote a limited ballot or, in the case of an application for a limited ballot to be voted by mail, before providing a ballot to the applicant, the absentee voting clerk shall verify, if possible, that the applicant does not have an effective voter registration in the county of new residence. If the person has applied in the county of new residence for a voter registration that will be effective on or before election day, the limited ballot application shall be rejected. (New.)

Sec. 112.008. DETERMINING OFFICES AND MEASURES TO BE VOTED ON. For each person who is to vote a limited ballot, the absentee voting clerk shall determine the offices and propositions stating measures on which the person is entitled to vote and shall indicate them on the person's application. (V.T.E.C. Art. 5.05c, Subdiv. 5.)

Sec. 112.009. PREPARING VOTING MACHINE. Before permitting a person to vote a limited ballot on a voting machine, the absentee voting clerk shall adjust the machine so that votes may be cast only on the offices and propositions stating measures on which the voter is entitled to vote. (V.T.E.C. Art. 5.05c, Subdiv. 4.)

Sec. 112.010. SUBSTITUTING MAIL BALLOTS FOR VOTING MACHINE. (a) If absentee voting by personal appearance is conducted by voting machine, the absentee voting clerk may conduct the personal appearance voting of limited ballots by using official ballots for absentee voting by mail.

(b) The secretary of state may provide for the use of envelopes or other containers instead of ballot boxes for voters to deposit ballots voted under this section. (V.T.E.C. Art. 5.05c, Subdiv. 4; New.)

Sec. 112.011. INFORMATION ON DISTRICT COMPOSITION. (a) In each even-numbered year, the secretary of state shall prepare information on the territorial composition of each district for which an officer of the state government is regularly elected at the general election for state and county officers.

(b) The information must include the data necessary to enable an absentee voting clerk to determine the district offices on which a voter under this chapter is eligible to vote.

(c) The secretary shall deliver the information to each county clerk before the 20th day before general primary election day. (V.T.E.C. Art. 5.05c, Subdiv. 5; New.)

CHAPTER 113. VOTING PRESIDENTIAL BALLOT BY FORMER RESIDENT

Sec. 113.001. PRESIDENTIAL BALLOT

Sec. 113.002. ELIGIBILITY

Sec. 113.003. SUBMITTING APPLICATION FOR MAIL BALLOT

Sec. 113.004. TIME AND PLACE FOR VOTING BY PERSONAL APPEARANCE

Sec. 113.005. PERSONAL APPEARANCE VOTING; PROCESSING RESULTS

Sec. 113.006. CANCELING REGISTRATION

CHAPTER 113. VOTING PRESIDENTIAL BALLOT BY FORMER RESIDENT

Sec. 113.001. PRESIDENTIAL BALLOT. In this chapter, "presidential ballot" means a ballot voted under this chapter that is restricted to the offices of president and vice-president of the United States. (New.)

Sec. 113.002. **ELIGIBILITY.** A former resident of this state is eligible to vote a presidential ballot in the presidential general election by personal appearance or by mail if the former resident:

- (1) is domiciled in another state;
- (2) was registered to vote in this state at the time he ceased to be a resident;
- (3) would be eligible for registration to vote in this state if a resident; and
- (4) on presidential election day will not have resided in the state of present domicile for more than 30 days and is not eligible to vote in the presidential election in that state. (V.T.E.C. Art. 5.05b, Subdivs. 1, 2.)

Sec. 113.003. **SUBMITTING APPLICATION FOR MAIL BALLOT.** An application for a presidential ballot to be voted by mail must be submitted to the absentee voting clerk serving the county of the applicant's most recent registration to vote. (V.T.E.C. Art. 5.05b, Subdivs. 2, 3.)

Sec. 113.004. **TIME AND PLACE FOR VOTING BY PERSONAL APPEARANCE.** (a) A person may vote a presidential ballot by personal appearance only at the main absentee polling place for the county of the person's most recent registration to vote.

(b) The period for voting presidential ballots by personal appearance ends on presidential election day.

(c) Beginning on the day after the last day of the period for voting absentee by personal appearance and through presidential election day, the dates and hours for voting presidential ballots by personal appearance are the dates and hours that the county clerk's main business office is regularly open for business. (V.T.E.C. Art. 5.05b, Subdiv. 4; New.)

Sec. 113.005. **PERSONAL APPEARANCE VOTING; PROCESSING RESULTS.** (a) On submission of an application for a presidential ballot to be voted by personal appearance, the absentee voting clerk shall review the application and verify the applicant's registration status in accordance with the procedure applicable to absentee voting by mail.

(b) The personal appearance voting shall be conducted with the balloting materials for voting absentee by mail.

(c) The voter must mark and seal the ballot in the same manner as if voting absentee by mail except that the certificate on the carrier envelope need not be completed.

(d) On sealing the carrier envelope, the voter must give it to the clerk, who shall note on the envelope that the ballot is a presidential ballot.

(e) The results of voting a presidential ballot by personal appearance shall be processed in accordance with the procedures applicable to processing absentee ballots voted by mail. (V.T.E.C. Art. 5.05b, Subdiv. 4; New.)

Sec. 113.006. **CANCELING REGISTRATION.** As soon as practicable after the close of voting, the absentee voting clerk shall notify the voter registrar of the name of each person who applied for a presidential ballot whose name appears on the list of registered voters. On receipt of the notice, the voter registrar shall cancel the voter's registration. (V.T.E.C. Art. 5.05b, Subdiv. 5.)

CHAPTER 114. VOTING FEDERAL BALLOT BY OVERSEAS CITIZEN

Sec. 114.001. **DEFINITIONS**

Sec. 114.002. **ELIGIBILITY**

Sec. 114.003. **OFFICES ON WHICH VOTER ENTITLED TO VOTE**

Sec. 114.004. **APPLICATION**

Sec. 114.005. **APPLYING FOR MORE THAN ONE ELECTION IN SAME APPLICATION**

Sec. 114.006. **DETERMINING OFFICES TO BE VOTED ON**

Sec. 114.007. **METHOD OF PROVIDING BALLOT; REQUIRED ADDRESS; RETURN OF BALLOT**

Sec. 114.008. **OFFICIAL CARRIER ENVELOPE**

CHAPTER 114. VOTING FEDERAL BALLOT BY OVERSEAS CITIZEN

Sec. 114.001. **DEFINITIONS.** In this chapter:

(1) "Federal ballot" means a ballot voted under this chapter that is restricted to federal offices only.

(2) "Federal office" means the offices of president and vice-president of the United States, United States senator, or United States representative.

(3) "United States" includes the several states and the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include any other territory or possession of the United States. (New.)

Sec. 114.002. **ELIGIBILITY.** A United States citizen dwelling outside the United States is eligible to vote a federal ballot by mail if:

- (1) the citizen's most recent domicile in the United States was in this state and his intent to return to this state is uncertain;
- (2) the citizen would be eligible for registration as a voter in this state if a resident; and
- (3) the citizen is not eligible to vote on federal offices in any other state. (New.)

Sec. 114.003. **OFFICES ON WHICH VOTER ENTITLED TO VOTE.** A person voting a federal ballot is entitled to vote only on each federal office to be voted on in the election precinct of the person's most recent domicile in this state. (New.)

Sec. 114.004. **APPLICATION.** (a) An application for a federal ballot must be submitted on an official federal postcard application form.

(b) The application must be submitted to the absentee voting clerk serving the election precinct of the applicant's most recent domicile in this state.

(c) The period during which a federal ballot application may be submitted is the same as that for submitting a federal postcard application under Chapter 101. (New.)

Sec. 114.005. **APPLYING FOR MORE THAN ONE ELECTION IN SAME APPLICATION.** The provisions governing the application for ballots for more than one election by a single federal postcard application under Chapter 101 apply to a federal ballot application. (New.)

Sec. 114.006. **DETERMINING OFFICES TO BE VOTED ON.** For each voter who is to vote a federal ballot, the absentee voting clerk shall determine the federal offices on which the voter is entitled to vote and indicate them on the application or the jacket envelope. (New.)

Sec. 114.007. **METHOD OF PROVIDING BALLOT; REQUIRED ADDRESS; RETURN OF BALLOT.** (a) The balloting materials provided under this chapter shall be airmailed to the voter free of United States postage, as provided by the federal Overseas Citizens Voting Rights Act of 1975, in an envelope labeled "Official Election Balloting Material - via Airmail." The secretary of state shall provide absentee voting clerks with instructions on compliance with this subsection.

(b) The address to which the balloting materials are sent to a voter must be an address outside the United States or an address in the United States for forwarding or delivery to the voter at a location outside the United States.

(c) A ballot voted under this chapter may be returned to the absentee voting clerk by mail, common or contract carrier, or courier. (New.)

Sec. 114.008. **OFFICIAL CARRIER ENVELOPE.** The officially prescribed carrier envelope for voting under this chapter shall be labeled "Official Election Balloting Material - via Airmail." (New.)

TITLE 8. VOTING SYSTEMS

- Chapter 121. General Provisions
- Chapter 122. State Supervision Over Voting Systems
- Chapter 123. Adoption and Acquisition of Voting System
- Chapter 124. Voting System Ballot
- Chapter 125. Conduct of Voting With Voting System
- Chapter 126. Processing Mechanical Voting Machine Results
- Chapter 127. Processing Electronic Voting System Results

TITLE 8. VOTING SYSTEMS

CHAPTER 121. GENERAL PROVISIONS

Sec. 121.001. **APPLICABILITY OF OTHER PARTS OF CODE**

Sec. 121.002. **PECUNIARY INTEREST OF SECRETARY OF STATE**

Sec. 121.003. **DEFINITIONS**

TITLE 8. VOTING SYSTEMS

CHAPTER 121. GENERAL PROVISIONS

Sec. 121.001. **APPLICABILITY OF OTHER PARTS OF CODE.** The other titles of this code apply to an election in which a voting system is used except to the extent that a provision is inconsistent with this title or cannot feasibly be applied in an election using a voting system. (V.T.E.C. Art. 7.14, Secs. 23, 24; Art. 7.15, Subdivs. 11(a), 18(a), 19(f), 21.)

Sec. 121.002. PECUNIARY INTEREST OF SECRETARY OF STATE. The secretary of state may not have a pecuniary interest in the manufacturing or marketing of voting system equipment or software necessary for the operation of a voting system. (V.T.E.C. Art. 7.14, Sec. 1; Art. 7.15, Subdiv. 3(b); Art. 7.17a(a).)

Sec. 121.003. DEFINITIONS. In this title:

(1) "Voting system" means a method of casting and processing votes that is designed to function wholly or partly by use of mechanical, electromechanical, or electronic apparatus and includes the procedures for casting and processing votes and the programs, operating manuals, tabulating cards, printouts, and other software necessary for the system's operation.

(2) "Electronic voting system" means a voting system in which the ballots are automatically counted and the results automatically tabulated by use of electronically operated apparatus.

(3) "Voting machine" means an apparatus on which voters cast their votes, that records each vote, and that furnishes a total of the number of votes cast for the candidates and for and against the measures.

(4) "Mechanical voting machine" means a voting machine that is designed to function by the manual operation of a lever or other device on the machine without the aid of electrical power.

(5) "Voting device" means an apparatus that is designed for use with punch-card ballots, that holds the punch-card ballot label, and that enables a voter to position the ballot for voting.

(6) "Voting system equipment" means any kind of mechanical, electromechanical, or electronic apparatus specially designed for use in a voting system.

(7) "Automatic tabulating equipment" means equipment, other than a voting machine, that compiles vote totals by ballot sorting, ballot reading, ballot scanning, or electronic data processing.

(8) "Public counter" means a registering device that cumulatively records the number of voters casting votes on a voting machine and that is constructed and installed on the machine in a way that provides an unobstructed view of the recorded number.

(9) "Protective counter" means a registering device that permanently records the cumulative number of times that a voting machine has been operated and that is installed in the machine in a way that prevents resetting the device.

(10) "Registering counter" means a registering device on a voting machine that records the votes cast for a particular candidate or for or against a particular measure.

(11) "Mechanical machine ballot label" means the cardboard or other material listing the candidates and propositions that is attached to a mechanical voting machine to enable voters to make their choices.

(12) "Punch-card ballot label" means the paper or other material listing the candidates and propositions that is designed for use with punch-card ballots to enable voters to make their choices.

(13) "Voting system ballot label" means a punch-card ballot label or a mechanical machine ballot label.

(14) "Electronic system ballot" means a ballot designed for use with an electronic voting system.

(15) "Punch-card ballot" means an electronic system ballot in the form of a tabulating card.

(16) "Voting system ballot" means a ballot designed for use with a voting system. (V.T.E.C. Art. 7.14, Sec. 25; Art. 7.15, Subdiv. 2; New.)

CHAPTER 122. STATE SUPERVISION OVER VOTING SYSTEMS

SUBCHAPTER A. VOTING SYSTEM STANDARDS

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SUBCHAPTER D. REEXAMINATION OF VOTING SYSTEM EQUIPMENT

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CHAPTER 122. STATE SUPERVISION OVER VOTING SYSTEMS

SUBCHAPTER A. VOTING SYSTEM STANDARDS

- Sec. 122.001. VOTING SYSTEM STANDARDS. (a) A voting system may not be used in an election unless the system:
 - (1) preserves the secrecy of the ballot;
 - (2) is suitable for the purpose for which it is intended;
 - (3) operates safely, efficiently, and accurately;
 - (4) is safe from fraudulent or unauthorized manipulation;
 - (5) permits voting on all offices and measures to be voted on at the election;
 - (6) prevents counting votes on offices and measures on which the voter is not entitled to vote;
 - (7) prevents counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevents counting votes for more than the number of candidates for which the voter is entitled to vote;

- (8) prevents counting a vote on the same office or measure more than once;
- (9) permits write-in voting; and
- (10) is capable of permitting straight-party voting.

(b) A voting system may not be used in an election in which straight-party voting is permitted unless the system permits counting votes in accordance with Section 65.007(c).

(c) The secretary of state may prescribe additional standards for voting systems consistent with this title. The standards may apply to particular kinds of voting systems, to particular elements comprising a voting system, including operation procedures, or to voting systems generally. (V.T.E.C. Art. 7.14, Secs. 2, 16, 16a; Art. 7.15, Subdivs. 4, 11a; Arts. 7.17a(b), (c); New.)

Sec. 122.002. INSPECTION OF VOTING SYSTEMS BY SECRETARY OF STATE. The secretary of state may inspect at any time a voting system used in an election to determine whether the system complies with applicable standards. (New.)

Sec. 122.003. ACTION BY SECRETARY OF STATE. (a) If the secretary of state determines after inspecting a voting system that the system does not comply with applicable standards, the secretary by written order may:

- (1) prohibit the use of the system or any part of the system by an authority that adopted the system for use in an election; or
- (2) limit the use of the system or any part of the system to circumstances or conditions stated in the order.

(b) The secretary shall amend or rescind an order issued under this section if the secretary determines that the system has been modified to comply with applicable standards. (New.)

[Sections 122.004-122.030 reserved for expansion]

SUBCHAPTER B. APPROVAL OF VOTING SYSTEM EQUIPMENT

Sec. 122.031. APPROVAL OF EQUIPMENT REQUIRED. Before voting system equipment may be used in an election, a unit of the equipment must be approved by the secretary of state as provided by this subchapter. (V.T.E.C. Art. 7.14, Sec. 1; Art. 7.15, Subdiv. 3(b); Art. 7.17a(a).)

Sec. 122.032. REQUIREMENTS FOR APPROVAL GENERALLY. (a) For voting system equipment to be approved for use in elections, the voting system in which the equipment is designed to be used must comply with the standards prescribed by Subchapter A.

(b) The secretary of state may prescribe more specific requirements, consistent with this code, for approval of particular kinds of voting system equipment or voting system equipment generally. (V.T.E.C. Art. 7.14, Secs. 1, 2; Art. 7.15, Subdiv. 4; Art. 7.17a; New.)

Sec. 122.033. ADDITIONAL REQUIREMENTS FOR APPROVAL OF VOTING MACHINE. (a) In addition to other requirements for approval, a voting machine must be equipped with:

- (1) a security system capable of preventing operation of the machine;
- (2) registering counters that can be secured against access;
- (3) a public counter; and
- (4) a protective counter.

(b) The security system for a mechanical voting machine must be a lock and key system. (V.T.E.C. Art. 7.14, Secs. 2, 13, 21; New.)

Sec. 122.034. APPLICATION FOR APPROVAL AND FEE. (a) A person desiring approval of voting system equipment must submit a written application for approval to the secretary of state.

(b) An applicant must include with the application an application fee.

(c) The secretary of state shall prescribe fees for the submission of applications under this section in amounts reasonably necessary to administer this subchapter and compensate examiners. (V.T.E.C. Art. 7.14, Sec. 1; Art. 7.15, Subdiv. 3(a); Art. 7.17a(a); New.)

Sec. 122.035. APPOINTMENT OF EXAMINERS. (a) On submission of an application for approval of voting system equipment, the secretary of state shall appoint three persons as examiners.

(b) Two of the appointees must have demonstrated ability and experience in mechanics or electronics appropriate to the equipment to be examined, and one appointee must have demonstrated knowledge of and experience in election law and procedure.

(c) A person employed by the secretary of state is ineligible for appointment.

(d) A person who has a pecuniary interest in the manufacturing or marketing of voting system equipment or software necessary for the operation of a voting system is ineligible for appointment. (V.T.E.C. Art. 7.14, Sec. 1; Art. 7.15, Subdiv. 3(b); Art. 7.17a(a); New.)

Sec. 122.036. **EXAMINATION AND REPORT BY EXAMINERS.** (a) The examiners shall examine the voting system equipment for which an application has been submitted at the time and in the manner directed by the secretary of state.

(b) After conducting the examination, each examiner shall prepare a written report on the examination as directed by the secretary and deliver the report to the secretary. (V.T.E.C. Art. 7.14, Sec. 1; Art. 7.15, Subdiv. 3(b); Art. 7.17a(a).)

Sec. 122.037. **COMPENSATION OF EXAMINERS.** (a) Each examiner is entitled to compensation in an amount set by the secretary of state for services rendered in connection with an application.

(b) The secretary of state shall use the application fees collected under Section 122.034 to pay the compensation to examiners. (V.T.E.C. Art. 7.14, Sec. 1; Art. 7.15, Subdiv. 3(b); Art. 7.17a(a); New.)

Sec. 122.038. **ACTION BY SECRETARY OF STATE.** (a) After reviewing the examiners' reports, the secretary of state shall determine whether the voting system equipment for which an application has been submitted satisfies the applicable requirements for approval.

(b) The secretary may examine the equipment to aid in determining whether it satisfies the requirements for approval.

(c) If the equipment satisfies the applicable requirements for approval, the secretary by written order shall approve equipment of that design for use in elections. Otherwise, the secretary shall deny the application. (V.T.E.C. Art. 7.14, Sec. 1; Art. 7.15, Subdiv. 3; Art. 7.17a(a).)

Sec. 122.039. **REPORT BY SECRETARY OF STATE.** (a) The secretary of state shall prepare a written report on each application submitted under this subchapter. The report must state whether the equipment was approved and the reasons for approval or denial.

(b) The secretary shall attach the examiners' reports to the report prepared under this section and permanently retain the reports on file. (V.T.E.C. Art. 7.14, Sec. 1; Art. 7.15, Subdiv. 3; Art. 7.17a(a).)

[Sections 122.040-122.060 reserved for expansion]

SUBCHAPTER C. MODIFICATION IN DESIGN OF APPROVED EQUIPMENT

Sec. 122.061. **APPROVAL OF MODIFIED DESIGN REQUIRED.** Before voting system equipment that is modified in design after its approval may be used in an election, the modified design must be approved by the secretary of state as provided by this subchapter. (V.T.E.C. Art. 7.14, Sec. 1; Art. 7.15, Subdiv. 3(b); Art. 7.17a(a); New.)

Sec. 122.062. **REQUIREMENTS FOR APPROVAL.** The requirements for approval of a modified design are the same as those prescribed by Subchapter B for the initial approval of the voting system equipment. (New.)

Sec. 122.063. **APPLICATION FOR APPROVAL.** A person desiring approval of a modified design must submit a written application for approval to the secretary of state. (New.)

Sec. 122.064. **REVIEW OF APPLICATION.** (a) The secretary of state shall review an application for approval of a modified design.

(b) The secretary may approve the modified design by written order if the design satisfies the applicable requirements for approval.

(c) If the secretary does not approve the modified design, the secretary by written order shall:

(1) invite the applicant to submit additional information in support of the application, submit the modified equipment itself, or both; or

(2) require an examination of the modified equipment by independent examiners. (New.)

Sec. 122.065. **REVIEW AND EXAMINATION OF ADDITIONAL MATERIAL.** (a) The secretary of state shall review additional information in support of an application and examine modified equipment submitted.

(b) The secretary may approve the modified design by written order if the design satisfies the applicable requirements for approval.

(c) If the secretary does not approve the modified design, the secretary by written order shall require an examination of the modified equipment by independent examiners. (New.)

Sec. 122.066. **EXAMINATION FEE.** (a) The secretary of state shall prescribe an examination fee or fee schedule to compensate examiners appointed under this subchapter.

(b) The fee for an examination may not exceed the fee for an application for initial approval of voting system equipment.

(c) If the secretary orders an independent examination of modified equipment, the secretary may not appoint examiners until the secretary receives the examination fee. (New.)

Sec. 122.067. **APPOINTMENT OF EXAMINERS.** (a) If the secretary of state requires an independent examination of modified equipment, the secretary shall appoint two or three examiners for the examination, the number to be determined by the secretary.

(b) To be eligible for appointment as an examiner under this section, a person must be eligible for appointment as an examiner for an application for initial approval of equipment.

(c) One of the appointees must have demonstrated ability and experience in mechanics or electronics appropriate to the equipment to be examined. (New.)

Sec. 122.068. **EXAMINATION AND REPORT BY EXAMINERS.** The examiners shall examine the modified equipment and prepare and deliver examination reports in the same manner as for an application for initial approval of equipment. (New.)

Sec. 122.069. **COMPENSATION OF EXAMINERS.** (a) Subject to Subsections (b) and (c), an examiner appointed under this subchapter is entitled to compensation in an amount set by the secretary of state.

(b) The compensation rate for each examiner appointed for the same examination must be uniform.

(c) The total compensation paid to the examiners appointed for the same examination may not exceed the examination fee.

(d) The secretary of state shall use the examination fees collected under Section 122.066 to pay the compensation to examiners. (New.)

Sec. 122.070. **ACTION BY SECRETARY OF STATE.** (a) After reviewing the examiners' reports, the secretary of state shall determine whether the modified design satisfies the applicable requirements for approval.

(b) The secretary may examine the modified equipment to aid in determining whether it satisfies the requirements for approval.

(c) If the modified design satisfies the applicable requirements for approval, the secretary by written order shall approve equipment of that design for use in elections. Otherwise, the secretary shall deny the application. (New.)

Sec. 122.071. **REPORT BY SECRETARY OF STATE.** (a) The secretary of state shall prepare a written report on each application submitted under this subchapter. The report must state whether the modified design was approved and must include a description of and the reason for the action ordered.

(b) If an examination by independent examiners was conducted, the secretary shall attach the examiners' reports to the report prepared under this section.

(c) The secretary shall permanently retain reports prepared under this subchapter on file with the secretary's report on the application for initial approval of the equipment. (New.)

[Sections 122.072-122.090 reserved for expansion]

SUBCHAPTER D. REEXAMINATION OF VOTING SYSTEM EQUIPMENT

Sec. 122.091. **REEXAMINATION OF APPROVED EQUIPMENT AUTHORIZED.** The secretary of state may reexamine voting system equipment as provided by this subchapter at any time after the equipment is approved under Subchapter B or C. (V.T.E.C. Art. 7.15, Subdiv. 3(b); Art. 7.17a(a).)

Sec. 122.092. **APPOINTMENT OF EXAMINERS.** (a) The secretary of state shall appoint two persons as examiners to assist in a reexamination of approved voting system equipment.

(b) Each appointee must have demonstrated knowledge of and experience in the operation of the equipment.

(c) A person employed by the secretary of state is ineligible for appointment.

(d) A person who has a pecuniary interest in the manufacturing or marketing of voting system equipment or software necessary for operation of a voting system is ineligible for appointment. (New.)

Sec. 122.093. **EXAMINATION AND REPORT BY EXAMINERS.** (a) The examiners shall examine the equipment to be reexamined at the time and in the manner directed by the secretary of state.

(b) After conducting the examination, each examiner shall prepare a written report on the examination as directed by the secretary and deliver the report to the secretary. (New.)

Sec. 122.094. **COMPENSATION OF EXAMINERS.** (a) An examiner appointed under this subchapter is entitled to compensation in an amount set by the secretary of state.

(b) The compensation shall be paid from funds appropriated to the secretary of state. (New.)

Sec. 122.095. **ACTION BY SECRETARY OF STATE.** (a) After reviewing the examiners' reports, the secretary of state shall determine whether the voting system equipment subject to reexamination satisfies the applicable requirements for approval of the equipment for use in elections.

(b) The secretary may examine the equipment to aid in determining whether it satisfies the requirements for approval.

(c) If the reexamined equipment does not satisfy the applicable requirements for approval, the secretary by written order shall:

- (1) suspend approval of the equipment;
- (2) suspend approval for future use of the equipment; or
- (3) give conditional approval of the equipment. (New.)

Sec. 122.096. EFFECT OF SECRETARY OF STATE'S ACTION. (a) Voting system equipment for which approval is suspended may not be used in an election held after the date the suspension order is issued.

(b) Voting system equipment for which approval for future use is suspended may not be used in an election held after the date the suspension order is issued unless the equipment was adopted for use in the election before the date the suspension order is issued. In that case, the equipment may be used in that election only.

(c) Voting system equipment for which conditional approval is given may not be used in an election held after the date the conditional approval order is issued except in accordance with conditions prescribed by the conditional approval order. (New.)

Sec. 122.097. NOTICE OF SECRETARY OF STATE'S ACTION. Not later than the fifth day after the date an order taking action under Section 122.095(c) is issued, the secretary of state shall deliver a copy of the order to the presiding officer of each political subdivision that owns or leases equipment subject to the order. (New.)

Sec. 122.098. SUBSEQUENT APPROVAL. If voting system equipment subject to an order under Section 122.095(c) is subsequently approved under Subchapter B, the approval nullifies the order. (New.)

Sec. 122.099. REPORT BY SECRETARY OF STATE. (a) The secretary of state shall prepare a written report on each reexamination. The report must state whether the equipment satisfied the approval requirements and must include a description of and the reason for the action ordered.

(b) The secretary shall attach the examiners' reports to the report prepared under this section and permanently retain the reports on file with the secretary's report on the application for initial approval of the equipment. (New.)

CHAPTER 123. ADOPTION AND ACQUISITION OF VOTING SYSTEM

SUBCHAPTER A. ADOPTION OF VOTING SYSTEM

Sec. 123.001. ADOPTION OF VOTING SYSTEM REQUIRED

Sec. 123.002. MODIFICATION OF ADOPTION ACTION

Sec. 123.003. RESTRICTING VOTING SYSTEM TO PARTICULAR ELECTIONS

Sec. 123.004. RESTRICTING VOTING SYSTEM TO PARTICULAR POLLING PLACES

Sec. 123.005. MULTIPLE METHODS OF VOTING AT SAME POLLING PLACE

Sec. 123.006. ADOPTION OF VOTING SYSTEM FOR ABSENTEE VOTING

Sec. 123.007. ADOPTION OF MORE THAN ONE VOTING SYSTEM FOR SAME ELECTION

[Sections 123.008-123.030 reserved for expansion]

SUBCHAPTER B. ACQUISITION OF EQUIPMENT USED IN VOTING SYSTEM

Sec. 123.031. ACQUISITION OF EQUIPMENT BY COUNTY

Sec. 123.032. ACQUISITION OF EQUIPMENT BY POLITICAL SUBDIVISION OTHER THAN COUNTY

Sec. 123.033. ACQUISITION OF EQUIPMENT BY POLITICAL PARTY FOR PRIMARY

Sec. 123.034. MAINTENANCE AND STORAGE OF EQUIPMENT

CHAPTER 123. ADOPTION AND ACQUISITION OF VOTING SYSTEM

SUBCHAPTER A. ADOPTION OF VOTING SYSTEM

Sec. 123.001. ADOPTION OF VOTING SYSTEM REQUIRED. (a) Before a voting system may be used in elections, the authority designated by this section, by resolution, order, or other official action of the authority, must adopt the system for use in the elections.

- (b) The decision on whether to adopt a voting system is made by the following authority:
- (1) for general elections for state and county officers, the commissioners court;
 - (2) for primary elections, the county executive committee of the political party holding the primary; and
 - (3) for any other elections:
 - (A) the commissioners court, if ordered by the governor or by a county authority; or
 - (B) the governing body of the political subdivision served by the authority ordering the elections, if ordered by an authority serving a political subdivision other than a county.
- (c) If a voting system is adopted for use in elections, the voting system shall be used in the elections in accordance with the terms and conditions stated in the official action adopting the system, subject to this title. (V.T.E.C. Art. 7.14, Sec. 3; Art. 7.15, Subdivs. 5(a), (c); New.)
- Sec. 123.002. **MODIFICATION OF ADOPTION ACTION.** The official action adopting a voting system for use in elections may be modified or rescinded at any time by the adopting authority. (V.T.E.C. Art. 7.14, Sec. 3; Art. 7.15, Subdiv. 5(b).)
- Sec. 123.003. **RESTRICTING VOTING SYSTEM TO PARTICULAR ELECTIONS.** The authority adopting a voting system may restrict its use to any one or more elections. (V.T.E.C. Art. 7.14, Sec. 3; Art. 7.15, Subdiv. 5(c).)
- Sec. 123.004. **RESTRICTING VOTING SYSTEM TO PARTICULAR POLLING PLACES.** The authority adopting a voting system may restrict its use to one or more polling places. (V.T.E.C. Art. 7.14, Sec. 3; Art. 7.15, Subdiv. 5(a).)
- Sec. 123.005. **MULTIPLE METHODS OF VOTING AT SAME POLLING PLACE.** (a) Except as otherwise provided by this code, only one kind of voting system may be used at a polling place in an election.
- (b) Except as otherwise provided by this title, regular paper ballots may not be used at a polling place using a voting system. (V.T.E.C. Art. 7.14, Sec. 3; Art. 7.15, Subdiv. 5(a).)
- Sec. 123.006. **ADOPTION OF VOTING SYSTEM FOR ABSENTEE VOTING.** (a) A voting system may be adopted for use in absentee voting only, regular voting on election day only, or both.
- (b) A voting system may be adopted for use in absentee voting by personal appearance only, absentee voting by mail only, or both.
- (c) Only one kind of voting system may be used for absentee voting by mail. A voting system and regular paper ballots may not both be used in the same election for absentee voting by mail. (V.T.E.C. Art. 7.14, Sec. 7; Art. 7.15, Subdivs. 5(a), 9(a); New.)
- Sec. 123.007. **ADOPTION OF MORE THAN ONE VOTING SYSTEM FOR SAME ELECTION.** If more than one kind of voting system is adopted for use at the polling places in the same election, the adopting authority shall determine the polling place or places at which each system is to be used. (V.T.E.C. Art. 7.14, Sec. 3; Art. 7.15, Subdiv. 5(a).)

[Sections 123.008-123.030 reserved for expansion]

SUBCHAPTER B. ACQUISITION OF EQUIPMENT USED IN VOTING SYSTEM

- Sec. 123.031. **ACQUISITION OF EQUIPMENT BY COUNTY.** (a) A county may acquire the equipment necessary for operating a voting system by purchase, lease, or other means.
- (b) To finance the acquisition of equipment, the commissioners court may issue bonds or other evidences of indebtedness as authorized by general law, payable solely from the county general fund. (V.T.E.C. Art. 7.14, Sec. 6; Art. 7.15, Subdivs. 8(a), (b).)
- Sec. 123.032. **ACQUISITION OF EQUIPMENT BY POLITICAL SUBDIVISION OTHER THAN COUNTY.** (a) A political subdivision other than a county may acquire the equipment necessary for operating a voting system as provided by this section.
- (b) A political subdivision may contract to lease the equipment from a county in which the political subdivision is wholly or partly situated. If the desired equipment is not available from the county, the political subdivision may acquire it by purchase, lease, or other means from any other source.
- (c) If a political subdivision desires to lease equipment owned by a county in which the political subdivision is wholly or partly situated, the county shall lease the equipment to the political subdivision under the terms agreed to by the parties, except that the county's duty to lease the equipment is subject to reasonable restrictions and conditions imposed by the commissioners court to:
- (1) ensure availability of the equipment in elections for which the commissioners court adopted the voting system; and
 - (2) protect the equipment from misuse or damage.

(d) The maximum amount that a county in which a political subdivision is wholly or partly situated may charge the political subdivision for leasing county-owned equipment is 10 percent of the purchase price of the equipment for each day the equipment is leased. (V.T.E.C. Art. 7.14, Sec. 6; Art. 7.15, Subdivs. 5(d), 8(c), (d); New.)

Sec. 123.033. ACQUISITION OF EQUIPMENT BY POLITICAL PARTY FOR PRIMARY. (a) A political party's county executive committee that desires to use a voting system for a primary election must acquire the equipment necessary for operating the voting system as provided by this section.

(b) The county executive committee may contract to lease the equipment from the county. If the equipment desired is not available from the county, the county executive committee may contract to lease it from any other source.

(c) If the county executive committee desires to lease equipment owned by the county served by the committee, the county shall lease the equipment to the committee under the terms agreed to by the parties, except that the county's duty to lease the equipment is subject to reasonable restrictions and conditions imposed by the commissioners court to:

(1) ensure availability of the equipment in elections for which the commissioners court adopted the voting system; and

(2) protect the equipment from misuse or damage.

(d) A county is not required to provide a political party's county executive committee with equipment for use in an election precinct in which fewer than 100 votes were cast in the political party's most recent general or runoff primary.

(e) The maximum amount that may be charged for leasing equipment to a county executive committee for a general or runoff primary is:

(1) \$16 for each mechanical voting machine;

(2) \$5 for each unit of electronic voting system equipment installed at a polling place; and

(3) \$5 for each unit of other equipment not specified by this subsection.

(f) In addition to the amount a county may charge for leasing its equipment under Subsection (e), a county may charge a county executive committee for the actual expenses incurred by the county in:

(1) transporting the equipment to and from the polling places;

(2) preparing the equipment for use in the primary election; and

(3) operating a central counting station for the primary election. (V.T.E.C. Art. 7.14, Sec. 6; Art. 7.15, Subdivs. 8(c), (d); Art. 13.08(f); New.)

Sec. 123.034. MAINTENANCE AND STORAGE OF EQUIPMENT. The governing body of a political subdivision shall provide for the proper maintenance and storage of the equipment that the subdivision acquires for use in the operation of a voting system. (V.T.E.C. Art. 7.14, Sec. 5; Art. 7.15, Subdiv. 7.)

CHAPTER 124. VOTING SYSTEM BALLOT

SUBCHAPTER A. VOTING SYSTEM BALLOT GENERALLY

Sec. 124.001. STRAIGHT-PARTY ARRANGEMENT

Sec. 124.002. MANNER OF INDICATING PARTY ALIGNMENT

Sec. 124.003. SEPARATE LISTING OF UNOPPOSED CANDIDATES; BLOC VOTING

Sec. 124.004. SAMPLE BALLOT

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[Sections 124.006-124.030 reserved for expansion]

SUBCHAPTER B. MECHANICAL VOTING MACHINE BALLOT

Sec. 124.031. FORM OF MECHANICAL MACHINE BALLOT LABEL

Sec. 124.032. NUMBER OF MACHINES FOR LISTING BALLOT

Sec. 124.033. PAPER WRITE-IN BALLOT

Sec. 124.034. PAPER BALLOT FOR PRECINCT OFFICES

[Sections 124.035-124.060 reserved for expansion]

SUBCHAPTER C. ELECTRONIC VOTING SYSTEM BALLOT

Sec. 124.061. FORM OF PUNCH-CARD BALLOT LABEL

Sec. 124.062. FORM OF ELECTRONIC SYSTEM BALLOT

- Sec. 124.063. INSTRUCTIONS REQUIRED ON BALLOT
- Sec. 124.064. SEPARATE BALLOT PART FOR WRITE-IN VOTING
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- Sec. 124.066. CONSULTATION WITH PROGRAMMER ON BALLOT PREPARATION

CHAPTER 124. VOTING SYSTEM BALLOT

SUBCHAPTER A. VOTING SYSTEM BALLOT GENERALLY

Sec. 124.001. STRAIGHT-PARTY ARRANGEMENT. In an election in which voters are entitled to cast straight-party votes, the voting system ballot and ballot label shall be arranged to permit the voters to do so. (V.T.E.C. Art. 7.14, Sec. 8; Art. 7.15, Subdivs. 11(b)(3), (b)(5), (c)(3), (c)(4).)

Sec. 124.002. MANNER OF INDICATING PARTY ALIGNMENT. (a) In an election in which a candidate's name is to appear on the ballot as the nominee of a political party, the voting system ballot and ballot label, as applicable, shall be arranged:

(1) in party columns in the same manner as for a regular paper ballot on which a party nominee appears; or

(2) by listing the office titles in a vertical column in the same manner as for a regular paper ballot on which a party nominee does not appear, except that the nominees' party alignments shall be indicated next to their names.

(b) The order in which party nominees listed by office title appear on a voting system ballot or ballot label is determined in accordance with the same priorities and in the same manner as for party nominees listed in party columns, with the changes appropriate to the circumstances. (V.T.E.C. Art. 7.14, Sec. 8; Art. 7.15, Subdivs. 11(b)(5), (c)(4).)

Sec. 124.003. SEPARATE LISTING OF UNOPPOSED CANDIDATES; BLOC VOTING. (a) Any unopposed candidates may be listed separately under the heading "Uncontested Races" on a voting system ballot or ballot label.

(b) In an election in which the ballots indicate political party alignment, the party alignment of the candidates listed under the uncontested races heading shall be indicated next to the candidate's name.

(c) Candidates listed under the uncontested races heading may be arranged in a manner requiring voting on them as one or more blocs, but only if an additional ballot or ballot label would otherwise be necessary to accommodate all the candidates and propositions to be listed.

(d) The requirement that the ballot or ballot label be arranged to permit straight-party voting does not apply to candidates listed under the uncontested races heading. (V.T.E.C. Art. 7.14, Sec. 8; Art. 7.15, Subdivs. 11(b)(5), (c)(4), (c)(6).)

Sec. 124.004. SAMPLE BALLOT. The secretary of state may prescribe standards regarding the form, content, preparation, and use of sample ballots for voting systems. (V.T.E.C. Art. 7.14, Sec. 9; Art. 7.15, Subdiv. 12; New.)

Sec. 124.005. SPECIMEN BALLOT. (a) The secretary of state may prescribe standards regarding the form, content, preparation, availability, and use of specimen ballots in elections using voting systems. The standards are not required to be consistent with those prescribed by this code for elections using regular paper ballots.

(b) The secretary of state may provide, with respect to elections in which voting systems are used:

- (1) alternatives to the use of specimen ballots; or
- (2) that specimen ballots are not required. (New.)

[Sections 124.006-124.030 reserved for expansion]

SUBCHAPTER B. MECHANICAL VOTING MACHINE BALLOT

Sec. 124.031. FORM OF MECHANICAL MACHINE BALLOT LABEL. (a) The printed matter on a mechanical machine ballot label must appear on a white or light-colored background in plain, dark type.

(b) The ballot label may contain a distinctive designating number, which may contain letters as well as numerals, for each candidate and for each side of each proposition that corresponds to the number of the registering counter for the same candidate or proposition.

(c) The ballot label must contain a marking that indicates the identity of the voting machine to which it is attached.

(d) The party columns on the ballot label may be arranged vertically or horizontally. (V.T.E.C. Art. 6.05; Art. 6.05b; Art. 7.14, Sec. 8; New.)

Sec. 124.032. NUMBER OF MACHINES FOR LISTING BALLOT. In an election in which mechanical voting machines are used, a voter must be able to use a single machine to vote on all races and measures to be voted on in the election unless the number of items to be voted on exceeds the capacity of a single machine. In that case, as many additional machines as are necessary may be used as long as all candidates for a particular office may be voted on using the same machine. (V.T.E.C. Art. 7.14, Sec. 8.)

Sec. 124.033. PAPER WRITE-IN BALLOT. (a) The authority adopting mechanical voting machines for use in an election may provide by resolution, order, or other official action for the use of the paper write-in ballot prescribed by this section instead of the method of write-in voting that the mechanical voting machines are designed to use if an additional voting machine would otherwise be necessary to accommodate all the candidates and propositions to be listed.

(b) In addition to any other instructions prescribed by the secretary of state, the paper write-in ballot must contain the following instruction: "Do not cast a vote on the voting machine for any office for which you are casting this write-in ballot."

(c) The secretary of state shall prescribe the form of the paper write-in ballot consistent with this section. The ballot must provide as many write-in spaces as there are offices for which write-in campaigns have been conducted.

(d) A notice informing voters of the availability of the paper write-in ballot shall be posted in a prominent location in each polling place at which the ballot is used. (V.T.E.C. Art. 7.14, Sec. 16a; New.)

Sec. 124.034. PAPER BALLOT FOR PRECINCT OFFICES. (a) The authority adopting mechanical voting machines for use in an election may provide by resolution, order, or other official action for voting by paper ballot on any precinct offices at a polling place using mechanical voting machines if an additional voting machine would otherwise be necessary to accommodate all the candidates and propositions to be listed.

(b) The paper ballot for precinct offices must conform to the applicable standards governing regular paper ballots, except that the ballot shall be limited to the precinct offices specified in the official action providing for use of the ballot.

(c) The secretary of state shall prescribe the form of the ballot for precinct offices consistent with this section. (V.T.E.C. Art. 7.14, Sec. 7b; New.)

[Sections 124.035-124.060 reserved for expansion]

SUBCHAPTER C. ELECTRONIC VOTING SYSTEM BALLOT

Sec. 124.061. FORM OF PUNCH-CARD BALLOT LABEL. (a) The punch-card ballot label may be any size, composition, and texture that is suitable for the electronic voting system in which it is used.

(b) A punch-card ballot label may comprise as many separate sheets as are necessary to list the candidates and propositions stating measures to be voted on in an election. If more than one sheet is used, the first sheet of the sequence shall indicate the fact that the ballot is continued on one or more additional sheets. Sheets in the same sequence may be identified by any method that will facilitate voting or ballot processing and not confuse the voters. (V.T.E.C. Art. 7.15, Subdivs. 11(c)(1), (c)(3).)

Sec. 124.062. FORM OF ELECTRONIC SYSTEM BALLOT. (a) The electronic system ballot may be any size, composition, color, and texture that is suitable for the electronic voting system in which it is used, but the ballot may not be the same color as sample ballots.

(b) The secretary of state may authorize the use of electronic system ballots that comprise two or more separate parts and may prescribe conditions and limitations under which the multipart ballots may be used. A voting system using a multipart ballot must comply with the same standards as a voting system using a ballot consisting of only a single part.

(c) The electronic system ballot may contain one or more printed code markings or punched holes if necessary for the proper voting and processing of the ballot. (V.T.E.C. Art. 7.15, Subdivs. 11(b)(1), (b)(2), (b)(3), (c)(1), (c)(2), (c)(6); New.)

Sec. 124.063. INSTRUCTIONS REQUIRED ON BALLOT. (a) An electronic system ballot on which a voter indicates a vote by punching a hole in the ballot must contain the following instruction if candidates are to be voted on: "Vote for the candidate of your choice in each race by making a punch hole in the space provided adjacent to the name of that candidate." If a proposition appears on the ballot, the ballot must contain the following instruction: "Make a punch hole in the space provided beside the statement indicating the way you desire to vote."

(b) An electronic system ballot on which a voter indicates a vote by making a mark on the ballot must comply with Subsection (a), with the substitution of "mark" for "punch hole."

(c) The instructions prescribed by Subsections (a) and (b) shall be changed appropriately if the election has only one race, more than one candidate is to be elected in a race, or other circumstances require an alteration of the instructions.

(d) The electronic system ballot must contain instructions for casting a straight-party vote and a write-in vote. The secretary of state shall prescribe the wording of the instructions.

(e) The instructions required by this section may be placed on the punch-card ballot label instead of on the punch-card ballot. (V.T.E.C. Art. 7.15, Subdiv. 11(d)(1); New.)

Sec. 124.064. SEPARATE BALLOT PART FOR WRITE-IN VOTING. (a) The electronic system ballot may include a separate part for write-in voting.

(b) The separate write-in part may be an envelope or any other form authorized by this code for electronic system ballots and must otherwise conform to standards prescribed by the secretary of state regarding its style, form, and content. (V.T.E.C. Art. 7.15, Subdiv. 11(c)(8); New.)

Sec. 124.065. PAPER BALLOT FOR OFFICE OF PRECINCT CHAIRMAN. (a) The authority adopting an electronic voting system for use in a primary election may provide by resolution, order, or other official action for voting by paper ballot for the party office of precinct chairman.

(b) The paper ballot for precinct chairman must conform to the applicable standards governing regular paper ballots, except that the ballot shall be limited to the office of precinct chairman.

(c) The secretary of state shall prescribe the form of the ballot for precinct chairman consistent with this section. (New.)

Sec. 124.066. CONSULTATION WITH PROGRAMMER ON BALLOT PREPARATION. In an election in which a programmer is appointed to program automatic tabulating equipment for processing electronic system ballots, the authority responsible for having the official ballot prepared shall confer with the programmer on the proper preparation of the ballots before having them prepared. (V.T.E.C. Art. 7.15, Subdiv. 11a(a).)

CHAPTER 125. CONDUCT OF VOTING WITH VOTING SYSTEM

SUBCHAPTER A. VOTING SYSTEMS GENERALLY

Sec. 125.001. ALLOCATION OF EQUIPMENT AMONG POLLING PLACES

Sec. 125.002. PREPARATION OF EQUIPMENT FOR DELIVERY TO POLLING PLACE

Sec. 125.003. DELIVERY OF EQUIPMENT TO POLLING PLACES

Sec. 125.004. INSTALLATION OF EQUIPMENT AT POLLING PLACE

Sec. 125.005. MAINTAINING SECURITY OF EQUIPMENT DURING VOTING

Sec. 125.006. MALFUNCTION OF EQUIPMENT AT POLLING PLACE

Sec. 125.007. ASSISTING VOTER

Sec. 125.008. DEPOSITING THE BALLOT

Sec. 125.009. TRAINING POLLING PLACE PERSONNEL

[Sections 125.010-125.030 reserved for expansion]

SUBCHAPTER B. MECHANICAL VOTING MACHINES

Sec. 125.031. INSPECTING AND SECURING MACHINE BEFORE DELIVERY TO POLLING PLACE

Sec. 125.032. CERTIFICATION OF PROPER INSTALLATION AT POLLING PLACE

Sec. 125.033. VOTING PAPER WRITE-IN BALLOT

Sec. 125.034. ALTERNATIVE PROCEDURE FOR DEPOSITING PAPER WRITE-IN BALLOT

Sec. 125.035. SECURING MACHINE ON CLOSE OF VOTING

[Sections 125.036-125.060 reserved for expansion]

SUBCHAPTER C. ELECTRONIC VOTING SYSTEMS

Sec. 125.061. INSPECTING EQUIPMENT AT POLLING PLACE

Sec. 125.062. ALTERNATIVE PROCEDURE TO ROTATING BALLOT BOXES

Sec. 125.063. SECURING EQUIPMENT ON CLOSE OF VOTING

CHAPTER 125. CONDUCT OF VOTING WITH VOTING SYSTEM

SUBCHAPTER A. VOTING SYSTEMS GENERALLY

Sec. 125.001. ALLOCATION OF EQUIPMENT AMONG POLLING PLACES. The authority responsible for allocating election supplies among the polling places for an election shall determine the number of voting machines, voting devices, or units of other voting system equipment to be installed at each polling place based on:

- (1) the number of votes cast at the polling place in previous, similar elections;
- (2) the number of registered voters eligible to vote at a polling place;
- (3) the number of units of equipment available; and
- (4) any other factors the authority determines are relevant. (V.T.E.C. Art. 7.14, Sec. 8; Art. 7.15, Subdivs. 11(c)(7), 16; New.)

Sec. 125.002. PREPARATION OF EQUIPMENT FOR DELIVERY TO POLLING PLACE. Before voting system equipment is delivered to a polling place for use in an election, the authority responsible for distributing the election supplies to the polling places shall have the equipment put in proper order for use as prescribed by the secretary of state. (V.T.E.C. Art. 7.14, Sec. 10; New.)

Sec. 125.003. DELIVERY OF EQUIPMENT TO POLLING PLACES. The secretary of state shall prescribe procedures governing delivery of voting system equipment to polling places to protect the equipment from tampering and damage. (V.T.E.C. Art. 7.14, Sec. 10; New.)

Sec. 125.004. INSTALLATION OF EQUIPMENT AT POLLING PLACE. (a) Voting system equipment shall be installed at the polling place so that a voter can operate the equipment without violating the secrecy of the ballot.

(b) The secretary of state may prescribe procedures consistent with this chapter for installing voting system equipment at polling places to protect the equipment from tampering and damage and to facilitate its proper operation. (V.T.E.C. Art. 7.14, Secs. 10, 12; Art. 7.15, Subdiv. 16; New.)

Sec. 125.005. MAINTAINING SECURITY OF EQUIPMENT DURING VOTING. (a) The presiding judge shall periodically have an election officer inspect the voting system equipment for tampering and damage while voting is in progress.

(b) If any tampering or damage is discovered, the inspecting officer shall immediately stop use of the equipment and report to the presiding judge, who shall promptly take appropriate action. (V.T.E.C. Art. 7.14, Sec. 13; Art. 7.15, Subdiv. 17(b); New.)

Sec. 125.006. MALFUNCTION OF EQUIPMENT AT POLLING PLACE. (a) The presiding judge shall stop use of malfunctioning voting system equipment installed at a polling place immediately after discovering that the equipment is not functioning properly.

(b) The presiding judge shall have the malfunctioning equipment promptly repaired or replaced if practicable.

(c) If the presiding judge determines that the equipment cannot be promptly repaired or replaced and that voting cannot be continued by using only the remaining operational equipment without substantially interfering with the orderly conduct of the election, voting at that polling place may be conducted by one of the following methods in addition to, or instead of, using remaining operational equipment:

- (1) using another voting system that has been adopted for use in the election;
- (2) using regular paper ballots, whether absentee ballots or ballots for regular voting on election day; or
- (3) having voters manually mark the electronic system ballots that were furnished for use with the malfunctioning equipment and having the ballots processed as regular paper ballots. (V.T.E.C. Art. 7.14, Sec. 17; Art. 7.15, Subdiv. 7(b); New.)

Sec. 125.007. ASSISTING VOTER. If a voter who is voting with a voting machine or voting device is physically unable to operate the machine or device, the voter is entitled to assistance under the applicable provisions for assisting voters using regular paper ballots. (V.T.E.C. Art. 7.14, Sec. 15; Art. 7.15, Subdiv. 14.)

Sec. 125.008. DEPOSITING THE BALLOT. A voter shall deposit the marked voting system ballot in the ballot box in accordance with the instructions provided at the polling place. (V.T.E.C. Art. 7.15, Subdiv. 17(a).)

Sec. 125.009. TRAINING POLLING PLACE PERSONNEL. The authority adopting a voting system shall provide the election officers serving the polling places at which the voting system is used with the instruction and training necessary for the proper operation of the voting system. (V.T.E.C. Art. 3.09a(c); Art. 7.14, Sec. 11; Art. 7.15, Subdiv. 10.)

[Sections 125.010-125.030 reserved for expansion]

SUBCHAPTER B. MECHANICAL VOTING MACHINES

Sec. 125.031. **INSPECTING AND SECURING MACHINE BEFORE DELIVERY TO POLLING PLACE.** (a) Before a mechanical voting machine is delivered to a polling place, but not earlier than the fifth day before the first day that the machine is to be used for voting, the authority responsible for distributing the election supplies to the polling places shall inspect the machine to determine whether it is in the proper order for use.

(b) If the voting machine is in the proper order for use, the authority shall secure the machine against operation as prescribed by the secretary of state.

(c) The authority shall prepare a record containing the identification of each voting machine inspected, the identification of the polling place at which each machine is to be used, the number on the protective counter, and any other information required by the secretary of state. The record shall be preserved for the period for preserving the precinct election records.

(d) Not later than the day before the date of the inspection of machines, the authority shall notify the county chairman of each political party with a nominee on the ballot of the place, date, and hour of the inspection. The county chairman or his designee is entitled to observe the inspection and securing of the machines. (V.T.E.C. Art. 7.14, Sec. 10; New.)

Sec. 125.032. **CERTIFICATION OF PROPER INSTALLATION AT POLLING PLACE.** (a) Before opening a polling place for voting on election day, the presiding judge shall determine whether each mechanical voting machine that has been delivered to the polling place for use in the election has been delivered to the proper polling place. If the machine is not at the proper polling place, the presiding judge shall have it returned and request delivery of the proper machine.

(b) A machine may not be unsecured until after the presiding judge determines that it is at the proper polling place.

(c) If the voting machine is delivered to the proper polling place, the presiding judge shall unsecure the machine and make an inspection to determine whether the machine is properly installed and in the proper order for voting.

(d) If the voting machine is not properly installed or not in the proper order for voting, the presiding judge shall take appropriate corrective action.

(e) When the presiding judge determines that the machine is properly installed and in the proper order for voting, the judge shall prepare a certificate containing:

- (1) a statement that the judge has determined that the machine is in the proper order for use in the election;
- (2) the number on the protective counter;
- (3) the signature of the judge;
- (4) the signatures of not more than two watchers if one or more watchers are present, with the signatures being from watchers of opposing interests if such watchers are present; and
- (5) any other information required by the secretary of state.

(f) The judge shall attach a copy of the certificate to each copy of the election returns for the polling place. (V.T.E.C. Art. 7.14, Sec. 12; New.)

Sec. 125.033. **VOTING PAPER WRITE-IN BALLOT.** (a) In an election in which paper write-in ballots are used, a voter who has been accepted to vote by voting machine is entitled to a paper write-in ballot on request if the voter executes the following affidavit:

"State of Texas

"County of _____

"Before me, the undersigned authority, on this day personally appeared _____, who, having been by me first duly sworn, on his oath did depose and say:

" 'I have not and will not cast a vote on the voting machine for the office for which I am casting a write-in ballot.'

Voter

"Subscribed and sworn before me this _____ day of _____, 19 _____.

Election Officer of Polling Place _____,

County, Texas"

(b) An election officer shall complete the affidavit and obtain the voter's signature before permitting the voter to cast a paper write-in ballot. (V.T.E.C. Art. 7.14, Sec. 16a(b).)

Sec. 125.034. **ALTERNATIVE PROCEDURE FOR DEPOSITING PAPER WRITE-IN BALLOT.** The secretary of state may provide for using envelopes or other containers instead of ballot boxes for voters to deposit their marked paper write-in ballots at polling places using mechanical voting machines. (New.)

Sec. 125.035. SECURING MACHINE ON CLOSE OF VOTING. (a) On the close of voting at each polling place using mechanical voting machines, an election officer shall secure each machine as prescribed by the secretary of state so that its unauthorized operation is prevented.

(b) After the machine is secured, the presiding judge shall prepare a certificate containing:

- (1) a statement that the machine is secured;
- (2) the numbers on the protective counter and the public counter;
- (3) the signatures of the presiding judge and at least one election clerk;
- (4) the signatures of not more than two watchers if one or more watchers are present, with the signatures being from watchers of opposing interests if such watchers are present; and
- (5) any other information required by the secretary of state.

(c) The presiding judge shall attach a copy of the certificate to each copy of the election returns for the polling place. (V.T.E.C. Art. 7.14, Sec. 18(b); New.)

[Sections 125.036-125.060 reserved for expansion]

SUBCHAPTER C. ELECTRONIC VOTING SYSTEMS

Sec. 125.061. INSPECTING EQUIPMENT AT POLLING PLACE. (a) Before opening a polling place for voting on election day, the presiding judge shall inspect each voting device and any other electronic voting system equipment installed at the polling place to determine whether it is installed and functioning properly.

(b) The presiding judge shall take appropriate corrective action if the equipment is not installed or functioning properly. (V.T.E.C. Art. 7.15, Subdiv. 16; New.)

Sec. 125.062. ALTERNATIVE PROCEDURE TO ROTATING BALLOT BOXES. The secretary of state may prescribe an alternative procedure to that of using two ballot boxes on a rotating basis at a polling place using an electronic voting system if the secretary determines that an alternative procedure is necessary for the efficient conduct of voting with the particular voting system. (New.)

Sec. 125.063. SECURING EQUIPMENT ON CLOSE OF VOTING. On the close of voting at each polling place at which electronic voting system equipment is used, an election officer shall secure or inactivate the equipment as prescribed by the secretary of state so that its unauthorized operation is prevented. (V.T.E.C. Art. 7.15, Subdiv. 19(a); New.)

CHAPTER 126. PROCESSING MECHANICAL VOTING MACHINE RESULTS

SUBCHAPTER A. PREPARING RETURNS AND RELATED ACTIVITIES

Sec. 126.001. CONTENTS OF RETURNS

Sec. 126.002. ENTERING RESULTS ON RETURNS FOR MACHINE WITHOUT PRINTOUT

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[Sections 126.010-126.030 reserved for expansion]

SUBCHAPTER B. PRESERVATION OF ELECTION RESULTS

Sec. 126.031. SECURITY PERIOD FOR PRESERVING ELECTION RESULTS

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CHAPTER 126. PROCESSING MECHANICAL VOTING MACHINE RESULTS

SUBCHAPTER A. PREPARING RETURNS AND RELATED ACTIVITIES

Sec. 126.001. CONTENTS OF RETURNS. The election returns for each polling place using mechanical voting machines must state:

- (1) the designating numbers of the candidates and propositions appearing on mechanical voting machine ballot labels, if any;
- (2) separate tabulations of the results registered on each machine for each candidate and proposition;
- (3) the totals of the results for each candidate and proposition from all the machines installed at the polling place; and
- (4) any other information required by the secretary of state. (V.T.E.C. Art. 7.14, Secs. 18(a), (b).)

Sec. 126.002. ENTERING RESULTS ON RETURNS FOR MACHINE WITHOUT PRINTOUT. (a) The election results registered on a mechanical voting machine that does not produce a printout of the votes cast on the machine shall be entered on the election returns as provided by this section.

(b) After a voting machine is secured against unauthorized operation, on direction of the presiding judge an election officer shall open the registering counters and announce the designating number, if any, of each candidate and proposition, the vote for each candidate, and the vote for and against each proposition as indicated on the registering counters. As the results are announced, an election officer shall enter them on the election returns.

(c) An election officer or a watcher designated by the presiding judge shall observe the officer announcing the vote to confirm that the correct vote is announced. Another election officer or watcher shall observe the officer entering the vote on the returns to confirm that the correct vote is entered.

(d) After the entries are made on the election returns, an election officer shall read from the returns the name and designating number, if any, of each candidate, each proposition and its designating number, if any, the vote for each candidate, and the vote for and against each proposition. As the entries are read, another election officer shall verify them by comparing them to the results registered on the voting machine. During the verification, persons lawfully present in the polling place are entitled to compare the entries on the election returns with the results registered on the voting machine. Discrepancies shall be reported to the presiding judge, who shall make the appropriate corrections to the entries.

(e) The registering counters shall remain open and accessible until the entries are verified and corrected. On completion of the verification and correction, an election officer shall resecure the registering counters. (V.T.E.C. Art. 7.14, Secs. 18(a), (b).)

Sec. 126.003. ENTERING RESULTS ON RETURNS FOR MACHINE WITH PRINTOUT. (a) The procedure for entering the election results on the election returns prescribed by Section 126.002 applies to a mechanical voting machine that produces a printout of the votes cast on the machine except as provided by this section.

(b) After a voting machine is secured against unauthorized operation, the presiding judge shall detach the printout from the voting machine. The entries on the returns shall be made by using the printout as the source of the election results instead of the registering counters of the voting machine. The registering counters shall be kept closed to access.

(c) If the identity of the voting machine does not appear on its printout, the presiding judge shall enter the machine's identity on the printout. The presiding judge and two election clerks shall certify that the printout and the machine correspond by signing the printout.

(d) After the entries are verified and corrected, the presiding judge shall deliver the printout to the general custodian of election records who shall preserve it for the period for preserving the precinct election records.

(e) If the printout is illegible, the presiding judge shall note that fact on the returns. Before completing its canvass of the returns, the local canvassing authority shall make the appropriate entries on the returns using the registering counters of the voting machine as the source of the election results. On the written request of the presiding officer of the local canvassing authority, the custodian of the voting machine shall open its registering counters at the time specified by the request for the purpose of obtaining the election results registered on the machine. (V.T.E.C. Art. 7.14, Sec. 18(c); New.)

Sec. 126.004. PROCESSING WRITE-INS RECORDED ON MACHINE. (a) The write-in votes that voters record on a mechanical voting machine shall be counted and the results entered on the election returns as prescribed by the secretary of state.

(b) After the write-in results from a voting machine are entered on the election returns, the write-in record from the machine shall be sealed as prescribed by the secretary of state.

(c) The presiding judge shall deliver the sealed write-in records and a copy of the write-in tally list to the general custodian of election records who shall preserve them for the period for preserving the precinct election records.

(d) The presiding judge shall deliver the other copies of the write-in tally list to each of the authorities who receive tally lists from polling places using paper ballots. (V.T.E.C. Art. 7.14, Secs. 16, 18(b), 18(d); New.)

Sec. 126.005. **PROCESSING PAPER WRITE-IN BALLOTS.** (a) If a vote is cast by paper write-in ballot for a candidate for whom the voter could have voted by machine, the paper write-in vote may not be counted.

(b) The write-in affidavits shall be placed in ballot box no. 3. (V.T.E.C. Art. 7.14, Secs. 16, 16a(b).)

Sec. 126.006. **SUBSTITUTE CONTAINER FOR BALLOT BOX NO. 3 OR NO. 4.** The secretary of state may provide for using envelopes or other containers instead of ballot box no. 3 or no. 4 at polling places using mechanical voting machines at which paper ballots are also used. (New.)

Sec. 126.007. **REVIEW OF ELECTION RETURNS AND CERTIFICATION.** (a) After the results of the election at a polling place using mechanical voting machines have been entered on the election returns, the presiding judge and at least two election clerks shall review the returns to determine whether they are in proper order.

(b) The presiding judge shall make the appropriate corrections in the election returns.

(c) When the reviewing election officers are satisfied that the election returns are in proper order, they shall sign the returns to certify their accuracy. (V.T.E.C. Art. 7.14, Sec. 18(b).)

Sec. 126.008. **DISTRIBUTION OF RETURNS AND POLL LIST.** Three copies of the election returns and two copies of the poll list from each precinct polling place using mechanical voting machines shall be distributed in the same manner as for a precinct polling place using paper ballots, except that none are placed in ballot box no. 3. (V.T.E.C. Art. 7.14, Sec. 18(d); Art. 8.29b(b).)

Sec. 126.009. **DISPOSITION OF KEYS TO MACHINE.** (a) After completion of the election returns, the presiding judge shall place the keys to each mechanical voting machine used at the polling place in a separate envelope and seal the envelope.

(b) The presiding judge and two election clerks shall sign their names across the envelope seal. The presiding judge shall enter on the envelope the date of the election, the identity of the polling place, and any other information required by the secretary of state.

(c) The presiding judge shall deliver the sealed envelope containing the keys to the custodian of the voting machine. The custodian shall preserve the envelope in its sealed condition for the period the voting machine is secured after the election. (V.T.E.C. Art. 7.14, Secs. 18(d), 21; New.)

[Sections 126.010-126.030 reserved for expansion]

SUBCHAPTER B. PRESERVATION OF ELECTION RESULTS

Sec. 126.031. **SECURITY PERIOD FOR PRESERVING ELECTION RESULTS.** (a) The election results registered on a mechanical voting machine shall be preserved on the machine for 10 days after election day unless the machine is required for another election before that time expires. In that case, the results shall be preserved for five days after election day or until the local canvass of the returns containing the election results from the machine is completed, whichever is later.

(b) The custodian of the voting machine shall keep the machine secure against unauthorized operation for the period prescribed by Subsection (a).

(c) The voting machine may be unsecured and cleared of the election results at any time after the security period prescribed by Subsection (a) expires unless the period is extended under this subchapter. (V.T.E.C. Art. 7.14, Sec. 20; New.)

Sec. 126.032. **EXTENSION OF SECURITY PERIOD ON REQUEST.** (a) A mechanical voting machine shall remain secure if, before the security period prescribed by Section 126.031 expires, the machine's custodian receives a request to maintain security of the machine for an extended period.

(b) A request must be in writing and signed by:

(1) a person eligible to contest the election or obtain a recount; or

(2) a public authority authorized to conduct a criminal investigation involving use of the voting machine in the election or a person designated by the public authority to make the request.

(c) The request shall be preserved by the machine's custodian for the period for preserving the precinct election records.

(d) To obtain the release of a voting machine secured under this section, the machine's custodian must petition a district court for the release. Venue of the petition is in the county in which the polling place at which the voting machine was installed is located.

(e) On petition, the court shall issue an order releasing the voting machine unless the party requesting the extended security period establishes that maintaining security of the machine is necessary to the disposition of an election contest, recount, or criminal investigation. In that case, the court shall determine the period for continuing the machine's security and issue an order releasing the machine on expiration of that period. If the machine is required for another election, the court shall order its release for a time before the election that will not interfere with use of the machine in the election.

(f) The voting machine may be unsecured and cleared of election results at any time after the machine is released by the district court.

(g) The requesting party may withdraw the request before a petition is filed under this section by submitting a written retraction to the machine's custodian. If a request is withdrawn, a machine secured by the request may be unsecured and cleared of election results without petitioning a district court for a release. The retraction shall be preserved with the request. (V.T.E.C. Art. 7.14, Sec. 20; New.)

Sec. 126.033. EXTENSION OF SECURITY PERIOD BY COURT. (a) A court or other tribunal of competent jurisdiction may extend the security period prescribed by Section 126.031 if the tribunal determines that an extension might be necessary to the disposition of an election contest, recount, or criminal investigation.

(b) If a tribunal extends the security period, the tribunal shall determine the period for continuing the machine's security and issue an order releasing the machine on the expiration of that period. If the machine is required for another election, the tribunal shall order its release for a time before the election that will not interfere with use of the machine in the election.

(c) The voting machine may be unsecured and cleared of election results at any time after the machine is released by the tribunal. (V.T.E.C. Art. 7.14, Sec. 20; New.)

Sec. 126.034. PRESERVATION OF BALLOT LABEL. (a) The mechanical machine ballot label shall be preserved intact on the voting machine during the period that the machine is secured following an election. After that period expires, the ballot label may be detached from the machine.

(b) If the ballot label is detached from the voting machine before the period for preserving the precinct election records expires, the machine's custodian shall deliver the ballot label to the general custodian of election records.

(c) The ballot label may be discarded or destroyed after the security period expires or the period for preserving the precinct election records expires, whichever is later. (New.)

Sec. 126.035. EXAMINATION OF SECURED MACHINE. (a) During the period that a mechanical voting machine is secured following an election, the machine may be examined only as authorized by this code or on the order of a court or other tribunal of competent jurisdiction.

(b) On completion of an examination, the authority that ordered the examination shall have the machine restored to its secured condition. The person in charge of the examination shall replace the keys to the machine in their envelope, seal the envelope, sign his name across the seal, and return the sealed envelope to the machine's custodian. (V.T.E.C. Art. 7.14, Sec. 20.)

CHAPTER 127. PROCESSING ELECTRONIC VOTING SYSTEM RESULTS

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CHAPTER 127. PROCESSING ELECTRONIC VOTING SYSTEM RESULTS

SUBCHAPTER A. ESTABLISHMENT AND ORGANIZATION OF CENTRAL COUNTING STATION

Sec. 127.001. ESTABLISHMENT OF CENTRAL COUNTING STATION. (a) The authority adopting an electronic voting system for use in an election may establish, in accordance with this subchapter, one or more central counting stations for counting the ballots if the voting system is designed to have ballots counted at a central location.

(b) If the adopting authority does not establish a central counting station for the election, the authority shall designate one or more counting stations established by another authority.

(c) The central counting station must be located in the county in which the political subdivision served by the authority adopting the voting system is wholly or partly situated or in a county contiguous to that county. (V.T.E.C. Art. 7.15, Subdiv. 20(a); New.)

Sec. 127.002. COUNTING STATION MANAGER. (a) The authority establishing a central counting station shall appoint a manager of the station.

(b) To be eligible for appointment, a person must:

(1) have knowledge and experience in the conduct of elections with the electronic voting system for which the counting station is established; and

(2) be a registered voter of the political subdivision served by the authority establishing the counting station, except during the first year following the adoption of the voting system.

(c) Officers and employees of a political subdivision are not disqualified from appointment and, if appointed, may be paid additional compensation for their services.

(d) The manager is in charge of the overall administration of the central counting station and the general supervision of the personnel working at the station.

(e) The manager is entitled to compensation in an amount fixed by the authority establishing the counting station. (V.T.E.C. Art. 7.15, Subdivs. 20(a), (c).)

Sec. 127.003. TABULATION SUPERVISOR. (a) The authority establishing a central counting station shall appoint a tabulation supervisor of the station.

(b) To be eligible for appointment, a person must be trained in the operation of the automatic tabulating equipment installed at the counting station.

(c) Officers and employees of a political subdivision are not disqualified from appointment and, if appointed, may be paid additional compensation for their services.

(d) The tabulation supervisor is in charge of the operation of the automatic tabulating equipment at the counting station.

(e) The tabulation supervisor is entitled to compensation in an amount fixed by the authority establishing the counting station. (V.T.E.C. Art. 7.15, Subdivs. 20(b), (c).)

Sec. 127.004. ASSISTANTS TO TABULATION SUPERVISOR. (a) The tabulation supervisor may appoint one or more assistants, each of whom must be approved by the authority establishing the central counting station.

(b) To be eligible for appointment, a person must have the competence, training, and experience required for the proper performance of the work assigned.

(c) Officers and employees of the political subdivision are not disqualified from appointment and, if appointed, may be paid additional compensation for their services.

(d) An assistant shall assist the tabulation supervisor in the operation of the automatic tabulating equipment as directed by the tabulation supervisor.

(e) An assistant is entitled to compensation in an amount fixed by the authority establishing the counting station. (V.T.E.C. Art. 7.15, Subdivs. 20(b), (c).)

Sec. 127.005. **PRESIDING JUDGE OF COUNTING STATION.** (a) The authority appointing the presiding judges to serve in an election shall appoint a presiding judge of each central counting station operating in the election.

(b) The eligibility requirements prescribed by this code for precinct presiding judges do not apply to a presiding judge of a central counting station. To be eligible to serve as a judge under this section, a person must be a qualified voter of the political subdivision served by the authority adopting the voting system. A person is ineligible to serve as a judge if the person is related within the second degree by consanguinity or affinity to an opposed candidate in the election for a public office, other than the office of county clerk, or the party office of county chairman. For purposes of this subsection, a candidate whose name appears on the ballot is not considered to be opposed by a write-in candidate other than a declared write-in candidate under Chapter 146. In this subsection, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

(c) The presiding judge shall maintain order at the counting station and has the same authority as a precinct presiding judge in that respect and in the administration of oaths. The presiding judge may confer with and advise the manager or tabulation supervisor on any activity at the counting station.

(d) The presiding judge is entitled to compensation at the same rate as a precinct presiding judge, except that the counting station judge is entitled to a minimum compensation of five hours' pay regardless of the amount of time worked. (V.T.E.C. Art. 7.15, Subdiv. 20(d); New.)

Sec. 127.006. **COUNTING STATION CLERKS.** (a) Both the manager and the presiding judge may appoint clerks to serve at the central counting station.

(b) The eligibility requirements prescribed by this code for precinct election clerks do not apply to clerks serving at a central counting station. To be eligible to serve as a clerk under this section, a person must be a qualified voter of the county in which the central counting station is located. A person is ineligible to serve as a clerk if the person is related within the second degree by consanguinity or affinity to an opposed candidate in the election for a public office, other than the office of county clerk, or the party office of county chairman. For purposes of this subsection, a candidate whose name appears on the ballot is not considered to be opposed by a write-in candidate other than a declared write-in candidate under Chapter 146. In this subsection, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

(c) A clerk appointed by the manager serves under the manager and shall perform the functions directed by the manager. A clerk appointed by the presiding judge serves under the presiding judge and shall perform the functions directed by the presiding judge.

(d) A clerk is entitled to compensation at the same rate as a precinct election clerk, except that a clerk who serves for the entire time a counting station is in operation is entitled to a minimum compensation of three hours' pay regardless of the amount of time worked. (V.T.E.C. Art. 7.15, Subdiv. 20(e); New.)

Sec. 127.007. **PLAN FOR COUNTING STATION OPERATION.** The manager shall establish and implement a written plan for the orderly operation of the central counting station. (V.T.E.C. Art. 7.15, Subdiv. 20(a); New.)

[Sections 127.008-127.030 reserved for expansion]

SUBCHAPTER B. PROCEDURES PRELIMINARY TO COUNTING STATION PROCESSING

Sec. 127.031. **APPLICABILITY OF SUBCHAPTER.** This subchapter applies to an electronic voting system in which ballots are to be counted at a central counting station unless the authority adopting the voting system provides for using sealed ballot boxes under Subchapter C as an alternative to the rotation of ballot boxes. (V.T.E.C. Art. 7.15, Subdiv. 19(e).)

Sec. 127.032. **CONTAINER FOR DELIVERING BALLOTS TO COUNTING STATION.** (a) The container for delivering electronic system ballots from the polling place to the central counting station shall be designed and constructed so that:

(1) the ballots can be deposited and delivered without damage that will render them unfit for processing in automatic tabulating equipment; and

(2) the container can be sealed to detect unauthorized deposit in and removal from the container.

(b) The container shall be designated as ballot box no. 3 for the precinct. (V.T.E.C. Art. 7.15, Subdivs. 15, 19(c); New.)

Sec. 127.033. SEALS FOR BALLOT BOX NO. 3. (a) Ballot box no. 3 shall be provided with a seal.

(b) The seals for the boxes must be serially numbered for each election.

(c) The authority responsible for distributing election supplies to the polling places shall prepare a record of the serial numbers of the seals and preserve the record for the period for preserving the precinct election records. The authority shall provide each central counting station with a copy of the record before ballots are delivered to the station for processing. (V.T.E.C. Art. 7.15, Subdiv. 19(c).)

Sec. 127.034. PROCESSING BALLOTS AT POLLING PLACE. (a) On direction of the presiding judge, the election officers responsible for preparing the ballots for delivery to the central counting station shall remove the ballots from the ballot boxes in which they were deposited by the voters.

(b) The election officers shall sort the damaged ballots, the ballots containing write-in votes, and any other ballots requiring special handling, as directed by the presiding judge, and place the sorted ballots into the appropriate envelopes or other containers provided for that purpose.

(c) The write-in votes shall be counted at the polling place unless they are to be counted at the central counting station.

(d) An election officer shall place the sorted ballots in ballot box no. 3. (V.T.E.C. Art. 7.15, Subdivs. 11(c)(5), 19(a), 19(c).)

Sec. 127.035. DISPOSITION OF ELECTION RECORDS. (a) An election officer shall place the precinct election records in the appropriate envelopes or other containers provided for that purpose and, except as provided by Subsection (b), shall place the records in ballot box no. 3.

(b) The appropriate election records shall be retained by the presiding judge or placed in ballot box no. 4, as applicable, in the same manner as for a polling place using regular paper ballots. (V.T.E.C. Art. 7.15, Subdivs. 19(b), (c).)

Sec. 127.036. SEALING BALLOT BOX NO. 3. (a) After the electronic system ballots and precinct election records are placed in ballot box no. 3, the presiding judge shall prepare an original and a copy of a certificate recording the number of ballots in ballot box no. 3 and the serial number of the seal to be used to seal the box.

(b) The presiding judge shall sign the certificate and have at least one election clerk and not more than two watchers, if one or more watchers are present, certify that the information contained in the certificate is correct by signing the certificate. The watchers must be of opposing interests if such watchers are present.

(c) On completing the certificate, the presiding judge shall place the original in ballot box no. 3 and immediately have the box sealed so that nothing can be deposited or removed without breaking the seal.

(d) The presiding judge shall retain the copy of the certificate and preserve it for the period for preserving the precinct election records. (V.T.E.C. Art. 7.15, Subdiv. 19(c).)

Sec. 127.037. DELIVERING BALLOT BOX NO. 3 TO COUNTING STATION. (a) Two election officers shall deliver ballot box no. 3 to the central counting station immediately after the box is sealed.

(b) The officers shall present the ballot box to the presiding judge of the counting station or to his designee. (V.T.E.C. Art. 7.15, Subdiv. 19(d).)

Sec. 127.038. RECEIVING BALLOT BOX NO. 3 AT COUNTING STATION. (a) On receipt of ballot box no. 3, the presiding judge of the central counting station or his designee shall give a signed receipt for the box to one of the delivering officers. The presiding judge at the polling place shall preserve the receipt for the period for preserving the precinct election records.

(b) Before opening the ballot box, the presiding judge of the counting station or his designee shall inspect the box and the seal to determine if they are intact and shall determine if the serial number on the seal corresponds with the number indicated on the record of serial numbers at the counting station. If the box and seal are intact and the serial numbers correspond, the judge or designee shall break the seal and open the box.

(c) On opening the ballot box, the judge or his designee shall determine if the serial number on the seal corresponds with the serial number indicated on the certificate inside the ballot box.

(d) If any irregularities are discovered, the presiding judge shall take appropriate action in accordance with procedures prescribed by the secretary of state. If the contents of the ballot box are in order, the presiding judge shall deliver the ballots to the manager of the central counting station.

(e) The presiding judge shall preserve the seal and the certificate for the period for preserving the precinct election records. (V.T.E.C. Art. 7.15, Subdiv. 19(d); New.)

[Sections 127.039-127.060 reserved for expansion]

SUBCHAPTER C. SEALED BALLOT BOXES

Sec. 127.061. **AUTHORITY TO USE SEALED BALLOT BOXES.** As an alternative to the procedure of Subchapter B, the authority adopting the voting system may provide by resolution, order, or other official action for the use of sealed ballot boxes in accordance with this subchapter. (V.T.E.C. Art. 7.15, Subdiv. 19(e).)

Sec. 127.062. **RESTRICTING SEALED BALLOT BOXES TO PARTICULAR POLLING PLACES.** The authority adopting the voting system may restrict the use of sealed ballot boxes to particular polling places. (V.T.E.C. Art. 7.15, Subdiv. 19(e).)

Sec. 127.063. **DESIGN OF BALLOT BOX.** A sealed ballot box used under this subchapter must be equipped with a lock to prevent opening the box without a key and designed and constructed so that:

(1) the ballots can be deposited and delivered without damage that will render them unfit for processing in automatic tabulating equipment;

(2) the box can be sealed to detect any unauthorized opening of the box; and

(3) the slot used by voters to deposit ballots can be sealed to prevent any unauthorized deposit in the box. (V.T.E.C. Art. 7.15, Subdivs. 15, 19(e).)

Sec. 127.064. **SEALS FOR BALLOT BOXES.** (a) A seal shall be provided for each ballot box used under this subchapter.

(b) The seals for the boxes must be serially numbered for each election.

(c) The authority responsible for distributing election supplies to the polling places shall prepare a record of the serial numbers of the seals and preserve the record for the period for preserving the precinct election records. The authority shall provide each central counting station with a copy of the record before ballots are delivered to the station for processing. (V.T.E.C. Art. 7.15, Subdiv. 19(e).)

Sec. 127.065. **SEALING BALLOT BOX; DELIVERY TO POLLING PLACE.** (a) An adequate number of sealed ballot boxes shall be provided for each polling place at which sealed boxes are to be used.

(b) Before the ballot boxes are delivered to the polling places, the authority responsible for distributing election supplies to the polling places shall inspect and empty each box. The authority shall then lock the empty box and seal it so that the box cannot be opened without breaking the seal.

(c) Once sealed, the ballot boxes may not be opened except as provided by Section 127.068.

(d) After the ballot boxes are locked and sealed, the authority responsible for distributing election supplies shall have the ballot boxes delivered to the polling places and have the keys delivered to the presiding judge of the central counting station. (V.T.E.C. Art. 7.15, Subdiv. 19(e).)

Sec. 127.066. **SEALING DEPOSIT SLOT; DELIVERY OF SEALED BALLOT BOX TO COUNTING STATION.** (a) Immediately on completion of voting at a polling place using sealed ballot boxes or, if the presiding judge inactivates a sealed ballot box before completion of voting, immediately on inactivation, an election officer shall seal the deposit slot in each box so that nothing can be deposited through the slot without breaking the seal.

(b) The presiding judge, an election clerk, and not more than two watchers, if one or more watchers are present, shall sign the seal. The watchers must be of opposing interests if such watchers are present.

(c) After the box is sealed, it shall be delivered to the central counting station in accordance with the procedure for delivering ballot box no. 3 to the central counting station. (V.T.E.C. Art. 7.15, Subdiv. 19(e).)

Sec. 127.067. **DISPOSITION OF ELECTION RECORDS.** (a) An election officer shall place the precinct election records in the appropriate envelopes or other containers provided for that purpose.

(b) Except as provided by Subsection (c), the precinct election records shall be delivered to the presiding judge of the central counting station with the delivery of the last sealed ballot box.

(c) The appropriate election records shall be retained by the presiding judge or placed in ballot box no. 4, as applicable, in the same manner as for a polling place using regular paper ballots. (V.T.E.C. Art. 7.15, Subdiv. 19(e).)

Sec. 127.068. RECEIVING SEALED BALLOT BOX AT COUNTING STATION. (a) On receipt of a sealed ballot box, the presiding judge of the central counting station or his designee shall give a signed receipt for the box to one of the delivering officers. The presiding judge at the polling place shall preserve the receipt for the period for preserving the precinct election records.

(b) Before opening the ballot box, the presiding judge of the counting station or his designee shall inspect the box, the seal of the box, and the seal of the deposit slot to determine if they are intact and shall determine if the serial number on the seal of the box corresponds with the number indicated on the record of serial numbers at the counting station. If the box and both seals are intact and the serial numbers correspond, the judge or designee shall break the seals, unlock the lock, and open the box.

(c) If any irregularities are discovered, the presiding judge shall take appropriate action in accordance with procedures prescribed by the secretary of state.

(d) The presiding judge of the counting station shall preserve both seals for the period for preserving the precinct election records. (V.T.E.C. Art. 7.15, Subdiv. 19(e); New.)

Sec. 127.069. SORTING BALLOTS. (a) After opening a sealed ballot box, the presiding judge of the central counting station shall sort the damaged ballots, the ballots containing write-in votes, and any other ballots requiring special handling and place them in the appropriate envelopes or other containers provided for that purpose.

(b) After the ballots are sorted, the presiding judge shall deliver them to the manager of the central counting station. (V.T.E.C. Art. 7.15, Subdivs. 19(a), (e).)

[Sections 127.070-127.090 reserved for expansion]

SUBCHAPTER D. TESTING TABULATING EQUIPMENT

Sec. 127.091. TEST OF TABULATING EQUIPMENT REQUIRED. The automatic tabulating equipment used for counting ballots at a central counting station shall be tested as provided by this subchapter. (V.T.E.C. Art. 7.15, Subdiv. 20(f).)

Sec. 127.092. TESTING AUTHORITIES. The programmer, tabulation supervisor, counting station manager, and presiding judge of the central counting station shall prepare and conduct the test jointly. (V.T.E.C. Art. 7.15, Subdiv. 20(f).)

Sec. 127.093. TIMES FOR CONDUCTING TEST. (a) The test shall be conducted three times for each election.

(b) The first test shall be conducted at least 48 hours before the automatic tabulating equipment is used to count ballots voted in the election.

(c) The second test shall be conducted immediately before the counting of ballots with the equipment begins.

(d) The third test shall be conducted immediately after the counting of ballots with the equipment is completed. (V.T.E.C. Art. 7.15, Subdiv. 20(f); New.)

Sec. 127.094. DESIGN OF TEST. (a) The test must be designed to determine whether the automatic tabulating equipment accurately counts ballots and otherwise functions properly.

(b) A group of test ballots shall be counted with the equipment using the program prepared for processing the ballots voted in the election. The test ballots must be printed on the same stock as the official ballots for the election.

(c) The group of test ballots must contain a predetermined number of valid votes for each candidate and for and against each proposition on the ballot for the election. The test group must also contain ballots with votes in excess of the allowable number and with other improper votes.

(d) The same test shall be administered each time the equipment is tested for the same election.

(e) The secretary of state may prescribe additional requirements for the test. (V.T.E.C. Art. 7.15, Subdiv. 20(f); New.)

Sec. 127.095. DETERMINING SUCCESS OF TEST. (a) A test is successful if a perfect count of the test ballots is obtained and the automatic tabulating equipment otherwise functions properly during the counting of the test ballots.

(b) The testing authorities shall determine whether a test is successful. (V.T.E.C. Art. 7.15, Subdiv. 20(f); New.)

Sec. 127.096. CONDUCT OF FIRST TEST. (a) The presiding judge of the central counting station shall publish notice of the time and place of the test conducted under Section 127.093(b) in a newspaper, as provided by general law for official publications by political subdivisions, at least 48 hours before the date of the test.

(b) The test is open to the public.

(c) The automatic tabulating equipment may not be used to count ballots voted in the election until a test is successful. (V.T.E.C. Art. 7.15, Subdiv. 20(f); New.)

Sec. 127.097. CONDUCT OF SECOND TEST. (a) The automatic tabulating equipment may not be used to count ballots voted in the election until a test conducted under Section 127.093(c) is successful.

(b) If the initial test is unsuccessful, the presiding judge shall prepare a written record of the changes to the program, adjustments to the equipment, and other actions taken to achieve a successful test. The record shall be retained with the test materials.

(c) When a test is successful, the presiding judge shall certify in writing that a test was successful and the date and hour the test was completed. The certification shall be retained with the test materials. (V.T.E.C. Art. 7.15, Subdiv. 20(f); New.)

Sec. 127.098. CONDUCT OF THIRD TEST; VOID BALLOT COUNT. (a) If the initial test conducted under Section 127.093(d) is unsuccessful, the count of ballots voted in the election obtained with the automatic tabulating equipment is void.

(b) If the initial test is successful, the automatic count of ballots voted in the election is valid for the purpose of certifying the election returns prepared at the central counting station. The presiding judge shall certify in writing that the initial test was successful and the date and hour the test was completed. The certification shall be retained with the test materials.

(c) If the ballot count is void under Subsection (a), the testing authorities shall follow the procedure prescribed by Section 127.097. When a test is successful, the ballots to be counted automatically shall immediately be counted. Immediately on completing the automatic count, the equipment shall again be tested, and if the initial test is successful the automatic count is valid for the purpose of certifying the election returns. Otherwise, the automatic ballot count is void.

(d) The procedure prescribed by Subsection (c) shall be repeated until a valid automatic count is obtained or the testing authorities determine that obtaining a valid automatic count is impracticable. In that case, the ballots shall be counted manually. (V.T.E.C. Art. 7.15, Subdiv. 20(f); New.)

Sec. 127.099. SECURITY OF TEST MATERIALS. (a) On completing each test, the presiding judge shall place the test ballots and other test materials in a container provided for that purpose and seal the container so it cannot be opened without breaking the seal. The manager, tabulation supervisor, presiding judge, and not more than two watchers, if one or more watchers are present, shall sign the seal. The watchers must be of opposing interests if such watchers are present.

(b) The test materials shall remain sealed for the period for preserving the precinct election records.

(c) The container may not be unsealed unless the contents are necessary to conduct a test under this subchapter, a criminal investigation, election contest, or other official proceeding under this code. If the container is unsealed, the authority in charge of the proceeding shall reseal the contents when not in use. (V.T.E.C. Art. 7.15, Subdiv. 20(f); New.)

Sec. 127.100. CUSTODY OF TEST MATERIALS. (a) The presiding judge is the custodian of the test materials until they are delivered under Subsection (b).

(b) The sealed container holding the test materials shall be delivered to the general custodian of election records with the delivery of the election returns prepared at the counting station. (V.T.E.C. Art. 7.15, Subdiv. 20(f); New.)

[Sections 127.101-127.120 reserved for expansion]

SUBCHAPTER E. PROCESSING RESULTS AT CENTRAL COUNTING STATION

Sec. 127.121. PROGRAMMER FOR TABULATING EQUIPMENT. (a) If the automatic tabulating equipment to be used for counting ballots at a central counting station requires the preparation of a program, the authority responsible for having the ballot prepared for the election shall appoint a programmer.

(b) Any person who has the competence required to prepare the program is eligible for appointment. (V.T.E.C. Art. 7.15, Subdiv. 11a(b).)

Sec. 127.122. APPROVAL OF PROGRAM. If a person other than the tabulation supervisor is appointed as the programmer, the program shall be submitted to the tabulation supervisor for approval not later than the 10th day before the date the automatic tabulating equipment for which the program is prepared is first used to count ballots voted in the election. (V.T.E.C. Art. 7.15, Subdiv. 11a(b).)

Sec. 127.123. SECURITY OF PROGRAM. (a) The tabulation supervisor shall protect the program prepared for the automatic tabulating equipment installed at the central counting station from tampering and unauthorized use, as prescribed by the secretary of state.

(b) After the automatic counting of ballots is completed, the program shall be sealed in the container for the secured test materials. The program shall remain in the sealed container for the same period as the test materials and may be unsealed only under the same conditions as the test materials.

(c) The secretary of state shall prescribe procedures for the security of programs for central counting station equipment for which compliance with this section is impracticable. (V.T.E.C. Art. 7.15, Subdiv. 20(f); New.)

Sec. 127.124. **EARLY PROCESSING OF BALLOTS.** (a) The authority adopting an electronic voting system for use in an election in which ballots are processed at a central counting station may provide by resolution, order, or other official action that processing the electronic system ballots will begin while the polls are open for voting on election day.

(b) The authority shall state in the official action the intervals during the day at which the ballots are to be delivered from the polling places to the central counting station for processing.

(c) The boxes in which the ballots are delivered to the counting station may be returned to the polling places for use in subsequent deliveries. If a box to be reused is a sealed ballot box authorized by Subchapter C, the authority responsible for distributing election supplies to the polling places, or his designee, shall lock and seal the box at the counting station in the same manner as for the initial locking and sealing of the box and then deliver it to the appropriate polling place.

(d) The precinct election records shall be delivered to the central counting station in the last ballot box delivered from the polling place to the counting station.

(e) The authority may restrict early ballot processing to ballots voted at particular polling places by designating the polling places in the official action providing for the early processing. The authority may restrict the early processing to activities preparatory to the counting of ballots by stating in the official action the activities that are to be performed before the closing of the polls.

(f) Early processing of ballots under this section does not affect the time at which the results of the election may be disclosed.

(g) If the counting of ballots begins before the polls close, the provisions applicable to absences from the polling place by election officers while the polls are open apply to the personnel serving at the central counting station. The presiding judge shall supervise the absences. (V.T.E.C. Art. 7.15, Subdivs. 18(b), 19(e), 20(d).)

Sec. 127.125. **PREPARING BALLOTS FOR AUTOMATIC COUNTING.** (a) The manager of a central counting station shall have the ballots prepared for automatic counting.

(b) The manager shall determine whether the ballots to be counted automatically are ready for counting and when ready shall approve them for counting.

(c) After the ballots are approved for counting, the manager shall deliver them to the tabulation supervisor or to the supervisor's designee. (V.T.E.C. Art. 7.15, Subdiv. 20(j).)

Sec. 127.126. **DUPLICATING BALLOTS.** (a) The manager of a central counting station may have ballots duplicated for automatic counting as provided by this section.

(b) The valid portion of a partially invalid ballot may be duplicated on another ballot so that the valid portion can be automatically counted.

(c) If an electronic system ballot is damaged to the extent it cannot be automatically counted, the ballot may be duplicated so it can be automatically counted.

(d) Each duplicate ballot must be clearly labeled "Duplicate" and must bear a serial number, which shall also be placed on the corresponding original ballot.

(e) The duplicate shall be substituted for the original ballot in the ballots prepared for automatic counting. The original shall be preserved with the other voted ballots for the same period. (V.T.E.C. Art. 7.15, Subdivs. 20(h), (i).)

Sec. 127.127. **OPERATING EQUIPMENT AND HANDLING BALLOTS RESTRICTED.** A person other than the tabulation supervisor and the assistants to the tabulation supervisor may not operate the automatic tabulating equipment or handle the ballots that are automatically counted from the time the ballots are delivered to the tabulation supervisor for counting until the automatic counting is completed. (V.T.E.C. Art. 7.15, Subdiv. 20(b).)

Sec. 127.128. **BALLOTS TABULATED BY PRECINCT.** The automatically counted ballots shall be separately tabulated according to election precinct. (V.T.E.C. Art. 7.15, Subdiv. 20(g).)

Sec. 127.129. **CORRECTION OF RESULTS AFTER EQUIPMENT MALFUNCTION.** The secretary of state shall prescribe procedures for correcting results after the discovery of an equipment malfunction that caused the results to be incorrect. (New.)

Sec. 127.130. **MANUAL COUNTING.** (a) Electronic system ballots that are not to be counted automatically and the write-in votes not counted at the polling places shall be counted manually at the central counting station.

(b) If the automatic counting of electronic system ballots becomes impracticable for any reason, the manager may direct that the ballots be counted manually at the central counting station.

(c) The procedure for manual counting is the same as that for regular paper ballots to the extent practicable. The manager is responsible for the manual counting of ballots at the central counting station. (V.T.E.C. Art. 7.15, Subdivs. 20(h), (i), (l).)

Sec. 127.131. PREPARING RETURNS. (a) After the automatic counting of ballots for each precinct is completed, the presiding judge of the central counting station shall prepare the election returns for that precinct and sign the returns to certify their accuracy.

(b) In addition to the results of the automatically counted votes, the returns must include the results of the manually counted votes.

(c) The same number of copies of the returns shall be prepared as for a precinct polling place using regular paper ballots.

(d) The returns may not be certified until a valid automatic count is obtained or a manual count is completed, as appropriate.

(e) If the automatic tabulating equipment produces a printout that contains all information required to appear on the election returns, the printout with the addition of the manually counted votes constitutes the return. (V.T.E.C. Art. 7.15, Subdivs. 9(b), 20(k), 20(m).)

Sec. 127.132. DISPOSITION OF BALLOTS, RETURNS, AND OTHER RECORDS. (a) The presiding judge of a central counting station shall distribute the voted ballots, election returns, and other election records from the counting station to the appropriate authorities.

(b) The voted ballots, election returns, poll list, tally lists for manually counted votes, and other election records shall be delivered to the authorities who receive the corresponding records from precinct polling places using regular paper ballots.

(c) The election records delivered to the general custodian of election records may be delivered in ballot box no. 3 or any other container approved by the secretary of state for that purpose. (V.T.E.C. Art. 7.15, Subdiv. 20(k); New.)

[Sections 127.133-127.150 reserved for expansion]

SUBCHAPTER F. PROCESSING RESULTS IN SYSTEM WITHOUT CENTRALIZED COUNTING

Sec. 127.151. PROCEDURES PRESCRIBED BY SECRETARY OF STATE. The secretary of state shall prescribe the procedures for processing the election results in electronic voting systems that do not entail the counting of ballots at central locations established under Subchapter A. (V.T.E.C. Art. 7.17a(c).)

[Sections 127.152-127.180 reserved for expansion]

SUBCHAPTER G. PRESERVATION OF PUNCH-CARD VOTING AIDS

Sec. 127.181. SECURITY PERIOD FOR PRESERVING VOTING DEVICE. (a) The custodian shall preserve each voting device used in an election in its secured condition for the same period following the election as prescribed by Section 126.031 for securing a voting machine.

(b) The security period may be extended as provided by Sections 126.032 and 126.033 for extending the voting machine security period, with appropriate changes, except that the period may not be extended in connection with a recount. (New.)

Sec. 127.182. PRESERVATION OF PUNCH-CARD BALLOT LABEL AND ASSEMBLY. (a) The ballot label assembly for a voting device, including the punch-card ballot label, shall be preserved intact in the voting device during the period that the voting device is secured following an election. After that period expires, the assembly may be detached from the device.

(b) If the ballot label assembly is detached from the voting device before the period for preserving the precinct election records expires, the custodian of the voting device shall deliver the assembly to the general custodian of election records. The general custodian shall preserve the punch-card ballot label intact in the ballot label assembly for the period for preserving the precinct election records. After that period expires, the ballot label may be separated from the assembly.

(c) The ballot label may be discarded or destroyed after the security period expires or after the period for preserving the precinct election records expires, whichever is later.

(d) The secretary of state shall prescribe the elements constituting the ballot label assembly to be preserved under this section for each of the different kinds of voting devices approved for use in elections. (V.T.E.C. Art. 7.15, Subdiv. 22; New.)

Sec. 127.183. EXAMINATION OF SECURED VOTING DEVICE. During the period a voting device is secured following an election, the device may be examined only as authorized by Section 126.035 for examination of secured voting machines. (New.)

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TITLE 9. CANDIDATES

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TITLE 9. CANDIDATES

CHAPTER 141. CANDIDACY FOR PUBLIC OFFICE GENERALLY

SUBCHAPTER A. ELIGIBILITY FOR PUBLIC OFFICE

Sec. 141.001. **ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFICE.** (a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

- (1) be a United States citizen;
- (2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;
- (3) have not been determined mentally incompetent by a final judgment of a court;
- (4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
 - (A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;
 - (B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;
 - (C) for a write-in candidate, the date of the election at which the candidate's name is written in;
 - (D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and
 - (E) for an appointee to an office, the date the appointment is made; and
- (6) satisfy any other eligibility requirements prescribed by law for the office.

(b) A statute outside this code supersedes Subsection (a) to the extent of any conflict.

(c) Subsection (a) does not apply to an office for which the federal or state constitution or a statute outside this code prescribes exclusive eligibility requirements. (V.T.E.C. Art. 1.05, Subdiv. 1, 2.)

Sec. 141.002. **EFFECT OF BOUNDARY CHANGE ON RESIDENCE REQUIREMENT FOR PRECINCT OFFICE.** (a) Instead of the six-month residence requirement prescribed by Section 141.001(a)(5), a candidate for or appointee to a precinct office must be a resident of the precinct on the date prescribed by Section 141.001(a)(5) and must have resided continuously in the county in which the precinct is located for six months immediately preceding that date if an order creating the precinct or changing the boundary of the precinct:

- (1) was adopted less than seven months before that date; or
- (2) was in litigation at any time during the seventh month immediately preceding that date.

(b) For the purpose of this section, an order is in litigation if the judgment concluding a judicial proceeding in which the order is mandated or the validity of the order is challenged has not become final. (V.T.E.C. Art. 1.05, Subdiv. 2a.)

Sec. 141.003. **AGE AND RESIDENCE REQUIREMENTS FOR HOME-RULE CITY OFFICE.** (a) Different age and residence requirements from those prescribed by Section 141.001 may be prescribed by a home-rule city charter, but a minimum age may not be more than 21 years and a minimum length of residence in the state or city may not be more than 12 months immediately preceding election day.

(b) A charter provision is void if it prescribes a minimum age requirement of more than 21 years or a minimum length of residence requirement of more than 12 months. (V.T.E.C. Art. 1.05, Subdiv. 3; New.)

Sec. 141.004. **EFFECT OF BOUNDARY CHANGE ON RESIDENCE REQUIREMENT FOR CITY OFFICE.** In determining whether a person has complied with a residence requirement under Section 141.001 or 141.003 for a city office, residence in an area while the area was not part of the city is considered as residence within the city if the area is part of the city on the date that is the basis for determining the applicable period of residence. (V.T.E.C. Art. 1.05, Subdiv. 6.)

[Sections 141.005-141.030 reserved for expansion]

SUBCHAPTER B. APPLICATION FOR PLACE ON BALLOT

Sec. 141.031. **GENERAL REQUIREMENTS FOR APPLICATION.** A candidate's application for a place on the ballot that is required by this code must:

- (1) be in writing;

- (2) be signed and sworn to by the candidate and indicate the date that the candidate swears to the application;
- (3) be timely filed with the appropriate authority; and
- (4) include:
 - (A) the candidate's name;
 - (B) the candidate's occupation;
 - (C) the office sought, including any place number or other distinguishing number;
 - (D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;
 - (E) a statement that the candidate is a United States citizen;
 - (F) a statement that the candidate has not been determined mentally incompetent by a final judgment of a court;
 - (G) a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities;
 - (H) the candidate's date of birth;
 - (I) the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence;
 - (J) the candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application; and
 - (K) the statement: "I, _____, of _____ County, Texas, being a candidate for the office of _____, swear that I will support and defend the constitution and laws of the United States and of the State of Texas." (V.T.E.C. Art. 4.10, Subdiv. 1; Arts. 6.02, 12.03, 13.09(d), 13.12(b); Art. 13.50, Subdiv. 2; Art. 13.59; New.)

Sec. 141.032. **REVIEW OF APPLICATION; NOTICE TO CANDIDATE.** (a) On the filing of an application for a place on the ballot, the authority with whom the application is filed shall review the application to determine whether it complies with the requirements as to form, content, and procedure that it must satisfy for the candidate's name to be placed on the ballot.

(b) Except as provided by Subsection (c), the review shall be completed not later than the fifth day after the date the application is received by the authority.

(c) If an application is accompanied by a petition, the petition is considered part of the application, and the review shall be completed as soon as practicable after the date the application is received by the authority.

(d) A determination under this section that an application complies with the applicable requirements does not preclude a subsequent determination that the application does not comply.

(e) If an application does not comply with the applicable requirements, the authority shall reject the application and immediately deliver to the candidate written notice of the reason for the rejection. (V.T.E.C. Art. 4.10, Subdiv. 3; Art. 13.52; New.)

Sec. 141.033. **FILING APPLICATIONS FOR MORE THAN ONE OFFICE PROHIBITED.** (a) A candidate may not file applications for a place on the ballot for two or more offices that:

- (1) are not permitted by law to be held by the same person; and
- (2) are to be voted on at one or more elections held on the same day.

(b) If a person files more than one application for a place on a ballot in violation of this section, each application filed subsequent to the first one filed is invalid.

(c) This section does not apply to candidacy for the office of president or vice-president of the United States and another office. (V.T.E.C. Art. 6.01; New.)

Sec. 141.034. **LIMITATION ON CHALLENGE OF APPLICATION.** An application for a place on the ballot may not be challenged for compliance with the applicable requirements as to form and procedure after the day before the beginning of absentee voting by personal appearance for the election for which the application is made. (New.)

Sec. 141.035. **APPLICATION AS PUBLIC INFORMATION.** An application for a place on the ballot, including an accompanying petition, is public information immediately on its filing. (New.)

Sec. 141.036. **PRESERVATION OF APPLICATION.** The authority with whom an application for a place on the ballot is required to be filed shall preserve each application filed with the authority for two years after the date of the election for which the application is made. (New.)

Sec. 141.037. **FORM OF NAME CERTIFIED FOR PLACEMENT ON BALLOT.** An authority responsible for certifying the names of candidates for placement on the ballot shall certify each name in the form indicated on the candidate's application for a place on the ballot, subject to Subchapter B, Chapter 52. (V.T.E.C. Art. 6.01a.)

Sec. 141.038. **REFUND OF FILING FEE.** (a) A filing fee paid in connection with a candidate's application for a place on the ballot shall be refunded to the candidate or to his estate, as appropriate, if before the date of the election for which the application is made:

- (1) the candidate dies;
- (2) the candidate is declared ineligible; or
- (3) the candidate's application for a place on the ballot is determined not to comply with the requirements as to form and procedure that it must satisfy for the candidate's name to be placed on the ballot.

(b) A claim for a refund of a filing fee must be presented to the authority with whom the candidate's application for a place on the ballot is filed.

(c) A filing fee may not be refunded except as provided by this section.

(d) The refunding of filing fees for home-rule city offices may be regulated by the city charter, and those regulations supersede this section to the extent of any conflict. (V.T.E.C. Art. 13.08b; New.)

Sec. 141.039. **OFFICIAL APPLICATION FORM.** In addition to the other statements and spaces for entering information that appear on an officially prescribed form for an application for a place on the ballot, each official form for an application that a candidate is required to file under this code must include:

- (1) a space for indicating the form in which the candidate's name is to appear on the ballot;
- (2) a space for the candidate's mailing address;
- (3) spaces for the candidate's home and office telephone numbers; and
- (4) a statement informing candidates that the furnishing of the telephone numbers is optional. (V.T.E.C. Art. 13.12(b); New.)

[Sections 141.040-141.060 reserved for expansion]

SUBCHAPTER C. PETITION

Sec. 141.061. **APPLICABILITY OF SUBCHAPTER.** This subchapter applies to a petition filed under this code in connection with a candidate's application for a place on the ballot. (New.)

Sec. 141.062. **VALIDITY OF PETITION.** (a) To be valid, a petition must:

- (1) be timely filed with the appropriate authority;
- (2) contain valid signatures in the number required by this code; and
- (3) comply with any other applicable requirements for validity prescribed by this code.

(b) A petition may consist of multiple parts. (V.T.E.C. Art. 4.10, Subdiv. 3; Art. 11.01b, Subdiv. 4; Art. 13.08(d); Art. 13.50.)

Sec. 141.063. **VALIDITY OF SIGNATURE.** A signature on a petition is valid if:

(1) except as otherwise provided by this code, the signer, at the time of signing, is a registered voter of the territory from which the office sought is elected or has been issued a registration certificate for a registration that will become effective in that territory on or before the date of the applicable election;

(2) the petition includes the following information with respect to each signer:

- (A) the signer's residence address;
- (B) the signer's voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration;
- (C) the date of signing; and
- (D) the signer's printed name;

(3) the part of the petition in which the signature appears contains the affidavit required by Section 141.065;

(4) each statement that is required by this code to appear on each page of the petition appears, at the time of signing, on the page on which the signature is entered; and

(5) any other applicable requirements prescribed by this code for a signature's validity are complied with. (V.T.E.C. Art. 4.10, Subdiv. 3; Art. 11.01b, Subdiv. 4; Art. 13.08(d); Art. 13.50, Subdiv. 5; New.)

Sec. 141.064. **METHOD OF ACQUIRING SIGNATURE.** A person circulating a petition must:

(1) before permitting a person to sign, point out and read to the person each statement pertaining to the signer that appears on the petition;

(2) witness each signature;

(3) ascertain that each date of signing is correct; and

(4) before the petition is filed, verify each signer's registration status and ascertain that each registration number entered on the petition is correct. (V.T.E.C. Art. 4.10, Subdiv. 3; Art. 11.01b, Subdiv. 4; Art. 13.08(d); Art. 13.51; New.)

Sec. 141.065. **AFFIDAVIT OF CIRCULATOR.** (a) Each part of a petition must include an affidavit of the person who circulated it stating that the person:

(1) pointed out and read to each signer, before the petition was signed, each statement pertaining to the signer that appears on the petition;

(2) witnessed each signature;

(3) verified each signer's registration status; and

(4) believes each signature to be genuine and the corresponding information to be correct.

(b) If a petition contains an affidavit that complies with Subsection (a), for the purpose of determining whether the petition contains a sufficient number of valid signatures, the authority with whom the candidate's application is filed may treat as valid each signature to which the affidavit applies, without further verification, unless proven otherwise. (V.T.E.C. Art. 4.10, Subdiv. 3; Art. 11.01b, Subdiv. 4; Art. 13.08(d); Art. 13.51; New.)

Sec. 141.066. **SIGNING MORE THAN ONE PETITION PROHIBITED.** (a) A person may not sign the petition of more than one candidate for the same office in the same election.

(b) The following statement must appear at the top of each page of a petition: "Signing the petition of more than one candidate for the same office in the same election is prohibited."

(c) A signature on a candidate's petition is invalid if the signer signed the petition subsequent to his signing a petition of another candidate for the same office in the same election. (V.T.E.C. Art. 4.10, Subdiv. 3; Art. 13.50, Subdiv. 4; New.)

Sec. 141.067. **WITHDRAWAL OF SIGNATURE.** (a) A signature may be withdrawn from a petition as provided by this section.

(b) To withdraw a signature, the signer must request that his signature be withdrawn.

(c) To be effective, a withdrawal request must:

(1) be in writing and be signed and acknowledged by the signer of the petition; and

(2) be filed with the authority with whom the petition is required to be filed not later than the date the petition is received by the authority or the seventh day before the petition filing deadline, whichever is earlier.

(d) A withdrawal request filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(e) The signer must deliver a copy of the withdrawal request to the candidate when the request is filed.

(f) The filing of an effective withdrawal request nullifies the signature on the petition and places the signer in the same position as if he had not signed the petition.

(g) If the withdrawal of a signature reduces the number of signatures on the petition below the prescribed minimum for the petition to be valid, the authority with whom the request is filed shall notify the candidate immediately by telephone, telegram, or an equally or more expeditious method of the number of withdrawn signatures. Before the third day after the date the candidate receives the notice, the candidate's petition may be supplemented with signatures equal in number to the number of signatures withdrawn. (V.T.E.C. Art. 13.50, Subdiv. 6; New.)

Sec. 141.068. **DUTY OF LOCAL AUTHORITY TO VERIFY SIGNATURES.** (a) On request of the secretary of state, a voter registrar shall verify the voter registration status of a signer of a petition filed with the secretary who the petition indicates is registered or has been accepted for registration in the county served by the registrar.

(b) On request of the secretary of state, a county clerk shall ascertain from the records in the clerk's custody whether a signer of a petition filed with the secretary is shown to have voted in a particular election. (New.)

Sec. 141.069. **VERIFYING SIGNATURES BY STATISTICAL SAMPLE.** If signatures on a petition that is required to contain more than 1,000 signatures are to be verified by the authority with whom the candidate's application is required to be filed, the authority may use any reasonable statistical sampling method as the basis for the verification. However, the sample may not be less than one percent of the total number of signatures appearing on the petition. (V.T.E.C. Art. 1.08b.)

Sec. 141.070. **ESTIMATING GUBERNATORIAL VOTE FOR TERRITORY WITH CHANGED BOUNDARY.** (a) If, since the most recent gubernatorial general election, a district or precinct from which an officer of the federal, state, or county government is elected is

created or has had its boundary changed, the number of votes received in the district or precinct by a political party's gubernatorial candidate or by all the gubernatorial candidates shall be estimated, as provided by this section, for the purpose of computing the number of signatures required on a candidate's petition.

(b) The secretary of state, for a district, or the county clerk of the county in which the precinct is situated, for a precinct, shall estimate the applicable vote total on the request of:

- (1) a candidate affected by the creation or change; or
- (2) an authority with whom an affected candidate's application for a place on the ballot is required to be filed.

(c) Not later than the 30th day after the date the secretary of state or county clerk receives an estimate request, the secretary or clerk shall certify his estimate in writing and deliver a copy of the certification to the candidate and to the authority with whom the candidate's application for a place on the ballot is required to be filed.

(d) If an estimate is not requested under Subsection (b), the authority with whom an affected candidate's application for a place on the ballot is required to be filed shall make the estimate before acting on a petition.

(e) If, before completing an estimate, the estimating authority determines that the total estimated vote will be large enough to make a computation of the number of signatures required to appear on the petition unnecessary, the authority may certify that fact in writing instead of completing the estimate.

(f) A candidate for an office that is affected by an estimate or by a determination made under Subsection (e) may challenge the accuracy of the estimate or determination by filing a petition, stating the ground of the challenge, in a district court having general jurisdiction in the territory involved. Review in the district court is by trial de novo, and the court's decision is not appealable. (V.T.E.C. Art. 13.08(d); New.)

CHAPTER 142. INDEPENDENT CANDIDATE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 142.001. APPLICABILITY OF CHAPTER

Sec. 142.002. DECLARATION OF INTENT REQUIRED

Sec. 142.003. PRESERVATION OF DECLARATION

Sec. 142.004. APPLICATION REQUIRED

Sec. 142.005. AUTHORITY WITH WHOM APPLICATION FILED

Sec. 142.006. REGULAR FILING DEADLINE FOR APPLICATION

Sec. 142.007. NUMBER OF PETITION SIGNATURES REQUIRED

Sec. 142.008. STATEMENT ON PETITION

Sec. 142.009. PETITION TO BE CIRCULATED AFTER PRIMARY

Sec. 142.010. CERTIFICATION OF CANDIDATES' NAMES FOR PLACEMENT ON GENERAL ELECTION BALLOT

CHAPTER 142. INDEPENDENT CANDIDATE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 142.001. APPLICABILITY OF CHAPTER. This chapter applies to an independent candidate for an office that is to be voted on at the general election for state and county officers except the offices of president and vice-president of the United States. (V.T.E.C. Art. 13.50, Subdiv. 1.)

Sec. 142.002. DECLARATION OF INTENT REQUIRED. (a) To be entitled to a place on the general election ballot, a candidate must make a declaration of intent to run as an independent candidate.

(b) A declaration of intent to run as an independent candidate must:

- (1) be in writing and be signed and acknowledged by the candidate;
- (2) be filed with the authority with whom the candidate's application for a place on the ballot is required to be filed within the regular filing period for an application for a place on a general primary election ballot; and
- (3) contain:
 - (A) the candidate's name and residence address;
 - (B) the office sought, including any place number or other distinguishing number; and

(C) an indication of whether the office sought is to be filled for a full or unexpired term, if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers.

(c) This section does not apply to:

(1) a candidate for an unexpired term if the vacancy occurs after the 10th day before the regular filing deadline for an application for a place on a general primary election ballot; or

(2) a candidate for an office for which the regular application filing deadline for candidates in a primary election is extended. (V.T.E.C. Art. 13.50, Subdiv. 2; New.)

Sec. 142.003. **PRESERVATION OF DECLARATION.** The authority with whom a declaration of intent is required to be filed shall preserve each declaration filed with him until the day after general election day. (New.)

Sec. 142.004. **APPLICATION REQUIRED.** (a) To be entitled to a place on the general election ballot, a candidate must make an application for a place on the ballot.

(b) An application must, in addition to complying with Section 141.031, be accompanied by a petition that satisfies the requirements prescribed by Section 141.062. (V.T.E.C. Art. 13.50, Subdivs. 2, 3.)

Sec. 142.005. **AUTHORITY WITH WHOM APPLICATION FILED.** An application for a place on the ballot must be filed with:

(1) the secretary of state, for a statewide or district office; or

(2) the county judge, for a county or precinct office. (V.T.E.C. Art. 13.50, Subdiv. 3.)

Sec. 142.006. **REGULAR FILING DEADLINE FOR APPLICATION.** An application for a place on the ballot must be filed not later than 5 p.m. of the 30th day after runoff primary election day, except as provided by Section 202.007. (V.T.E.C. Art. 13.50, Subdiv. 3; New.)

Sec. 142.007. **NUMBER OF PETITION SIGNATURES REQUIRED.** The minimum number of signatures that must appear on a candidate's petition is:

(1) for a statewide office, one percent of the total vote received by all candidates for governor in the most recent gubernatorial general election; or

(2) for a district, county, or precinct office, the lesser of:

(A) 500; or

(B) five percent of the total vote received in the district, county, or precinct, as applicable, by all candidates for governor in the most recent gubernatorial general election, unless that number is under 25, in which case the required number of signatures is the lesser of:

(i) 25; or

(ii) 10 percent of that total vote. (V.T.E.C. Art. 13.50, Subdiv. 3; New.)

Sec. 142.008. **STATEMENT ON PETITION.** The following statement must appear at the top of each page of a candidate's petition: "I know the purpose of this petition. I have not voted in the general primary election or runoff primary election of any political party that has nominated, at either election, a candidate for the office of (*insert office title*) for which (*insert candidate's name*) is a candidate." (V.T.E.C. Art. 13.51.)

Sec. 142.009. **PETITION TO BE CIRCULATED AFTER PRIMARY.** A signature on a candidate's petition is invalid if the signer:

(1) signed the petition on or before general primary election day or, if a runoff primary is held for the office sought by the candidate, on or before runoff primary election day; or

(2) voted in the general or runoff primary election of a political party that made a nomination, at either primary, for the office sought by the candidate. (V.T.E.C. Art. 13.50, Subdiv. 4.)

Sec. 142.010. **CERTIFICATION OF CANDIDATES' NAMES FOR PLACEMENT ON GENERAL ELECTION BALLOT.** (a) Except as provided by Subsection (c), the authority with whom applications for a place on the ballot are required to be filed shall certify in writing for placement on the general election ballot the name of each candidate who files with the authority a declaration of intent that complies with Section 142.002(b), if required, and an application that complies with Section 142.004(b).

(b) Not later than the 55th day before general election day, the certifying authority shall deliver the certification to the authority responsible for having the official ballot prepared in each county in which the candidate's name is to appear on the ballot.

(c) A candidate's name may not be certified:

(1) if, before delivering the certification, the certifying authority learns that the name is to be omitted from the ballot under Section 145.064; or

(2) for an office for which the candidate's application is invalid under Section 141.033. (V.T.E.C. Art. 1.03, Subdiv. 2; Art. 13.52.)

CHAPTER 143. CANDIDATE FOR CITY OFFICE

Sec. 143.001. APPLICABILITY OF CHAPTER

Sec. 143.002. INDEPENDENT CANDIDACY REQUIRED

Sec. 143.003. PARTISAN CANDIDACY FOR HOME-RULE CITY OFFICE AUTHORIZED

Sec. 143.004. APPLICATION REQUIRED

Sec. 143.005. APPLICATION FOR HOME-RULE CITY OFFICE

Sec. 143.006. AUTHORITY WITH WHOM APPLICATION FILED

Sec. 143.007. FILING PERIOD

CHAPTER 143. CANDIDATE FOR CITY OFFICE

Sec. 143.001. APPLICABILITY OF CHAPTER. This chapter applies to a candidate for a city office. (New.)

Sec. 143.002. INDEPENDENT CANDIDACY REQUIRED. Except as provided by Section 143.003, a candidate's name may appear on the ballot only as an independent. (V.T.E.C. Art. 13.55.)

Sec. 143.003. PARTISAN CANDIDACY FOR HOME-RULE CITY OFFICE AUTHORIZED. (a) A city charter may authorize nominations of partisan candidates by political organizations for an office of a home-rule city. Implementing regulations may be prescribed by the charter or by ordinance under charter authorization.

(b) If under Section 232, Texas Election Code (Article 13.55, Vernon's Texas Election Code), as it existed before the adoption of this code, a candidate for a home-rule city office is nominated for an election held after January 1, 1975, and before the effective date of this code, Section 232, Texas Election Code, continues in effect for the purpose of nominating partisan candidates for that city's offices until the adoption of a charter provision authorizing or prohibiting partisan nominations. (V.T.E.C. Art. 13.55; New.)

Sec. 143.004. APPLICATION REQUIRED. Subject to Section 143.005, to be entitled to a place on the ballot, a candidate must make an application for a place on the ballot. (V.T.E.C. Art. 4.10, Subdivs. 1, 4; Art. 13.53.)

Sec. 143.005. APPLICATION FOR HOME-RULE CITY OFFICE. (a) A city charter may prescribe requirements in connection with a candidate's application for a place on the ballot for an office of a home-rule city.

(b) If a city charter prescribes the requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, Section 141.031 does not apply.

(c) Except as provided by Subsection (d), if a city charter requires candidates to pay a filing fee, the amount of the fee and an alternative procedure to payment of the fee shall be prescribed by the charter or by ordinance under charter authorization, except that the maximum number of signatures that must appear on a petition in lieu of a filing fee is 25. However, if an ordinance prescribing an alternative procedure to payment of a filing fee is adopted before the effective date of this code without charter authorization, the ordinance, as it exists on the effective date of this code, continues in effect until the adoption of a charter provision prescribing an alternative procedure or authorizing prescription of an alternative procedure by ordinance.

(d) If the city charter of a home-rule city with a population of more than 900,000 that holds nonpartisan elections for its offices requires both a petition and a \$50 fee to be filed for a candidate's name to be placed on the ballot, those requirements supersede this section. (V.T.E.C. Art. 4.10, Subdiv. 4; Art. 13.53; Art. 13.59a; New.)

Sec. 143.006. AUTHORITY WITH WHOM APPLICATION FILED. (a) Except as provided by Subsections (b) and (c), an application for a place on the ballot must be filed with the city secretary.

(b) An authority other than the city secretary may be designated to receive applications by a home-rule city charter or ordinance adopted under charter authorization.

(c) An application for a place on the ballot for the first election of officers following the incorporation of a city must be filed with the authority designated by law. (V.T.E.C. Art. 4.10, Subdiv. 4; Art. 13.53; New.)

Sec. 143.007. FILING PERIOD. (a) Except as otherwise provided by this code, an application for a place on the ballot must be filed not later than 5 p.m. of the 45th day before election day. An application may not be filed earlier than the 30th day before the date of the filing deadline.

(b) An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority. (V.T.E.C. Art. 1.08c; Art. 4.10, Subdiv. 2; Art. 13.53; New.)

**CHAPTER 144. CANDIDATE FOR OFFICE OF POLITICAL
SUBDIVISION OTHER THAN COUNTY OR CITY**

- Sec. 144.001. APPLICABILITY OF CHAPTER
- Sec. 144.002. INDEPENDENT CANDIDACY REQUIRED
- Sec. 144.003. APPLICATION REQUIRED
- Sec. 144.004. AUTHORITY WITH WHOM APPLICATION FILED
- Sec. 144.005. FILING DEADLINE

**CHAPTER 144. CANDIDATE FOR OFFICE OF POLITICAL
SUBDIVISION OTHER THAN COUNTY OR CITY**

Sec. 144.001. APPLICABILITY OF CHAPTER. This chapter applies to a candidate for an office of a political subdivision other than a city or county. (New.)

Sec. 144.002. INDEPENDENT CANDIDACY REQUIRED. A candidate's name may appear on the ballot only as an independent. (New.)

Sec. 144.003. APPLICATION REQUIRED. (a) Except as otherwise provided by law, to be entitled to a place on the ballot, a candidate must make an application for a place on the ballot.

(b) If a law outside this code prescribes the exclusive requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, Section 141.031 does not apply. (New.)

Sec. 144.004. AUTHORITY WITH WHOM APPLICATION FILED. Except as otherwise provided by law, an application for a place on the ballot must be filed with the secretary of the political subdivision's governing body or, if the governing body has no secretary, with the governing body's presiding officer. (New.)

Sec. 144.005. FILING DEADLINE. (a) Except as otherwise provided by law, an application for a place on the ballot must be filed not later than 5 p.m. of the 45th day before election day.

(b) Except as otherwise provided by law, an application filed by mail is considered to be filed at the time of its receipt by the appropriate authority. (New.)

**CHAPTER 145. WITHDRAWAL, DEATH, AND INELIGIBILITY OF
CANDIDATE**

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 145.001. METHOD FOR WITHDRAWAL AS CANDIDATE
- Sec. 145.002. PROCEDURE FOR OMITTING DECEASED CANDIDATE'S NAME FROM BALLOT
- Sec. 145.003. ADMINISTRATIVE DECLARATION OF INELIGIBILITY
- Sec. 145.004. FINAL JUDGMENT REQUIRED FOR ADJUDICATION OF INELIGIBILITY
- Sec. 145.005. EFFECT OF VOTES CAST FOR DECEASED OR INELIGIBLE CANDIDATE

[Sections 145.006-145.030 reserved for expansion]

**SUBCHAPTER B. PARTY NOMINEE IN GENERAL ELECTION FOR
STATE AND COUNTY OFFICERS**

- Sec. 145.031. APPLICABILITY OF SUBCHAPTER
- Sec. 145.032. DEADLINE FOR WITHDRAWAL
- Sec. 145.033. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED
- Sec. 145.034. COPY OF WITHDRAWAL REQUEST DELIVERED TO EXECUTIVE COMMITTEE
- Sec. 145.035. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT
- Sec. 145.036. FILLING VACANCY IN NOMINATION

Sec. 145.037. CERTIFICATION OF REPLACEMENT NOMINEE FOR PLACEMENT ON BALLOT

Sec. 145.038. FAILURE OF DISTRICT EXECUTIVE COMMITTEE TO MAKE REPLACEMENT NOMINATION

Sec. 145.039. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT

[Sections 145.040-145.060 reserved for expansion]

SUBCHAPTER C. INDEPENDENT CANDIDATE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 145.061. APPLICABILITY OF SUBCHAPTER

Sec. 145.062. DEADLINE FOR WITHDRAWAL

Sec. 145.063. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED

Sec. 145.064. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT

Sec. 145.065. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT

[Sections 145.066-145.090 reserved for expansion]

SUBCHAPTER D. CANDIDATE IN ELECTION OTHER THAN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 145.091. APPLICABILITY OF SUBCHAPTER

Sec. 145.092. DEADLINE FOR WITHDRAWAL

Sec. 145.093. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED

Sec. 145.094. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT

Sec. 145.095. EFFECT OF WITHDRAWAL FROM RUNOFF

Sec. 145.096. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON BALLOT

Sec. 145.097. HOME-RULE CITY CANDIDATE

CHAPTER 145. WITHDRAWAL, DEATH, AND INELIGIBILITY OF CANDIDATE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 145.001. METHOD FOR WITHDRAWAL AS CANDIDATE. (a) To withdraw from an election, a candidate whose name is to appear on the ballot must request that his name be omitted from the ballot.

(b) To be effective, a withdrawal request must:

(1) be in writing and be signed and acknowledged by the candidate; and

(2) be timely filed with the appropriate authority as provided by this code.

(c) A withdrawal request filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(d) The time of a withdrawal is the time that an effective withdrawal request is filed.

(e) This section does not apply to a candidate for president or vice-president of the United States. (V.T.E.C. Art. 13.12(f); Art. 13.26a; Arts. 13.56(a), (e); New.)

Sec. 145.002. PROCEDURE FOR OMITTING DECEASED CANDIDATE'S NAME FROM BALLOT. (a) Except as provided by Subsection (b), if a candidate's name is to be omitted from the ballot under this code because the candidate has died, the authority responsible for having the official ballot prepared shall omit the candidate's name from the ballot on receipt of reliable information of the death.

(b) If a deceased candidate's name has been certified by the secretary of state for placement on the ballot, the candidate's name may not be omitted from the ballot without authorization from the secretary of state. (V.T.E.C. Art. 13.56(h).)

Sec. 145.003. ADMINISTRATIVE DECLARATION OF INELIGIBILITY. (a) Except for a judicial action in which a candidate's eligibility is in issue, a candidate may be declared ineligible only as provided by this section.

(b) A candidate in the general election for state and county officers may be declared ineligible before the 30th day preceding election day by:

- (1) the party officer responsible for certifying the candidate's name for placement on the general election ballot, in the case of a candidate who is a political party's nominee; or
- (2) the authority with whom the candidate's application for a place on the ballot is required to be filed, in the case of an independent candidate.

(c) A candidate in an election other than the general election for state and county officers may be declared ineligible before the beginning of absentee voting by personal appearance by the authority with whom an application for a place on the ballot for the office sought by the candidate is required to be filed.

(d) The presiding officer of the final canvassing authority for the office sought by a candidate may declare the candidate ineligible after the polls close on election day and, except as provided by Subsection (e), before a certificate of election is issued.

(e) In the case of a candidate for governor or lieutenant governor, a declaration of ineligibility by the final canvassing authority's presiding officer may not be made after the final canvass for that office is completed.

(f) A candidate may be declared ineligible only if:

- (1) the information on the candidate's application for a place on the ballot indicates that the candidate is ineligible for the office; or
- (2) facts indicating that the candidate is ineligible are conclusively established by another public record.

(g) If a candidate is declared ineligible after the deadline for omitting an ineligible candidate's name from the ballot, the authority making the declaration shall promptly certify in writing the declaration of ineligibility to the canvassing authority for the election.

(h) If a candidate is declared ineligible, the authority making the declaration shall promptly give written notice of the declaration of ineligibility to the candidate. (V.T.E.C. Art. 1.05, Subdiv. 4; New.)

Sec. 145.004. FINAL JUDGMENT REQUIRED FOR ADJUDICATION OF INELIGIBILITY. A candidate's entitlement to a place on the ballot or to a certificate of election is not affected by a judicial determination that the candidate is ineligible until a judgment declaring the candidate to be ineligible becomes final. (New.)

Sec. 145.005. EFFECT OF VOTES CAST FOR DECEASED OR INELIGIBLE CANDIDATE. (a) If the name of a deceased or ineligible candidate appears on the ballot under this chapter, the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for the other candidates.

(b) If the deceased or ineligible candidate receives the vote required for election, the resulting vacancy shall be filled in the regular manner.

(c) If the deceased or ineligible candidate and another candidate tie for the most votes in an election in which a plurality vote is sufficient for election, the other candidate is considered to be elected. If more than one other candidate is tied with the deceased or ineligible candidate, the winner of the election shall be determined by resolving the tie between the other candidates in the regular manner for resolving a tie vote in the election.

(d) In a race in which a runoff is required, if the deceased or ineligible candidate received the vote that would entitle him to a place on the runoff election ballot or tied for that number of votes, the candidates in the runoff shall be determined in the regular manner but without regard to the votes received by the deceased or ineligible candidate. (V.T.E.C. Art. 1.05, Subdiv. 4; Art. 8.22(a); New.)

[Sections 145.006-145.030 reserved for expansion]

SUBCHAPTER B. PARTY NOMINEE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 145.031. APPLICABILITY OF SUBCHAPTER. This subchapter applies to a candidate who is a political party's nominee in the general election for state and county officers except a candidate for president or vice-president of the United States. (V.T.E.C. Art. 13.56(a); New.)

Sec. 145.032. DEADLINE FOR WITHDRAWAL. A candidate may not withdraw from the general election after the 65th day before election day. (New.)

Sec. 145.033. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED. A candidate must file a withdrawal request with:

- (1) the secretary of state, for a statewide or district office; or
- (2) the authority responsible for having the official ballot prepared, for a county or precinct office. (V.T.E.C. Art. 13.56(a).)

Sec. 145.034. **COPY OF WITHDRAWAL REQUEST DELIVERED TO EXECUTIVE COMMITTEE.** At the same time a withdrawal request is filed, a candidate must deliver a copy of the request to the chairman of the executive committee authorized to fill a vacancy in the nomination. If a vacancy exists in the chairmanship of a precinct or district executive committee, the copy must be delivered to:

- (1) the chairman of the state executive committee, for a district office; or
- (2) the chairman of the county executive committee, for a precinct office. (V.T.E.C. Art. 13.56(a); New.)

Sec. 145.035. **WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT.** A candidate's name shall be omitted from the ballot if the candidate withdraws, dies, or is declared ineligible on or before the 65th day before election day. (V.T.E.C. Art. 13.56(a).)

Sec. 145.036. **FILLING VACANCY IN NOMINATION.** (a) Except as provided by Subsection (b), if a candidate's name is to be omitted from the ballot under Section 145.035, the political party's state, district, county, or precinct executive committee, as appropriate for the particular office, may nominate a replacement candidate to fill the vacancy in the nomination.

(b) An executive committee may make a replacement nomination following a withdrawal only if:

- (1) the candidate:

(A) withdraws because of a catastrophic illness that was diagnosed after the 65th day before general primary election day and the illness would permanently and continuously incapacitate the candidate and prevent him from performing the duties of the office sought; and

(B) files with the withdrawal request a certificate describing the illness and signed by at least two licensed physicians;

(2) no political party that held primary elections has a nominee for the office sought by the withdrawing candidate as of the time of the withdrawal.

(c) Under the circumstances described by Subsection (b)(2), the appropriate executive committee of each political party making nominations for the general election for state and county officers may make a replacement nomination for the office sought by the withdrawing candidate.

(d) For the purpose of filling a vacancy, a majority of the committee's membership constitutes a quorum. To be nominated, a person must receive a favorable vote of a majority of the members present.

(e) A vacancy in a nomination for a district, county, or precinct office that was made by primary election may not be filled before the beginning of the term of office of the county executive committee members elected in the year in which the vacancy occurs. (V.T.E.C. Arts. 13.12a(h), 13.56(b); New.)

Sec. 145.037. **CERTIFICATION OF REPLACEMENT NOMINEE FOR PLACEMENT ON BALLOT.** (a) For the name of a replacement nominee to be placed on the general election ballot, the chairman of the executive committee making the replacement nomination must certify in writing the nominee's name for placement on the ballot as provided by this section.

(b) The certification must be signed and acknowledged by the chairman.

(c) In addition to the name of the replacement nominee, the certification must include:

- (1) the replacement nominee's residence address and mailing address, if different from the residence address;
- (2) the name of the original nominee;
- (3) the office sought, including any place number or other distinguishing number;
- (4) the cause of the vacancy;
- (5) an identification of the executive committee making the replacement nomination; and
- (6) the date of the replacement nomination.

(d) The chairman must deliver the certification to:

- (1) the secretary of state, for a statewide or district office; or

(2) the authority responsible for having the official ballot prepared, for a county or precinct office.

(e) The certification must be delivered not later than 5 p.m. of the 60th day before election day.

(f) A certification of a replacement nominee that is delivered by mail is considered to be delivered at the time of its receipt by the appropriate authority.

(g) A replacement nominee's name may not be certified if, before delivering the certification, the certifying authority learns that the replacement nominee's name is to be omitted from the ballot under Section 145.035. (V.T.E.C. Arts. 13.39, 13.56(b); New.)

Sec. 145.038. **FAILURE OF DISTRICT EXECUTIVE COMMITTEE TO MAKE REPLACEMENT NOMINATION.** (a) If a political party's district executive committee fails to nominate a replacement candidate to fill a vacancy in a nomination for a district office, the state executive committee may nominate a candidate to fill the vacancy.

(b) The state chairman must deliver the certification of the replacement nominee not later than 5 p.m. of the 57th day before election day.

(c) A certification of a replacement nominee that is delivered by mail is considered to be delivered at the time of its receipt by the secretary of state. (V.T.E.C. Art. 13.56(c); New.)

Sec. 145.039. **DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT.** If a candidate dies or is declared ineligible after the 65th day before election day, the candidate's name shall be placed on the ballot. (V.T.E.C. Art. 13.56(d).)

[Sections 145.040-145.060 reserved for expansion]

SUBCHAPTER C. INDEPENDENT CANDIDATE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 145.061. **APPLICABILITY OF SUBCHAPTER.** This subchapter applies to an independent candidate in the general election for state and county officers except a candidate for president or vice-president of the United States. (V.T.E.C. Arts. 13.56(e), (f); New.)

Sec. 145.062. **DEADLINE FOR WITHDRAWAL.** A candidate may not withdraw from the general election after the 65th day before election day. (V.T.E.C. Art. 13.56(e).)

Sec. 145.063. **AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED.** A candidate must file a withdrawal request with the authority with whom the candidate's application for a place on the ballot is required to be filed. (V.T.E.C. Art. 13.56(e).)

Sec. 145.064. **WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT.** (a) Except as provided by Subsection (b), a candidate's name shall be omitted from the ballot if the candidate withdraws, dies, or is declared ineligible on or before the 65th day before election day.

(b) The name of a deceased candidate may not be omitted if:

(1) the decedent was the incumbent in the office for which he was a candidate; or

(2) no other candidate's name is to appear on the ballot in the race in which the decedent was a candidate. (V.T.E.C. Art. 13.56(f).)

Sec. 145.065. **DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL ELECTION BALLOT.** If a candidate dies or is declared ineligible after the 65th day before election day, the candidate's name shall be placed on the ballot. (V.T.E.C. Art. 13.56(f).)

[Sections 145.066-145.090 reserved for expansion]

SUBCHAPTER D. CANDIDATE IN ELECTION OTHER THAN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 145.091. **APPLICABILITY OF SUBCHAPTER.** This subchapter applies to a candidate in a general or special election, except the general election for state and county officers. (V.T.E.C. Arts. 13.56(e), (g), (i).)

Sec. 145.092. **DEADLINE FOR WITHDRAWAL.** (a) Except as provided by Subsection (b), a candidate may not withdraw from an election after 5 p.m. of the second day before the beginning of absentee voting by personal appearance.

(b) A candidate in a runoff election may not withdraw from the election after 5 p.m. of the 10th day after the date of the main election or 5 p.m. of the second day before the beginning of absentee voting by personal appearance for the runoff, whichever is earlier.

(c) Section 1.006 does not apply to this section. (V.T.E.C. Arts. 13.56(e), (g); New.)

Sec. 145.093. **AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED.** (a) A candidate must file a withdrawal request with the authority with whom applications for a place on the ballot are required to be filed.

(b) If the authority with whom applications for a place on the ballot are required to be filed is not responsible for having the official ballot prepared for the election, on the filing of a withdrawal request, the authority shall certify the candidate's name in writing as a withdrawn candidate and promptly deliver the certification to the authority responsible for having the official ballot prepared. (V.T.E.C. Art. 13.56(e); New.)

Sec. 145.094. **WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT.** (a) The name of a candidate shall be omitted from the ballot if the candidate:

(1) dies before the second day before the date of the deadline for filing the candidate's application for a place on the ballot; or

(2) withdraws or is declared ineligible before 5 p.m. of the second day before the beginning of absentee voting by personal appearance.

(b) This section does not apply to a runoff election. (V.T.E.C. Art. 13.56(g); New.)

Sec. 145.095. **EFFECT OF WITHDRAWAL FROM RUNOFF.** If a runoff candidate withdraws, the remaining candidate is considered to be elected and the runoff election for that office is not held. (New.)

Sec. 145.096. **DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON BALLOT.** (a) Except as provided by Subsection (b), if a candidate dies on or after the second day before the deadline for filing the candidate's application for a place on the ballot or is declared ineligible after 5 p.m. of the second day before the beginning of absentee voting by personal appearance, the candidate's name shall be placed on the ballot.

(b) If a candidate in a runoff election dies or is declared ineligible before runoff election day, the candidate's name shall be placed on the runoff election ballot. (V.T.E.C. Art. 13.56(g); New.)

Sec. 145.097. **HOME-RULE CITY CANDIDATE.** Provisions governing the withdrawal, death, or ineligibility of candidates for city offices prescribed by a home-rule city charter supersede this chapter to the extent of any conflict. (V.T.E.C. Art. 13.56(i).)

CHAPTER 146. WRITE-IN CANDIDATE

SUBCHAPTER A. WRITE-INS GENERALLY

Sec. 146.001. **WRITE-IN VOTES PERMITTED**

Sec. 146.002. **WRITE-IN VOTING IN RUNOFF PROHIBITED**

[Sections 146.003-146.020 reserved for expansion]

SUBCHAPTER B. WRITE-IN CANDIDATE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 146.021. **APPLICABILITY OF SUBCHAPTER**

Sec. 146.022. **CANDIDATE'S NAME REQUIRED TO APPEAR ON LIST**

Sec. 146.023. **DECLARATION OF WRITE-IN CANDIDACY REQUIRED**

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Sec. 146.025. **FILING DEADLINE**

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Sec. 146.027. **LIMITATION ON CHALLENGE OF DECLARATION**

Sec. 146.028. **PRESERVATION OF DECLARATION**

Sec. 146.029. **CERTIFICATION OF CANDIDATE FOR PLACEMENT ON LIST OF WRITE-IN CANDIDATES**

Sec. 146.030. **INELIGIBLE CANDIDATE NOT CERTIFIED**

Sec. 146.031. **LIST OF WRITE-IN CANDIDATES**

Sec. 146.032. **OFFICIAL DECLARATION FORM**

CHAPTER 146. WRITE-IN CANDIDATE

SUBCHAPTER A. WRITE-INS GENERALLY

Sec. 146.001. **WRITE-IN VOTES PERMITTED.** Except as otherwise provided by law, if the name of the person for whom a voter desires to vote does not appear on the ballot, the voter may write in the name of that person. (V.T.E.C. Art. 6.06.)

Sec. 146.002. **WRITE-IN VOTING IN RUNOFF PROHIBITED.** Write-in voting is not permitted in a runoff election. (V.T.E.C. Arts. 6.06, 13.09(b).)

[Sections 146.003-146.020 reserved for expansion]

SUBCHAPTER B. WRITE-IN CANDIDATE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 146.021. **APPLICABILITY OF SUBCHAPTER.** This subchapter applies to a write-in candidate for an office that is to be voted on at the general election for state and county officers. (V.T.E.C. Art. 6.06b, Subdiv. 1.)

Sec. 146.022. **CANDIDATE'S NAME REQUIRED TO APPEAR ON LIST.** A write-in vote may not be counted unless the name written in appears on the list of write-in candidates required by Section 146.031. (V.T.E.C. Art. 6.06b, Subdiv. 1.)

Sec. 146.023. **DECLARATION OF WRITE-IN CANDIDACY REQUIRED.** (a) To be entitled to a place on the list of write-in candidates, a candidate must make a declaration of write-in candidacy.

(b) A declaration of write-in candidacy must satisfy the requirements prescribed by Section 141.031 for an application for a place on the ballot.

(c) A declaration of write-in candidacy is public information immediately on its filing. (V.T.E.C. Art. 6.06b, Subdiv. 1; New.)

Sec. 146.024. **AUTHORITY WITH WHOM DECLARATION FILED.** A declaration of write-in candidacy must be filed with:

(1) the secretary of state, for a statewide or district office; or

(2) the county judge, for a county or precinct office. (V.T.E.C. Art. 6.06b, Subdiv. 1.)

Sec. 146.025. **FILING DEADLINE.** (a) A declaration of write-in candidacy must be filed not later than 5 p.m. of the 55th day before general election day, except as otherwise provided by this code.

(b) If a candidate whose name is to appear on the general election ballot dies or is declared ineligible after the third day before the date of the filing deadline prescribed by Subsection (a), a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 27th day before election day.

(c) A declaration of write-in candidacy filed by mail is considered to be filed at the time of its receipt by the appropriate authority. (V.T.E.C. Art. 6.06b, Subdivs. 2, 3; New.)

Sec. 146.026. **REVIEW OF DECLARATION.** The authority with whom a declaration of write-in candidacy is filed shall review the declaration and take the appropriate action in the manner prescribed by Section 141.032 for the review of an application for a place on the ballot. (New.)

Sec. 146.027. **LIMITATION ON CHALLENGE OF DECLARATION.** A declaration of write-in candidacy may not be challenged for compliance with the applicable requirements after the 15th day before election day. (New.)

Sec. 146.028. **PRESERVATION OF DECLARATION.** A declaration of write-in candidacy shall be preserved in the same manner as a candidate's application for a place on the ballot. (New.)

Sec. 146.029. **CERTIFICATION OF CANDIDATE FOR PLACEMENT ON LIST OF WRITE-IN CANDIDATES.** (a) Except as provided by Section 146.030, the authority with whom a declaration of write-in candidacy is required to be filed shall certify in writing for placement on the list of write-in candidates the name of each candidate who files with the authority a declaration that complies with Section 146.023(b).

(b) Each name shall be certified in the form indicated on the candidate's declaration of write-in candidacy, subject to Subchapter B, Chapter 52.

(c) Except as provided by Subsection (d), not later than the 45th day before election day, the certifying authority shall deliver the certification to the authority responsible for having the official ballot prepared in each county in which the office sought by the candidate is to be voted on.

(d) If the deadline for filing a declaration of write-in candidacy is extended under Section 146.025(b), the certification shall be delivered before the first day of the period for voting absentee by personal appearance. (V.T.E.C. Art. 6.06b, Subdiv. 4; New.)

Sec. 146.030. **INELIGIBLE CANDIDATE NOT CERTIFIED.** A write-in candidate may not be certified for placement on the list of write-in candidates if:

(1) the information on the candidate's declaration of write-in candidacy indicates that the candidate is ineligible for the office;

(2) facts indicating that the candidate is ineligible are conclusively established by another public record; or

(3) the candidate is determined ineligible by a final judgment of a court. (V.T.E.C. Art. 1.05, Subdiv. 4; New.)

Sec. 146.031. **LIST OF WRITE-IN CANDIDATES.** (a) The authority responsible for having the official ballot prepared shall prepare a list containing the name of each write-in candidate certified to the authority. Each name must appear in the form in which it is certified.

(b) Copies of the list shall be distributed to the counting officers in the election for use in counting write-in votes.

(c) Copies of the list shall be distributed to each presiding election judge with the other election supplies. A copy of the list shall be posted in each polling place at each place where an instruction poster is required to be posted.

(d) The authority responsible for having the official ballot prepared shall retain a copy of the list and preserve it for the period for preserving the precinct election records. (V.T.E.C. Art. 6.06b, Subdiv. 5; New.)

Sec. 146.032. **OFFICIAL DECLARATION FORM.** An officially prescribed form for a declaration of write-in candidacy must include the elements required by Section 141.039 to be included in an official form for an application for a place on the ballot. (V.T.E.C. Art. 6.06b, Subdiv. 1.)

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TITLE 10. POLITICAL PARTIES

SUBTITLE A. INTRODUCTORY PROVISIONS

CHAPTER 161. GENERAL PROVISIONS

Sec. 161.001. **INHERENT POWERS.** A political party retains all of its inherent powers except as limited by this code. (New.)

Sec. 161.002. **PARTY NAME.** (a) The name of a political party as printed on the ballot for an election may not consist of more than three words.

(b) A party may not select for its name a name previously assumed by another existing party. (V.T.E.C. Art. 13.57.)

Sec. 161.003. **METHODS OF MAKING NOMINATIONS.** A political party may make nominations for public office only by the methods provided by this code. (V.T.E.C. Art. 13.02; Art. 13.45, Subdivs. 1, 2; Art. 13.54.)

Sec. 161.004. **PARTY DOCUMENT AS PUBLIC INFORMATION.** If a document, record, or other paper is expressly required by this title to be filed, prepared, or preserved, it is public information unless this title provides otherwise. (New.)

Sec. 161.005. ELIGIBILITY FOR PARTY OFFICES GENERALLY. (a) To be eligible to be a candidate for or to serve as a county or precinct chairman of a political party, a person must:

(1) be a qualified voter of the county; and

(2) not be a candidate for nomination or election to, or be the holder of, an elective office of the federal, state, or county government.

(b) For purposes of this section, a person becomes a candidate at the earliest time at which one of the following occurs:

(1) the person files:

(A) a declaration of intent to run as an independent candidate;

(B) an application for a place on a primary or general election ballot or for nomination by a convention; or

(C) a declaration of write-in candidacy; or

(2) the person is nominated by a convention or executive committee. (V.T.E.C. Art. 3.04, Subdiv. 3; New.)

Sec. 161.006. HOLDING PRIMARY OR PRECINCT CONVENTION OF MORE THAN ONE PARTY IN SAME BUILDING. A political party may not hold a primary election in the same building in which another party is holding a primary election on the same day or hold a precinct convention in the same building in which another party is holding a precinct convention on the same day unless:

(1) the rooms in which the primary elections or conventions are held are separated so that communication from one room to the other is precluded; and

(2) a sign in bold print identifying the party holding the primary election or convention is posted at the entrance to each room. (V.T.E.C. Art. 13.04, Subdiv. 3.)

Sec. 161.007. UNLAWFULLY PROHIBITING EMPLOYEE FROM ATTENDING POLITICAL CONVENTION. (a) A person commits an offense if, with respect to another over whom the person has authority in the scope of employment, the person knowingly:

(1) refuses to permit the other person to be absent from work for the purpose of attending a precinct convention in which he is eligible to participate or attending a county, district, or state convention to which he is a delegate; or

(2) subjects or threatens to subject the other person to a penalty for the purpose of preventing or retaliating for his attendance at a precinct convention in which he is eligible to participate or for his attendance at a county, district, or state convention to which he is a delegate.

(b) In this section, "penalty" means a loss or reduction of wages or other benefit of employment other than a deduction for the actual time of absence from work.

(c) An offense under this section is a Class C misdemeanor. (V.T.E.C. Art. 13.34a; New.)

Sec. 161.008. CERTIFICATION OF NOMINEES FOR STATEWIDE AND DISTRICT OFFICES FOR PLACEMENT ON GENERAL ELECTION BALLOT. (a) Except as provided by Subsection (c), the secretary of state shall certify in writing for placement on the general election ballot the name of each candidate nominated at a primary election or convention of a political party for a statewide or district office.

(b) Not later than the 55th day before general election day, the secretary of state shall deliver the certification to the authority responsible for having the official general election ballot prepared in each county in which the candidate's name is to appear on the ballot.

(c) A candidate's name may not be certified if, before delivering the certification, the secretary of state learns that the name is to be omitted from the ballot under Section 145.035. (V.T.E.C. Art. 1.03, Subdiv. 2; New.)

Sec. 161.009. PARTY OFFICER SUBJECT TO MANDAMUS. The performance of a duty placed by this code on an officer of a political party is enforceable by writ of mandamus in the same manner as if the party officer were a public officer. (V.T.E.C. Art. 13.41; Art. 13.43b, Subdiv. 5; V.T.C.S. Art. 1735a.)

Sec. 161.010. CHALLENGING CONVENTION DELEGATES. A political party holding a convention under this title may provide by rule for challenging the qualifications of the convention delegates and for replacing unqualified delegates. (V.T.E.C. Art. 13.34(d); Art. 13.43b, Subdiv. 2; New.)

CHAPTER 162. REGULATING PARTICIPATION IN PARTY AFFAIRS

Sec. 162.001. AFFILIATION WITH PARTY REQUIRED

Sec. 162.002. ELIGIBILITY TO AFFILIATE

Sec. 162.003. AFFILIATION BY VOTING IN PRIMARY

- Sec. 162.004. AFFILIATION PROCEDURE: VOTING AT POLLING PLACE
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- Sec. 162.006. AFFILIATION BY TAKING OATH
- Sec. 162.007. AFFILIATION PROCEDURE: TAKING OATH AT PRECINCT CONVENTION
- Sec. 162.008. AFFILIATION PROCEDURE: TAKING OATH GENERALLY
- Sec. 162.009. CONTENTS OF AFFILIATION CERTIFICATE
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- Sec. 162.016. WITHDRAWN CONVENTION NOMINEE INELIGIBLE FOR ANOTHER NOMINATION

CHAPTER 162. REGULATING PARTICIPATION IN PARTY AFFAIRS

Sec. 162.001. AFFILIATION WITH PARTY REQUIRED. (a) A person must be affiliated with a political party to be eligible to:

- (1) serve as a delegate to or otherwise participate in a convention held by the party under this code;
- (2) be elected as a member of or be appointed to fill a vacancy on a state executive committee; or
- (3) be appointed to fill a vacancy on a county executive committee.

(b) The affiliation requirement prescribed by Subsections (a)(2) and (3) applies only during a voting year in which the general election for state and county officers is held and does not apply until:

- (1) general primary election day, for a party holding a primary election; or
- (2) the date of the precinct conventions held under this title, for a party nominating by convention. (V.T.E.C. Arts. 13.01a(1), (2), (3), (5); Art. 13.34(c); New.)

Sec. 162.002. ELIGIBILITY TO AFFILIATE. To be eligible to affiliate with a political party, a person must be:

- (1) a registered voter; or
- (2) eligible to vote a limited ballot at the time of affiliating. (V.T.E.C. Arts. 13.01a(4), (5); New.)

Sec. 162.003. AFFILIATION BY VOTING IN PRIMARY. A person becomes affiliated with a political party when the person:

- (1) is accepted to vote in the party's primary election; or
- (2) applies for and is provided an absentee or limited primary ballot to be voted by mail. (V.T.E.C. Art. 13.01a(4); New.)

Sec. 162.004. AFFILIATION PROCEDURE: VOTING AT POLLING PLACE. (a) The signature roster for a primary election must state at the top of each page: "A person commits a criminal offense if the person knowingly votes in a primary election or participates in a convention of a party after having voted in a primary election or participated in a convention of another party during the same voting year."

(b) An election officer at a primary election polling place shall stamp the party's name in the party affiliation space of the registration certificate of each voter who presents his registration certificate and is accepted to vote unless the party name has already been stamped in the space.

(c) If a voter is accepted to vote without presenting a registration certificate, the presiding judge shall issue the voter an affiliation certificate. The certificate is not required to be issued to a voter in a runoff primary unless the voter requests it. (V.T.E.C. Arts. 13.01a(4), (6); New.)

Sec. 162.005. AFFILIATION PROCEDURE: VOTING ABSENTEE BY MAIL. The absentee voting clerk in a general primary election shall provide an affiliation certificate with each absentee or limited ballot to be voted by mail. The certificate is not required to be provided to an applicant for a runoff primary ballot unless the applicant requests it. (V.T.E.C. Art. 13.01a(4); New.)

Sec. 162.006. **AFFILIATION BY TAKING OATH.** A person becomes affiliated with a political party when the person takes an oath of affiliation as provided by Section 162.007 or 162.008. (V.T.E.C. Arts. 13.01a(5), (6).)

Sec. 162.007. **AFFILIATION PROCEDURE: TAKING OATH AT PRECINCT CONVENTION.** (a) This section applies only to a precinct convention held under this title by a political party making nominations by convention.

(b) On admitting a person for participation in the convention, the temporary chairman shall administer to the person the following oath: "I swear that I have not voted in a primary election or participated in a convention of another party during this voting year. I hereby affiliate myself with the _____ Party."

(c) After administering the oath, the temporary chairman shall request the person's registration certificate and stamp the party's name in the party affiliation space unless the party name has already been stamped in the space. If the person does not present a registration certificate, the temporary chairman on the person's request shall issue him an affiliation certificate. (V.T.E.C. Art. 13.01a(5); New.)

Sec. 162.008. **AFFILIATION PROCEDURE: TAKING OATH GENERALLY.** (a) This section applies only to a person desiring to affiliate with a political party during that part of a voting year in which the general election for state and county officers is held that follows:

- (1) the date of the precinct conventions held under this title, for a party nominating by convention; or
- (2) general primary election day, for a party holding a primary election.

(b) On request of a person desiring to affiliate with a political party, a member of the county executive committee for the county in which the person resides shall administer the oath prescribed by Section 162.007(b).

(c) After administering the oath, the committee member shall stamp the party's name on the person's registration certificate or issue him an affiliation certificate as provided by Section 162.007(c). (New.)

Sec. 162.009. **CONTENTS OF AFFILIATION CERTIFICATE.** The authority issuing an affiliation certificate under this chapter shall enter on the certificate:

- (1) the name of the person to whom the certificate is issued;
- (2) the name of the political party of the affiliation;
- (3) the name and official position of the issuing authority;
- (4) the party function at which the affiliation occurred, if applicable; and
- (5) the date of affiliation. (V.T.E.C. Art. 13.01a(5); New.)

Sec. 162.010. **DURATION OF AFFILIATION.** A party affiliation expires at the end of the voting year in which the person became affiliated. (V.T.E.C. Art. 13.01a(1).)

Sec. 162.011. **PRESENTATION OF FALSE EVIDENCE OF AFFILIATION PROHIBITED.** (a) A person commits an offense if for the purpose of participating in a political party's convention the person presents to a party official:

- (1) an affiliation certificate that the person knows was not issued in compliance with this chapter; or
- (2) a voter registration certificate with a party affiliation stamp that the person knows was not obtained in compliance with this chapter.

(b) An offense under this section is a Class C misdemeanor. (V.T.E.C. Art. 13.01a(8); New.)

Sec. 162.012. **INELIGIBILITY TO AFFILIATE WITH ANOTHER PARTY.** A person who is affiliated with a political party is ineligible to become affiliated with another political party during the same voting year. (V.T.E.C. Art. 13.01a(7).)

Sec. 162.013. **VOID VOTE.** A vote in a primary election is void if the voter previously voted in a primary election of another party or participated in a convention of another party during the same voting year. (V.T.E.C. Art. 13.01a(7).)

Sec. 162.014. **UNLAWFUL PARTICIPATION IN PARTY AFFAIRS.** (a) A person commits an offense if the person knowingly votes or attempts to vote in a primary election or participates or attempts to participate in a convention of a party after having voted in a primary election or participated in a convention of another party during the same voting year.

(b) An offense under this section is a Class C misdemeanor. (V.T.E.C. Arts. 13.49, 15.49; New.)

Sec. 162.015. **RESTRICTIONS ON GENERAL ELECTION BALLOT POSITION FOR CANDIDATE OR VOTER IN PRIMARY.** A person who voted at a primary election or who was a candidate for nomination in a primary is ineligible for a place on the ballot for the succeeding general election for state and county officers as:

- (1) an independent candidate for an office for which a candidate was nominated in the primary; or

(2) the nominee of a political party other than the party holding the primary in which the person voted or was a candidate. (V.T.E.C. Art. 13.11a.)

Sec. 162.016. **WITHDRAWN CONVENTION NOMINEE INELIGIBLE FOR ANOTHER NOMINATION.** If a person nominated by a convention withdraws from the general election for state and county officers, the person is ineligible for a place on the general election ballot as the party's nominee for another office unless the second nomination is for an unexpired term for which the vacancy occurred too late for a convention to make a nomination under Section 202.005. (V.T.E.C. Art. 13.47a, Sec. 2.)

CHAPTER 163. PARTY RULES

Sec. 163.001. **APPLICABILITY OF CHAPTER**

Sec. 163.002. **REQUIRED RULES**

Sec. 163.003. **CONSISTENCY WITH STATE LAW**

Sec. 163.004. **ADOPTING RULES**

Sec. 163.005. **FILING RULES WITH SECRETARY OF STATE; EFFECTIVE DATE**

Sec. 163.006. **DEADLINE FOR FILING CERTAIN RULES**

Sec. 163.007. **RULES ENFORCEABLE BY MANDAMUS**

CHAPTER 163. PARTY RULES

Sec. 163.001. **APPLICABILITY OF CHAPTER.** This chapter applies only to a political party that has a state executive committee. (V.T.E.C. Art. 13.43b, Subdiv. 1.)

Sec. 163.002. **REQUIRED RULES.** A political party that makes nominations in this state shall adopt rules that:

(1) prescribe the parliamentary procedure governing the conduct of party meetings and conventions from the precinct level to the state level, including:

- (A) quorums;
- (B) casting and counting votes;
- (C) operation of executive committees;
- (D) appointment and duties of convention committees; and
- (E) presentation of matters before a convention;

(2) prescribe the method of selecting the party's presidential elector candidates;

(3) prescribe the manner of selecting party officers, convention delegates, convention alternates, and convention officials;

(4) provide for representative apportionment of party officers, convention delegates, convention alternates, and convention officials throughout the state on the basis of population, party strength, or both, within the appropriate territorial unit;

(5) provide for periodic publication and publicizing of party rules; and

(6) prescribe the manner of adopting party rules and amendments to the rules. (V.T.E.C. Art. 13.43; Art. 13.43b, Subdivs. 1, 2.)

Sec. 163.003. **CONSISTENCY WITH STATE LAW.** The rules adopted by a political party must be consistent with state law. (V.T.E.C. Art. 13.43b, Subdiv. 2.)

Sec. 163.004. **ADOPTING RULES.** (a) A political party's rules, including amendments to rules, governing or affecting its primary elections, conventions held under this code, or nominees may be adopted only by:

(1) a state convention; or

(2) the state executive committee as a temporary rule, if adoption before the next state convention is necessary.

(b) A temporary rule must be considered by the first state convention following its adoption. The state convention may rescind, modify, or ratify the temporary rule. If the state convention fails to act, the temporary rule expires on the day after the date the convention adjourns.

(c) In this chapter, "rule on electoral affairs" means a rule or amendment of the class described by Subsection (a). (V.T.E.C. Art. 13.43b, Subdivs. 1, 3, 4, 6; New.)

Sec. 163.005. **FILING RULES WITH SECRETARY OF STATE; EFFECTIVE DATE.** (a) The state chairman shall file a copy of each rule on electoral affairs with the secretary of state.

(b) Except as provided by Section 163.006, the rule shall be filed not later than the 30th day after the date of its adoption.

(c) If the state chairman fails to make a timely filing, any member of the state executive committee may make the filing.

(d) A filing must be accompanied by a written statement signed by the state chairman or any two members of the state executive committee indicating whether the rule is temporary or permanent.

(e) A rule on electoral affairs is not effective until filed. (V.T.E.C. Art. 13.43b, Subdivs. 3, 5; New.)

Sec. 163.006. **DEADLINE FOR FILING CERTAIN RULES.** (a) A rule on electoral affairs that is to become effective in a year in which the party will hold precinct conventions under this title must be filed with the secretary of state not later than the 30th day before the date of convening the precinct conventions. The secretary of state may extend this deadline for good cause.

(b) If a political party fails to file a rule as provided by Subsection (a), the party is not entitled to have its nominees placed on the ballot for the general election for state and county officers.

(c) Before general primary election day, the secretary of state shall notify the authority responsible for having the official general election ballot prepared in each county of each political party that failed to file a rule as provided by Subsection (a) and shall order those authorities to omit the party's nominees from the general election ballot.

(d) Before January 15 of each year in which political parties hold precinct conventions under this title, the secretary of state shall deliver written notice of the requirements of this section to the state chairman of each party that had a nominee for a statewide or district office on the most recent general election ballot. (V.T.E.C. Art. 13.43b, Subdivs. 4, 5, 6; New.)

Sec. 163.007. **RULES ENFORCEABLE BY MANDAMUS.** A rule on electoral affairs is enforceable by writ of mandamus in the same manner as if the rule were a statute. (V.T.E.C. Art. 13.43b, Subdiv. 5.)

SUBTITLE B. PARTIES NOMINATING BY PRIMARY ELECTION

CHAPTER 171. ORGANIZATION

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Sec. 171.002. COMMITTEE COMPOSITION

Sec. 171.003. FILLING VACANCY

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[Sections 171.005-171.020 reserved for expansion]

SUBCHAPTER B. COUNTY EXECUTIVE COMMITTEE

Sec. 171.021. COUNTY EXECUTIVE COMMITTEE ESTABLISHED

Sec. 171.022. COMMITTEE COMPOSITION

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Sec. 171.025. PROCEDURE FOR FILLING VACANCY IN COUNTY CHAIRMANSHIP

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SUBCHAPTER C. DISTRICT EXECUTIVE COMMITTEE

Sec. 171.051. DISTRICT EXECUTIVE COMMITTEE ESTABLISHED

Sec. 171.052. COMMITTEE COMPOSITION: DISTRICT COTERMINOUS WITH COUNTY

Sec. 171.053. COMMITTEE COMPOSITION: DISTRICT COMPRISING PART OF A COUNTY; FIRST MEETING

Sec. 171.054. COMMITTEE COMPOSITION: DISTRICT SITUATED IN MORE THAN ONE COUNTY; FIRST MEETING

[Sections 171.055-171.070 reserved for expansion]

SUBCHAPTER D. PRECINCT EXECUTIVE COMMITTEE

Sec. 171.071. PRECINCT EXECUTIVE COMMITTEE ESTABLISHED

Sec. 171.072. COMMITTEE COMPOSITION: PRECINCT WITH THREE OR MORE ELECTION PRECINCTS; FIRST MEETING

Sec. 171.073. COMMITTEE COMPOSITION: PRECINCT WITH FEWER THAN THREE ELECTION PRECINCTS

SUBTITLE B. PARTIES NOMINATING BY PRIMARY ELECTION

CHAPTER 171. ORGANIZATION

SUBCHAPTER A. STATE EXECUTIVE COMMITTEE

Sec. 171.001. STATE EXECUTIVE COMMITTEE ESTABLISHED. A state executive committee is established as provided by this subchapter for each political party holding a primary election in this state. (V.T.E.C. Art. 13.38.)

Sec. 171.002. COMMITTEE COMPOSITION. (a) The state executive committee consists of two members from each state senatorial district. One of each district's members must be a man and the other a woman.

(b) In addition to the members representing the senatorial districts, the committee has a chairman and a vice-chairman, one of whom must be a man and the other a woman. Except as otherwise provided by party rule, the chairman and vice-chairman are considered members of the committee.

(c) The chairman, vice-chairman, and members representing the senatorial districts are elected at the party's biennial state convention. However, the chairman, vice-chairman, and members may be elected for four-year terms at the state convention held in gubernatorial election years. Each holds office until a successor is elected and assumes office.

(d) The members elected to represent a particular senatorial district must be those recommended by the convention delegates representing that senatorial district. (V.T.E.C. Art. 13.38; New.)

Sec. 171.003. FILLING VACANCY. (a) The state executive committee shall fill by appointment any vacancy on the committee, including a vacancy in the office of chairman or vice-chairman.

(b) A majority of the committee's membership constitutes a quorum for the purpose of filling a vacancy. To be elected, a person must receive a favorable vote of a majority of the members voting.

(c) To be eligible to serve as a replacement to fill a vacancy in a membership representing a senatorial district, a person must reside in the district. (V.T.E.C. Art. 13.38; New.)

Sec. 171.004. PROXY. (a) To participate in a state executive committee meeting as a proxy for a member representing a senatorial district, a person must reside in that district.

(b) A person may not hold more than one proxy at any meeting. (V.T.E.C. Art. 13.38.)

[Sections 171.005-171.020 reserved for expansion]

SUBCHAPTER B. COUNTY EXECUTIVE COMMITTEE

Sec. 171.021. COUNTY EXECUTIVE COMMITTEE ESTABLISHED. For each county in which a primary election is held, a county executive committee is established as provided by this subchapter for the political party holding the primary. (V.T.E.C. Art. 13.18, Subdiv. 1.)

Sec. 171.022. COMMITTEE COMPOSITION. (a) A county executive committee consists of:

(1) a county chairman, who is the presiding officer, elected at the general primary election by majority vote of the qualified voters of the county who vote in the primary on that office; and

(2) a precinct chairman from each county election precinct, elected at the general primary by majority vote of the qualified voters of the precinct who vote in the primary on that office.

(b) If no candidate receives a majority of the votes, a runoff to determine the office is conducted in the same manner as a runoff primary election to determine a nomination for public office. The candidates to be in a runoff are determined in the same manner as candidates in a runoff for a nomination.

(c) Each committee member serves for a term of two years beginning the 20th day after runoff primary election day. (V.T.E.C. Art. 13.18, Subdiv. 1; New.)

Sec. 171.023. RESIDENCE OF PRECINCT CHAIRMAN. (a) To be eligible to be a candidate for or to serve as a precinct chairman, a person must reside in the election precinct in addition to satisfying the other applicable eligibility requirements.

(b) A change in a county election precinct boundary creates a vacancy in the office of precinct chairman if more than one precinct chairman resides in the changed precinct or if none resides there.

(c) For the purpose of determining whether a precinct chairman is a resident of a particular county election precinct, a change in a precinct boundary is not effective until February 1 following the adoption of the order making the change, except as provided by Subsection (d).

(d) If a change in a precinct boundary made by an order adopted on or after February 1 of a primary election year is scheduled to become effective before general primary election day, the change is effective on the date the order is adopted for the purpose specified by Subsection (c). (V.T.E.C. Art. 13.18, Subdiv. 2; New.)

Sec. 171.024. **FILLING VACANCY.** (a) The county executive committee shall fill by appointment any vacancy on the committee.

(b) A majority of the committee's membership must participate in filling a vacancy. To be elected, a person must receive a favorable vote of a majority of the members voting.

(c) A vacancy may not be filled before the beginning of the term of office in which the vacancy occurs.

(d) After a vacancy is filled, the county chairman shall promptly deliver written notice of the replacement member's name and address to the state chairman and to the county clerk. (V.T.E.C. Art. 13.18, Subdiv. 2; New.)

Sec. 171.025. **PROCEDURE FOR FILLING VACANCY IN COUNTY CHAIRMANSHIP.** (a) If a vacancy occurs in the office of county chairman, the secretary of the county executive committee shall call a meeting for the purpose of filling the vacancy. If a committee member files with the secretary a written request for a meeting to fill a vacancy, the secretary shall call the meeting to convene not later than the 20th day after the date the secretary receives the request.

(b) If the committee does not have a secretary or if after receiving a written request under Subsection (a) the secretary fails to call the meeting, the state chairman, on written request of a member of the county executive committee filed with the state chairman, shall call the meeting to convene not later than the 20th day after the date the chairman receives the request.

(c) The authority calling the meeting shall notify each committee member in advance of the meeting of its time, place, and purpose.

(d) The authority calling the meeting shall designate a committee member as temporary chairman, who shall call the meeting to order and preside until the vacancy is filled. (V.T.E.C. Art. 13.18, Subdiv. 3.)

Sec. 171.026. **PROXY NOT ALLOWED.** A person may not participate in a county executive committee meeting as a proxy. (V.T.E.C. Art. 13.18, Subdiv. 2.)

Sec. 171.027. **TEMPORARY COMMITTEE.** (a) If a county executive committee for a political party does not exist in a county in which the party is holding a primary election, the party shall establish a temporary county executive committee as provided by this section.

(b) The state executive committee shall appoint a temporary county chairman. To be appointed, a person must receive a favorable vote of a majority of the committee's membership.

(c) The temporary county chairman shall call, for the purpose of electing the other members of a temporary county executive committee, a meeting of the voters of the county who consider themselves to be aligned with the party. The voters present at the meeting shall elect the other members of the committee.

(d) The eligibility requirements for serving as a member of a temporary county executive committee are the same as those for serving as a member of a regularly constituted county executive committee except that affiliation with the political party is not required.

(e) A temporary county executive committee may exercise the authority and shall perform the duties of a regularly constituted county executive committee.

(f) A county executive committee for a county served by a temporary committee shall be elected at the general primary election. The temporary committee members serve until the elected members assume office. (V.T.E.C. Art. 13.18, Subdiv. 6; New.)

[Sections 171.028-171.050 reserved for expansion]

SUBCHAPTER C. DISTRICT EXECUTIVE COMMITTEE

Sec. 171.051. **DISTRICT EXECUTIVE COMMITTEE ESTABLISHED.** For each district from which an officer of the federal or state government is elected, a district executive committee is established as provided by this subchapter for each political party holding a primary election. (V.T.E.C. Art. 13.18a.)

Sec. 171.052. **COMMITTEE COMPOSITION: DISTRICT COTERMINOUS WITH COUNTY.** The district executive committee for a district that is coterminous with a single

county consists of the county executive committee, with the county chairman serving as chairman of the district committee. (V.T.E.C. Art. 13.18a(2).)

Sec. 171.053. COMMITTEE COMPOSITION: DISTRICT COMPRISING PART OF A COUNTY; FIRST MEETING. (a) The district executive committee for a district comprising only a part of a single county consists of the precinct chairmen of the county election precincts in the district.

(b) The members of a district executive committee shall elect a chairman at the committee's first meeting from among the committee membership.

(c) Except as provided by Subsection (d), the county chairman shall call the first meeting of the district executive committee to convene at any time after the precinct chairmen take office. The county chairman shall notify each committee member in advance of the meeting of its time, place, and purpose.

(d) If a vacancy exists in the chairmanship of a senatorial district executive committee immediately before the date for conducting the regular drawing for a place on the general primary ballot, the committee shall convene on that date at the hour and place specified by the county chairman to elect the district executive committee chairman.

(e) Not later than the third day after the date the chairman for a senatorial district executive committee is elected, the county chairman shall deliver to the state chairman written notice of the name and address of the person elected. (V.T.E.C. Arts. 13.18a(3), (4); New.)

Sec. 171.054. COMMITTEE COMPOSITION: DISTRICT SITUATED IN MORE THAN ONE COUNTY; FIRST MEETING. (a) The district executive committee for a district situated in more than one county consists of:

(1) the county chairman of each county that is wholly situated in the district; and

(2) one precinct chairman from each county that is only partly situated in the district, elected by and from among the precinct chairmen of the precincts in that part of the county.

(b) Except as provided by Subsection (c), the county chairman shall call a meeting to convene at any time after the precinct chairmen take office to elect the precinct chairman who is to serve on a district executive committee. The county chairman shall notify the appropriate precinct chairmen in advance of the meeting of its time, place, and purpose. Not later than the third day after the date the district executive committee member is elected, the county chairman shall deliver to the state chairman written notice of the name and address of the person elected.

(c) If a vacancy exists in the precinct chairman position on a senatorial district executive committee immediately before the date for conducting the regular drawing for a place on the general primary ballot, the appropriate precinct chairmen shall convene on that date at the hour and place specified by the county chairman to elect that officer.

(d) The members of a district executive committee shall elect a chairman at the committee's first meeting from among the committee membership.

(e) The state chairman shall call the first meeting of the district executive committee and shall notify each committee member in advance of the meeting of its time, place, and purpose. (V.T.E.C. Arts. 13.18a(1), (4); New.)

[Sections 171.055-171.070 reserved for expansion]

SUBCHAPTER D. PRECINCT EXECUTIVE COMMITTEE

Sec. 171.071. PRECINCT EXECUTIVE COMMITTEE ESTABLISHED. For each commissioners precinct and for each justice precinct, a precinct executive committee is established as provided by this subchapter for each political party holding a primary election. (V.T.E.C. Art. 13.18a(5).)

Sec. 171.072. COMMITTEE COMPOSITION: PRECINCT WITH THREE OR MORE ELECTION PRECINCTS; FIRST MEETING. (a) The precinct executive committee for a commissioners precinct or for a justice precinct containing three or more county election precincts consists of the precinct chairman of each county election precinct in the commissioners or justice precinct, as applicable.

(b) The members of a precinct executive committee shall elect a chairman at the committee's first meeting from among the committee membership.

(c) The county chairman shall call the first meeting of the precinct executive committee and shall notify each committee member in advance of the meeting of its time, place, and purpose. (V.T.E.C. Art. 13.18a(5); New.)

Sec. 171.073. COMMITTEE COMPOSITION: PRECINCT WITH FEWER THAN THREE ELECTION PRECINCTS. The precinct executive committee for a commissioners precinct or for a justice precinct containing fewer than three county election precincts consists of the county executive committee, with the county chairman serving as chairman of the precinct committee. (New.)

CHAPTER 172. PRIMARY ELECTIONS

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GENERALLY

- Sec. 172.001. NOMINATING BY PRIMARY ELECTION REQUIRED
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CHAPTER 172. PRIMARY ELECTIONS

SUBCHAPTER A. NOMINATING BY PRIMARY ELECTION GENERALLY

Sec. 172.001. **NOMINATING BY PRIMARY ELECTION REQUIRED.** Except as otherwise provided by this code, a political party's nominees in the general election for offices of state and county government and the United States Congress must be nominated by primary election, held as provided by this code, if the party's nominee for governor in the most recent gubernatorial general election received 20 percent or more of the total number of votes received by all candidates for governor in the election. (V.T.E.C. Arts. 6.01, 12.01, 13.02.)

Sec. 172.002. **NOMINATING BY PRIMARY ELECTION AUTHORIZED.** (a) Except as otherwise provided by this code, a political party's nominees in the general election for offices of state and county government and the United States Congress may be nominated by primary election, held as provided by this code, if the party's nominee for governor in the most recent gubernatorial general election received at least two percent but less than 20 percent of the total number of votes received by all candidates for governor in the election.

(b) If any nominee of a party is nominated by primary election, none of that party's nominees may be nominated that year by convention.

(c) For a political party to be entitled to hold a primary election under this section, the state chairman, not later than one year before general election day, must deliver written notice to the secretary of state that the party will hold a primary election in the general election year. (V.T.E.C. Art. 13.45, Subdiv. 1; New.)

Sec. 172.003. **MAJORITY VOTE REQUIRED.** Except as otherwise provided by this code, to receive a political party's nomination, a candidate in a primary election must receive a majority of the total number of votes received by all the candidates for the nomination. (V.T.E.C. Arts. 13.03, 13.07.)

Sec. 172.004. **RUNOFF PRIMARY.** (a) If no candidate for nomination to a particular office receives the vote required for nomination in the general primary election, a runoff primary election shall be held to determine the nomination.

(b) The candidates in a runoff for a nomination shall be determined and a tie vote in a runoff resolved as provided by Subchapter B, Chapter 2, for a runoff for an election to office. (V.T.E.C. Arts. 13.03, 13.07, 13.26.)

[Sections 172.005-172.020 reserved for expansion]

SUBCHAPTER B. APPLICATION FOR PLACE ON BALLOT

Sec. 172.021. **APPLICATION REQUIRED.** (a) To be entitled to a place on the general primary election ballot, a candidate must make an application for a place on the ballot.

(b) An application must, in addition to complying with Section 141.031, be accompanied by the appropriate filing fee or, instead of the filing fee, a petition that satisfies the requirements prescribed by Section 141.062. A political party may not require payment of a fee as a condition to applying for a place on the ballot as a candidate for county chairman or precinct chairman.

(c) An application filed by mail with the county chairman is considered filed at the time of its receipt. (V.T.E.C. Arts. 13.08(b), (c); Arts. 13.12(a), (e), (j); New.)

Sec. 172.022. **AUTHORITY WITH WHOM APPLICATION FILED.** (a) An application for a place on the general primary election ballot must be filed with:

- (1) the state chairman, for an office filled by voters of more than one county; or
- (2) the county chairman or the secretary, if any, of the county executive committee, for an office filled by voters of a single county.

(b) Not later than the day before the last day of the filing period, the county chairman shall post on the bulletin board used for posting notice of meetings of the commissioners court a notice of the address at which the county chairman or secretary will be available to receive applications on the last day of the filing period. (V.T.E.C. Art. 13.12(c); Art. 13.18, Subdiv. 4; New.)

Sec. 172.023. **REGULAR FILING PERIOD.** (a) An application for a place on the general primary election ballot must be filed not later than 6 p.m. on the first Monday in February of the primary election year unless the filing deadline is extended under Subchapter C.

(b) An application, other than an application for the office of precinct chairman, may not be filed earlier than the 30th day before the date of the regular filing deadline. An application for the office of precinct chairman may not be filed earlier than the 90th day before the date of the regular filing deadline. (V.T.E.C. Art. 1.08c; Arts. 13.12(c), (j); New.)

Sec. 172.024. **FILING FEE.** (a) The filing fee for a candidate for nomination in the general primary election is as follows:

- (1) United States senator\$2,000
- (2) Office elected statewide, except United States senator1,500
- (3) United States representative1,500
- (4) State senator750
- (5) State representative400
- (6) Member, State Board of Education250
- (7) Chief justice or associate justice, court of appeals750
- (8) District judge or judge specified by Section 52.092(d) for which this schedule does not otherwise prescribe a fee700
- (9) Judge, statutory county court700
- (10) District attorney, criminal district attorney, or county attorney performing the duties of a district attorney600
- (11) County commissioner or judge, constitutional county court:
 - (A) County of 200,000 or more population600
 - (B) County of under 200,000 population300
- (12) Justice of the peace or constable:
 - (A) County of 200,000 or more population500
 - (B) County of under 200,000 population200
- (13) County surveyor, inspector of hides and animals, or public weigher50
- (14) Office of the county government for which this schedule does not otherwise prescribe a fee300

(b) If a fee prescribed by Subsection (a) is declared invalid by a final judgment of a court, the secretary of state shall prescribe a filing fee consistent with the judgment to replace the invalidated fee. (V.T.E.C. Arts. 13.08(c), (m).)

Sec. 172.025. **NUMBER OF PETITION SIGNATURES REQUIRED.** The minimum number of signatures that must appear on the petition authorized by Section 172.021 is:

- (1) 5,000, for a statewide office; or
- (2) for a district, county, or precinct office, the lesser of:

(A) 500; or

(B) two percent of the number of votes received in the district, county, or precinct, as applicable, by the political party's nominee for governor in the most recent gubernatorial general election, unless that number is under 25, in which case the required number of signatures is the lesser of:

(i) 25; or

(ii) 10 percent of such votes. (V.T.E.C. Art. 13.08(d).)

Sec. 172.026. **RESTRICTION ON PETITION SIGNER.** On signing a petition authorized by Section 172.021, the signer becomes ineligible to vote in a primary election or participate in a convention of another political party during the voting year in which the primary election is held. (V.T.E.C. Art. 13.08(d).)

Sec. 172.027. **STATEMENT ON PETITION.** The following statement must appear at the top of each page of a petition authorized by Section 172.021: "I know that the purpose of this petition is to entitle (*insert candidate's name*) to have his name placed on the ballot for the office of (*insert office title*) for the (*insert political party's name*) primary election. I understand that by signing this petition I become ineligible to vote in a primary election or participate in a convention of another party, including a party not holding a primary election, during the voting year in which this primary election is held." (V.T.E.C. Art. 13.08(d).)

Sec. 172.028. **STATE CHAIRMAN'S CERTIFICATION OF NAMES FOR PLACEMENT ON GENERAL PRIMARY BALLOT.** (a) Except as provided by Subsection (c), the state chairman shall certify in writing for placement on the general primary election ballot the name of each candidate who files with the chairman an application that complies with Section 172.021(b).

(b) Not later than the second Wednesday in March of the primary election year, the state chairman shall deliver the certification to the county chairman in each county in which the candidate's name is to appear on the ballot.

(c) A candidate's name may not be certified:

(1) if, before delivering the certification, the state chairman learns that the name is to be omitted from the ballot under Section 172.057; or

(2) for an office for which the candidate's application is invalid under Section 141.033.

(d) A copy of each certification shall be made available on request, without charge, to each newspaper published in this state and to each licensed radio and television station in this state. (V.T.E.C. Art. 13.12(i); New.)

Sec. 172.029. **LIST OF CANDIDATES.** (a) For each general primary election, the state chairman and each county chairman shall prepare a list containing the name of each candidate who files an application for a place on the ballot with him, as the name is to appear on the ballot, and containing the candidate's address as shown on the application.

(b) The candidates' names must be grouped on the list according to office.

(c) Not later than the 10th day after the date of the regular filing deadline for candidates' applications, the state chairman shall deliver his list to the secretary of state, and each county chairman shall deliver a copy of his list to the county clerk, the state chairman, and the secretary of state.

(d) A candidate's name must be omitted from the list if, before delivery of the list, the candidate withdraws, dies, or is declared ineligible, or if the candidate's application is determined not to comply with the applicable requirements.

(e) The secretary of state and each county clerk shall retain each list received until the day after general primary election day. (V.T.E.C. Art. 13.12(h); New.)

[Sections 172.030-172.050 reserved for expansion]

SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF CANDIDATE

Sec. 172.051. **WITHDRAWAL, DEATH, OR INELIGIBILITY GENERALLY.** With respect to withdrawal, death, or ineligibility of a candidate in a primary election, this subchapter supersedes Subchapter A, Chapter 145, to the extent of any conflict. (New.)

Sec. 172.052. **WITHDRAWAL FROM GENERAL PRIMARY.** (a) A candidate for nomination may not withdraw from the general primary election after the 65th day before general primary election day.

(b) A withdrawal request for the general primary must be filed with the authority with whom the withdrawing candidate's application for a place on the ballot is required to be filed. (V.T.E.C. Arts. 13.12(f), (g).)

Sec. 172.053. **ADMINISTRATIVE DECLARATION OF INELIGIBILITY AFTER POLLS CLOSE.** Except for a judicial action in which a candidate's eligibility is in issue, after

the polls close on primary election day and before the final canvass for the office sought by the candidate is completed, a candidate for nomination may be declared ineligible only by the presiding officer of the primary's final canvassing authority for that office. (New.)

Sec. 172.054. **EXTENDED FILING DEADLINE.** (a) The deadline for filing an application for a place on the general primary election ballot is extended as provided by this section if a candidate who has made an application that complies with the applicable requirements:

(1) dies on or after the fifth day before the date of the regular filing deadline and on or before the 65th day before general primary election day;

(2) holds the office for which his application was made and withdraws or is declared ineligible on or after the date of the regular filing deadline and on or before the 65th day before general primary election day; or

(3) withdraws or is declared ineligible during the period prescribed by Subdivision (2), and at the time of the withdrawal or declaration of ineligibility no other candidate has made an application that complies with the applicable requirements for the office sought by the withdrawn or ineligible candidate.

(b) An application for an office sought by a withdrawn, deceased, or ineligible candidate must be filed not later than 6 p.m. of the 15th day after the date of the withdrawal, death, or declaration of ineligibility, as applicable, or 6 p.m. of the 60th day before general primary election day, whichever is earlier. An application filed by mail with the state chairman is not timely if received later than 5 p.m. of the 60th day before general primary election day.

(c) An extension of the filing deadline under this section applies only to the primary election of the political party for which the withdrawn, deceased, or ineligible candidate applied for a place on the ballot. (V.T.E.C. Art. 13.12(d); New.)

Sec. 172.055. **PUBLIC NOTICE OF EXTENDED FILING.** (a) If the deadline for filing applications is extended, notice of the extended filing shall be given as provided by this section.

(b) The authority with whom the withdrawn, deceased, or ineligible candidate's application was filed shall prepare a notice identifying the candidate and the office for which the filing deadline is extended and stating the extended deadline.

(c) Not later than 48 hours after the candidate withdraws or is declared ineligible or after the authority preparing the notice learns of the candidate's death, as applicable, the authority shall deliver a copy of the notice to:

(1) at least one daily newspaper published in the county or, if none, at least one weekly newspaper published there, if any, for a notice prepared by the county chairman;

(2) at least three daily newspapers that regularly maintain a news representative at the State Capitol, for a notice applicable to a statewide office; or

(3) at least one daily newspaper published in each county wholly or partly situated in the district or, if none, at least one weekly newspaper published there, if any, for a notice prepared by the state chairman for a district office.

(d) A county or state chairman's failure to perform a duty prescribed by this section is cause for the officer's removal by the executive committee over which he presides. (V.T.E.C. Art. 13.12(f); New.)

Sec. 172.056. **SUPPLEMENTAL LIST OF CANDIDATES.** (a) If the deadline for filing applications is extended, a list shall be prepared, as provided by Section 172.029 for a list of candidates who file during the regular filing period, containing the name of each candidate:

(1) who files an application that complies with the applicable requirements during the extended filing period; and

(2) whose name is not on the list prepared under Section 172.029.

(b) The list prepared under this section is subject to the requirements prescribed by Section 172.029 except that the list must be delivered to the secretary of state, county clerk, and state chairman, as applicable, not later than the seventh day after the date of the extended deadline. (V.T.E.C. Art. 13.12(h); New.)

Sec. 172.057. **WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM GENERAL PRIMARY BALLOT.** A candidate's name shall be omitted from the general primary election ballot if the candidate withdraws, dies, or is declared ineligible on or before the 65th day before general primary election day. (V.T.E.C. Art. 13.12(g).)

Sec. 172.058. **DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON GENERAL PRIMARY BALLOT.** (a) If a candidate who has made an application for a place on the general primary election ballot that complies with the applicable requirements dies or is declared ineligible after the 65th day before general primary election day, the candidate's name shall be placed on the ballot.

(b) If the deceased or ineligible candidate receives the vote required for nomination, the appropriate executive committee may select the nominee and certify the nominee's name for

placement on the general election ballot as provided by Subchapter B, Chapter 145, for filling a vacancy in a nomination.

(c) In a race in which a runoff is required, if the deceased or ineligible candidate received the vote that would entitle him to a place on the runoff primary ballot or tied for that number of votes, the candidates in the runoff shall be determined in the regular manner but without regard to the votes received by the deceased or ineligible candidate. (V.T.E.C. Art. 8.22(b); Art. 13.12(g).)

Sec. 172.059. **WITHDRAWAL FROM RUNOFF PRIMARY.** (a) A candidate for nomination may not withdraw from the runoff primary election after 5 p.m. of the 10th day after general primary election day.

(b) A withdrawal request for the runoff primary must be filed with the state chairman, for a statewide or district office, or with the county chairman, for a county or precinct office.

(c) If a runoff candidate withdraws, the remaining candidate is the nominee and the runoff election for that office is not held. (V.T.E.C. Art. 13.26a; New.)

Sec. 172.060. **DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON RUNOFF PRIMARY BALLOT.** (a) If a runoff primary candidate dies or is declared ineligible before runoff primary election day, the candidate's name shall be placed on the ballot.

(b) If a deceased or ineligible candidate receives the vote required for nomination, the appropriate executive committee may select the nominee and certify the nominee's name for placement on the general election ballot as provided by Subchapter B, Chapter 145, for filling a vacancy in a nomination. (V.T.E.C. Art. 8.22(b); New.)

Sec. 172.061. **CANDIDATE FOR PARTY OFFICE.** (a) Except for Sections 172.058(b), 172.059(c), and 172.060(b), this subchapter applies to a candidate for county chairman or precinct chairman.

(b) If a runoff candidate for county chairman or precinct chairman withdraws, the remaining candidate is considered to be elected and the runoff election for that office is not held. (V.T.E.C. Art. 13.12(j).)

[Sections 172.062-172.080 reserved for expansion]

SUBCHAPTER D. BALLOT

Sec. 172.081. **PRIMARY COMMITTEE.** (a) Except as provided by Subsection (b), a primary committee is established in each county having a county executive committee. The primary committee consists of:

(1) the county chairman; and

(2) four other members of the county executive committee, appointed by the county chairman subject to the executive committee's approval.

(b) The county executive committee by resolution may provide that the primary committee consist of more or fewer than five members or that a primary committee not be established. If a primary committee is not established, the county chairman shall perform the duties of the primary committee prescribed by this chapter unless the county executive committee designates another member of the committee for that purpose.

(c) The county chairman serves as chairman of the primary committee. (V.T.E.C. Art. 13.14; New.)

Sec. 172.082. **ORDER OF NAMES ON GENERAL PRIMARY BALLOT: REGULAR DRAWING.** (a) The order of the candidates' names on the general primary election ballot for each county shall be determined by a drawing.

(b) The county executive committee shall conduct the drawing unless it provides by resolution that the drawing be conducted by the primary committee.

(c) The drawing shall be conducted at the county seat on the third Monday in March of the primary election year.

(d) Each candidate affected by a drawing is entitled to be present or have a representative present at the drawing. (V.T.E.C. Arts. 13.13, 13.17(a); New.)

Sec. 172.083. **REVIEW AND APPROVAL OF BALLOT BY PRIMARY COMMITTEE.** Before having the official ballots for a general primary election printed, the county chairman shall submit the format for the official ballot to the primary committee for its review and approval. (V.T.E.C. Art. 13.14.)

Sec. 172.084. **ORDER OF NAMES ON RUNOFF PRIMARY BALLOT.** (a) Except as provided by this section, the order of the candidates' names on the runoff primary election ballot for each county shall be determined by a drawing conducted in the same manner as the regular drawing for position on the general primary election ballot.

(b) The drawing for candidates for county and precinct offices shall be conducted at the place at which the local canvass of the general primary election is conducted, immediately following the canvass.

(c) The primary committee shall conduct the drawing for candidates for statewide and district offices at the county seat at a time designated by the county chairman.

(d) The county chairman shall post notice of the date and hour of the drawing for candidates for statewide and district offices:

(1) for at least 24 consecutive hours immediately before the drawing begins; and

(2) not earlier than the day after the date the state executive committee convenes to canvass the results of the general primary.

(e) The notice required by Subsection (d) shall be posted on the bulletin board used for posting notice of meetings of the commissioners court. (V.T.E.C. Art. 13.17(b); New.)

Sec. 172.085. NAME OF PARTY ON BALLOT. The name of the political party holding a primary election shall be placed at the top of the primary ballot. (V.T.E.C. Art. 13.09(a).)

Sec. 172.086. PLEDGE ON BALLOT. The following pledge shall be placed on the primary election ballot above the listing of candidates' names: "I am a (*insert appropriate political party*) and understand that I am ineligible to vote or participate in another political party's primary election or convention during this voting year." (V.T.E.C. Art. 13.11; New.)

Sec. 172.087. REFERENDUM ORDERED BY STATE EXECUTIVE COMMITTEE. The state executive committee may provide by resolution that a proposal to include a demand for specific legislation or any other matter in the party's platform or resolutions be submitted to a vote by placement on the general primary election ballot. The state executive committee shall prescribe the wording of the proposition submitting a proposal. (V.T.E.C. Art. 13.33.)

Sec. 172.088. VOTER PETITION FOR REFERENDUM. (a) Voters by petition may require that a proposal to include a demand for specific legislation or any other matter in a political party's platform or resolutions be submitted to a vote in the party's general primary election by placement on the general primary election ballot.

(b) Subject to Subsection (c), a petition under this section must satisfy the requirements prescribed by Section 141.062 for a candidate's petition and must state the proposal that is to be submitted. The petition is otherwise subject to the applicable provisions of Subchapter C, Chapter 141, except as provided by this section.

(c) A political party by rule may provide for restricting petition signers on the basis of party alignment or preference.

(d) The petition must be filed with the state chairman of the political party holding the primary to which the petition applies before the date of the regular filing deadline for candidates' applications for a place on the primary ballot.

(e) The minimum number of signatures that must appear on the petition is five percent of the total vote received by all candidates for governor in the party's most recent gubernatorial general primary election.

(f) A signer's voter registration is not required to be in any particular territory.

(g) The state executive committee shall prescribe the wording of the proposition submitting a proposal. (V.T.E.C. Art. 13.33; New.)

Sec. 172.089. ORDER OF PARTY OFFICES ON BALLOT. The party offices of county chairman and precinct chairman shall be listed on the primary election ballot after the public offices with the office of county chairman listed first. (V.T.E.C. Art. 6.05c, Subdiv. 1(c).)

Sec. 172.090. SEPARATE BALLOT FOR OFFICE OF PRECINCT CHAIRMAN. (a) In a primary election in which election precincts are consolidated, the county executive committee may provide by resolution, order, or other official action for voting in a consolidated precinct by separate paper ballot for the office of precinct chairman.

(b) The separate paper ballot for precinct chairman must conform to the applicable standards governing regular paper ballots, except that the ballot shall be limited to the office of precinct chairman.

(c) The secretary of state shall prescribe the form of the ballot for precinct chairman consistent with this section. (New.)

[Sections 172.091-172.110 reserved for expansion]

SUBCHAPTER E. CONDUCT OF ELECTION

Sec. 172.111. CONDUCT OF PRIMARY ELECTION GENERALLY. (a) With respect to the conduct of a primary election, this subchapter supersedes Title 6 to the extent of any conflict.

(b) The county executive committee shall supervise the overall conduct of a primary election in each county. (V.T.E.C. Arts. 13.08(a), 13.19, 13.22, 13.23, 13.24.)

Sec. 172.112. WRITE-IN VOTING. Write-in voting in a primary election is not permitted except in the general primary election for the offices of county chairman and precinct chairman. (V.T.E.C. Art. 13.09(b).)

Sec. 172.113. UNOFFICIAL TABULATION OF PRECINCT RESULTS. (a) The county chairman shall prepare the unofficial tabulation of precinct results.

(b) When the general custodian of election records for the primary opens the precinct election records from the various polling places, he shall deliver the precinct returns to the county chairman for the purpose of preparing the unofficial tabulation.

(c) When the county chairman receives precinct returns from the general custodian, the county chairman shall enter the appropriate information on the unofficial tabulation and immediately return the precinct returns to the custodian.

(d) The county chairman shall make the periodic announcements of the current state of the tabulation.

(e) On completing the tabulation, the county chairman shall deliver it to the general custodian.

(f) A person employed to assist in the preparation of the unofficial tabulation is entitled to compensation at the same rate as an election clerk serving in the election. (V.T.E.C. Art. 8.25; New.)

Sec. 172.114. DISPOSITION OF POLL LIST. The general custodian of election records shall preserve the poll lists maintained for a primary election until the end of the voting year in which the primary election is held. (New.)

Sec. 172.115. DISPOSITION OF LIST OF REGISTERED VOTERS. (a) Subject to Subsection (b), the general custodian of election records shall preserve each precinct list of registered voters that is used for a primary election until the end of the voting year in which the primary election is held.

(b) The custodian shall return each list that is to be used in a subsequent primary election to the authority responsible for distributing the election supplies not earlier than the fourth day before the date it is needed for the subsequent primary. (New.)

Sec. 172.116. LOCAL CANVASS. (a) The county executive committee shall canvass the precinct election returns for the county.

(b) The committee shall convene to conduct the local canvass at the county seat on the first Tuesday after election day at the hour specified by the county chairman.

(c) Except as provided by this section, the procedure for conducting the canvass is the same as that prescribed by this code for a local canvass of a general election.

(d) The tabulation of results must be a separate document.

(e) Not later than the 20th day after the date the local canvass is completed, the county chairman shall deliver the committee's tabulation to the general custodian of election records, who shall preserve it for the period for preserving the precinct election records.

(f) The local canvass is open to the general public.

(g) The official result of the primary election, except for offices canvassed at the state level, is determined from the local canvass of precinct returns. (V.T.E.C. Arts. 13.24, 13.25; New.)

Sec. 172.117. CERTIFICATION OF NOMINEES FOR COUNTY AND PRECINCT OFFICES FOR PLACEMENT ON GENERAL ELECTION BALLOT. (a) The county chairman shall certify in writing for placement on the general election ballot the name and address of each primary candidate who is nominated for a county or precinct office.

(b) Not later than the 20th day after the date the local canvass is completed, the county chairman shall deliver the certification to the authority responsible for having the official general election ballot prepared.

(c) A candidate's name may not be certified if, before delivering the certification, the county chairman learns that the name is to be omitted from the ballot under Section 145.035. (V.T.E.C. Art. 13.25; New.)

Sec. 172.118. NOTICE OF PERSONS ELECTED AS PARTY OFFICERS. (a) Not later than the 20th day after the date the local canvass is completed, the county chairman shall deliver written notice to the state chairman and to the county clerk of the names of the persons elected as county chairman and precinct chairmen for the county.

(b) The notice must include each party officer's address and each precinct chairman's precinct number.

(c) The county clerk shall preserve the notice until the county clerk receives notice of the party officers elected at the succeeding primary election.

(d) On request of the secretary of state, the state chairman shall deliver to the secretary written notice of the names and addresses of the party's county chairmen. (V.T.E.C. Art. 13.18, Subdiv. 1; Art. 13.18b; New.)

Sec. 172.119. COUNTY ELECTION RETURNS. (a) The county chairman shall prepare county election returns for the statewide and district offices voted on in a primary election in the same manner as the county returns for a general election are prepared by the county clerk except that separate returns for the offices of governor and lieutenant governor are not prepared.

(b) The county chairman shall deliver the county returns and retain a copy in the same manner as the county returns for a general election are delivered and retained by the county clerk except that the delivery shall be made to the state chairman. (V.T.E.C. Art. 13.27(a).)

Sec. 172.120. STATE CANVASS. (a) The state executive committee shall canvass the county election returns.

(b) The state executive committee shall convene to conduct the state canvass for the general primary election on the second Thursday after general primary election day. Not later than the second Saturday after runoff primary election day, the committee shall convene at the call of the state chairman to conduct the state canvass of the runoff primary election.

(c) In a primary election year and before general primary election day, the state executive committee by written resolution shall determine the place for conducting the state canvass.

(d) Except as provided by this section, the procedure for conducting the canvass is the same as that prescribed by this code for a canvass by the state board of canvassers.

(e) A separate tabulation of results for the offices of governor and lieutenant governor is not made.

(f) Not later than the 20th day after the date the state canvass is completed, the state chairman shall deliver the committee's tabulation to the secretary of state, who shall preserve it for the period for preserving the precinct election records.

(g) The state canvass is open to the general public.

(h) The official result of the primary election for offices canvassed by the state executive committee is determined from its canvass of the county returns. (V.T.E.C. Arts. 13.27(b), (c), (d); New.)

Sec. 172.121. CERTIFICATION OF CANDIDATES FOR STATEWIDE AND DISTRICT OFFICES FOR PLACEMENT ON RUNOFF BALLOT. (a) The state chairman shall certify in writing for placement on the runoff primary election ballot the name of each general primary candidate for a statewide or district office who is to be a candidate in the runoff.

(b) The state chairman shall deliver the certification to the county chairman in each affected county as soon as practicable after the state canvass of the general primary election is completed. (V.T.E.C. Art. 13.27(b); New.)

Sec. 172.122. CERTIFICATION OF NOMINEES FOR STATEWIDE AND DISTRICT OFFICES TO SECRETARY OF STATE. (a) The state chairman shall certify in writing as the party's nominee the name and address of each primary candidate who is nominated for a statewide or district office.

(b) Not later than the 20th day after the date the state canvass is completed, the state chairman shall deliver the certification to the secretary of state. (V.T.E.C. Arts. 13.27(b), (c).)

Sec. 172.123. ENTERING PRIMARY RESULTS IN ELECTION REGISTER. (a) The county clerk shall enter the precinct results for the primary election in the election register maintained for the commissioners court.

(b) The secretary of state shall enter the primary election results for statewide and district offices in the election register maintained for the state board of canvassers. (V.T.E.C. Arts. 13.18b, 13.24, 13.27(d); New.)

Sec. 172.124. REPORTING PRECINCT RESULTS FOR STATEWIDE OFFICES TO SECRETARY OF STATE. (a) For each primary election, the county chairman shall prepare a report of the number of votes received in each county election precinct by each candidate for a statewide office, as provided by Section 67.017 for the report of statewide office precinct results for a general election.

(b) The county chairman shall deliver the report to the secretary of state not later than the 30th day after primary election day.

(c) Except as otherwise provided by this section, the report is subject to the requirements prescribed by Section 67.017 for the report prepared for a general election. (V.T.E.C. Art. 13.24a; New.)

CHAPTER 173. PRIMARY ELECTION FINANCING

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CHAPTER 173. PRIMARY ELECTION FINANCING

SUBCHAPTER A. PRIMARY ELECTION EXPENSES GENERALLY

Sec. 173.001. STATE FUNDS FOR PRIMARY AUTHORIZED. (a) Subject to legislative appropriation, state funds may be spent as provided by this chapter to pay expenses incurred by a political party in connection with a primary election.

(b) Expenses incurred in connection with a convention of a political party or other party activity that is not necessary for the holding of a primary election may not be paid with state funds.

(c) The secretary of state may spend state funds appropriated for primary finance to pay salaries and other necessary expenses in connection with the administration of primary elections. (V.T.E.C. Arts. 13.08(e), 13.08a-1(a), 13.08c.)

Sec. 173.002. STATE NOT LIABLE FOR PRIMARY EXPENSES. The state is not liable for the failure of a political party to pay expenses the party incurs in holding a primary election. (V.T.E.C. Art. 13.08a(e); New.)

Sec. 173.003. **EXPENSES INCURRED BY COUNTY.** Except as otherwise provided by law, the county shall pay the expenses incurred by the county clerk in connection with absentee voting in a primary election and any other expenses incurred by a county authority in connection with a primary election. (V.T.E.C. Art. 13.08(g).)

Sec. 173.004. **STATE COMPENSATION OF COUNTY CHAIRMAN AND SECRETARY OF COUNTY EXECUTIVE COMMITTEE.** (a) The total amount paid with state funds in a particular primary election year for the combined compensation of a county chairman and the secretary, if any, of the county executive committee presided over by the chairman may not be:

- (1) less than \$300; or
- (2) more than the lesser of
 - (A) \$8,000; or
 - (B) five percent of the total expenses incurred by the political party in holding primary elections in the county that year, exclusive of the combined annual compensation of the county chairman and secretary.

(b) The status of a county executive committee's secretary as a committee member does not affect the applicability of this section. (V.T.E.C. Art. 13.08(i); Art. 13.18, Subdiv. 4.)

Sec. 173.005. **STATE COMPENSATION FOR TRAINING ELECTION JUDGES.** (a) The maximum hourly rate payable with state funds in a particular primary election year to election judges serving in a primary election for attending training programs is the same as the maximum rate prescribed by this code for a political subdivision's compensation of its election judges for the same activity.

(b) The secretary of state may deny payment of state funds to a county executive committee for the purpose of training election judges or may limit the amount of payment made. (V.T.E.C. Art. 3.09b; New.)

Sec. 173.006. **AUTHORITY TO REDUCE PRIMARY COSTS.** The secretary of state may adopt rules consistent with this code that reduce the cost of primary elections or facilitate the holding of primary elections within the amount appropriated by the legislature for that purpose. (V.T.E.C. Art. 13.08(j).)

Sec. 173.007. **LIMITING STATE COMPENSATION FOR POLLING PLACES.** (a) The secretary of state may limit the number of primary election polling places for which operating expenses are payable with state funds.

(b) Rules adopted under this section must provide for state compensation for a sufficient number of polling places in each county to adequately serve its voters, taking into account the area, geographic features, estimated voter turnout, and other relevant factors, but in no case may state compensation be limited to fewer than one polling place for each commissioners precinct.

(c) Rules adopted under this section do not limit a political party's authority under this code to consolidate election precincts for a primary election. (V.T.E.C. Art. 13.08(h).)

Sec. 173.008. **LIMITING STATE COMPENSATION FOR ELECTION PERSONNEL.** (a) The secretary of state may limit the number of election clerks in a primary election whose service is payable with state funds.

(b) The secretary of state may limit the total state compensation payable to persons employed to assist a county chairman in connection with a primary election.

(c) Rules adopted under this section must provide for state compensation for sufficient personnel to properly hold the primary, taking into account the number of registered voters, number of votes cast in previous primary elections, method of voting, and other relevant factors, but in no case may state compensation be limited to fewer than two clerks for each election precinct.

(d) State funds may be paid in excess of the limits prescribed under this section if the secretary of state determines good cause exists for the additional state compensation. (V.T.E.C. Art. 13.08(i); New.)

Sec. 173.009. **DEADLINE FOR ADOPTING RULES.** A rule adopted by the secretary of state under this subchapter does not apply to a primary election held less than 45 days after the date the rule is adopted. (New.)

Sec. 173.010. **FURNISHING RULES.** During January of each primary election year, the secretary of state shall deliver to the state chairman and each county chairman of each political party holding a primary election a current set of the rules adopted under this subchapter. If a rule or amendment of a rule is adopted after delivery of the set, the secretary shall deliver a copy of the rule or amendment not later than the 10th day after the date of its adoption. (V.T.E.C. Art. 13.08(j); New.)

[Sections 173.011-173.030 reserved for expansion]

SUBCHAPTER B. PRIMARY FUND

Sec. 173.031. COUNTY PRIMARY FUND. (a) A county primary fund is created for each county executive committee of a political party holding a primary election.

(b) The county primary fund consists of:

- (1) the filing fees required to be deposited in the fund under Subchapter C;
- (2) the state funds paid to the county chairman under Subchapter D;
- (3) the contributions to the county executive committee for the purpose of defraying primary election expenses; and
- (4) the income earned by the fund. (V.T.E.C. Art. 13.08(e); Art. 13.18, Subdiv. 5; New.)

Sec. 173.032. STATE PRIMARY FUND. (a) A state primary fund is created for the state executive committee of each political party holding a primary election.

(b) The state primary fund consists of:

- (1) the filing fees required to be deposited in the fund under Subchapter C;
- (2) the state funds paid to the state chairman under Subchapter D;
- (3) the contributions to the state executive committee for the purpose of defraying primary election expenses; and
- (4) the income earned by the fund. (New.)

Sec. 173.033. USE OF PRIMARY FUND. (a) The county primary fund shall be used to pay expenses incurred by the county chairman or county executive committee in connection with a primary election.

(b) The state primary fund shall be used to pay expenses incurred by the state chairman or state executive committee in connection with a primary election.

(c) A primary fund may not be used for any other purpose. (V.T.E.C. Art. 13.08(e); Art. 13.08a(d); Art. 13.18, Subdiv. 5; New.)

Sec. 173.034. MANAGING PRIMARY FUND. (a) The county executive committee shall manage the county primary fund.

(b) The state executive committee shall manage the state primary fund. (V.T.E.C. Art. 13.08(k); Arts. 13.08a(d), (e); Art. 13.18, Subdiv. 5; New.)

Sec. 173.035. INVESTING PRIMARY FUND. (a) A primary fund may be invested only by deposit with a federally insured financial institution.

(b) A primary fund may not be invested under conditions preventing a withdrawal after the 30th day before the date of a primary election. (V.T.E.C. Art. 13.18, Subdiv. 5; New.)

Sec. 173.036. AUDIT BY SECRETARY OF STATE. (a) The secretary of state may have a primary fund audited at any time.

(b) The expenses of an audit under this section shall be paid from funds appropriated for the administration of primary elections. (V.T.E.C. Art. 13.08a(f); New.)

Sec. 173.037. STATE FUNDS FOR AUDIT REQUESTED BY PARTY. (a) The secretary of state may approve an expenditure of state funds for an audit of the state primary fund on request of the state chairman or a county primary fund on request of a county chairman.

(b) On receipt of written certification of the amount approved by the secretary of state for an audit, the comptroller of public accounts shall issue a warrant for that amount payable to the state or county chairman making the request.

(c) An audit conducted with state funds approved under this section is subject to the conditions imposed by the secretary of state. (V.T.E.C. Art. 13.08a(f); New.)

[Sections 173.038-173.060 reserved for expansion]

SUBCHAPTER C. DISPOSITION OF FILING FEES

Sec. 173.061. FEE PAID TO COUNTY CHAIRMAN. The county chairman shall deposit in the county primary fund each filing fee accompanying an application for a place on the ballot filed with the county chairman. (V.T.E.C. Art. 13.08(e).)

Sec. 173.062. FEE PAID TO STATE CHAIRMAN ALLOCATED AMONG COUNTY COMMITTEES. (a) The state chairman shall allocate the filing fee for a district office accompanying an application for a place on the ballot filed with the state chairman during the regular filing period among the county executive committees serving the counties comprising the district.

(b) Each committee's allocation is equal to the quotient obtained by dividing the amount of the filing fee by the number of counties wholly or partly in the district.

(c) The state chairman shall deliver each committee's allocation to the county chairman not later than the 10th day after the date of the regular filing deadline.

(d) On receipt of the allocation, the county chairman shall deposit it in the county primary fund. (V.T.E.C. Art. 13.08(e).)

Sec. 173.063. **FEE RETAINED BY STATE CHAIRMAN.** The state chairman shall deposit in the state primary fund each filing fee accompanying an application for a place on the ballot filed with the state chairman:

- (1) for a statewide office; or
- (2) for a district office if the application is filed after the regular filing deadline. (V.T.E.C. Art. 13.08(e); New.)

Sec. 173.064. **REPORT OF FEES BY STATE CHAIRMAN.** (a) The state chairman shall prepare a report of the filing fees accompanying applications for a place on the ballot filed with the state chairman during the regular filing period.

(b) The report must include, for each office for which an application is filed, the total number of applications and the total amount of filing fees paid.

(c) The state chairman shall deliver the report to the secretary of state not later than the 10th day after the date of the regular filing deadline. (V.T.E.C. Art. 13.08(e); New.)

[Sections 173.065-173.080 reserved for expansion]

SUBCHAPTER D. STATE FINANCING

Sec. 173.081. **REQUESTING STATE FUNDS FOR PRIMARY EXPENSES.** (a) To obtain state funds for paying expenses incurred in connection with a primary election, a written request for state funds must be submitted to the secretary of state by:

- (1) the county chairman, for expenses of the county chairman or county executive committee; or
- (2) the state chairman, for expenses of the state chairman or state executive committee.

(b) A request for state funds must:

- (1) contain an itemized estimate, prepared by the authority submitting the request, of the primary expenses for which state funds are requested; and
- (2) be sworn to by the authority submitting the request.

(c) A request for state funds for a general primary election must also:

(1) state the amount of:

(A) the beginning balance in the county primary fund if the request is submitted by a county chairman, or in the state primary fund if the request is submitted by the state chairman;

(B) the primary candidates' filing fees required to be deposited in the county primary fund if the request is submitted by a county chairman, or in the state primary fund if the request is submitted by the state chairman, that have been received by the authority submitting the request; and

(C) the contributions to the county executive committee if the request is submitted by a county chairman, or to the state executive committee if the request is submitted by the state chairman, that:

(i) are for the purpose of defraying primary election expenses; and

(ii) have not been included in a report filed under Section 173.084 for a previous primary election year; and

(2) be submitted not later than the 30th day before general primary election day.

(d) The information required by Subsection (c)(1) must be current as of the 10th day after the date of the regular filing deadline for a candidate's application for a place on the primary ballot.

(e) A request for state funds for a runoff primary election must be submitted not later than the 10th day after general primary election day.

(f) For purposes of this section, the beginning balance in a primary fund is equal to the sum obtained by adding the remaining balance in the fund, as indicated by the report filed under Section 173.084 for the preceding primary election year, to the income earned by the fund since the date of that report. (V.T.E.C. Arts. 13.08a(a), (b); Arts. 13.08a-1(a), (b); New.)

Sec. 173.082. **REVIEW OF REQUEST; APPROVAL; NOTICE.** (a) On receipt of a request for state funds for primary election expenses, the secretary of state shall review the request to determine which items of estimated expense and the amounts of those items to approve.

(b) The secretary of state shall approve an item of estimated expense if the secretary determines that it is reasonably necessary for the proper holding of the primary election. If the secretary determines that the entire estimated amount of the item is not reasonably necessary, the secretary shall approve the item in the reduced amount that he determines is appropriate.

(c) The secretary of state shall promptly notify the authority submitting the request of each item of estimated expense not approved or approved in a reduced amount.

(d) An item or part of an item of estimated primary election expense that is not approved by the secretary of state may not be paid with state funds.

(e) Expenses incurred in connection with an application for a place on the ballot for the office of precinct chairman filed before the 30th day before the date of the regular filing deadline may not be paid with state funds. (V.T.E.C. Art. 1.08c; Arts. 13.08a(a), (b); Arts. 13.08a-1(a), (b); New.)

Sec. 173.083. STATE PAYMENT OF ESTIMATED PRIMARY EXPENSES. (a) The amount of estimated primary election expenses payable with state funds under this section is equal to:

(1) for a general primary election, the difference obtained by subtracting the sum of the filing fees, contributions, and beginning primary fund balance reported in the request for state funds from the total amount of estimated general primary expenses approved by the secretary of state under Section 173.082; and

(2) for a runoff primary election, the total amount of estimated runoff primary expenses approved by the secretary.

(b) State payment of the estimated primary election expenses shall be made in installments as follows:

(1) the initial installment for the expenses of a general primary is equal to three-fourths of the amount of estimated general primary expenses payable with state funds;

(2) the initial installment for the expenses of a runoff primary is equal to three-fourths of the amount of estimated runoff primary expenses payable with state funds; and

(3) the final installment is equal to the difference obtained by subtracting the total of the installments paid under Subdivisions (1) and (2) from the total of the actual general and runoff primary election expenses payable with state funds.

(c) After determining the amount of estimated primary expenses to approve under Section 173.082 for a general or runoff primary, the secretary of state shall calculate the amount of the installment payable under Subsection (b)(1) or (2), as applicable. The secretary shall then prepare and deliver to the comptroller of public accounts a certified statement indicating the amount of the installment, the total amount of estimated general or runoff primary expenses payable with state funds, and the name of the county or state chairman who submitted the request.

(d) The final installment may not be paid until a report is filed in compliance with Section 173.084. On the filing of the report, the secretary of state shall calculate the amount of the final installment and prepare and deliver to the comptroller of public accounts a certified statement indicating that amount and the appropriate county or state chairman's name.

(e) On receipt of a certified statement under Subsection (c) or (d), the comptroller of public accounts shall issue a warrant in the certified amount of the installment payable to the county or state chairman identified by the statement. (V.T.E.C. Arts. 13.08a(a), (b), (c); Arts. 13.08a-1(a), (b), (c); New.)

Sec. 173.084. EXPENSE REPORT BY PARTY. (a) After runoff primary election day, each county chairman and state chairman who received payment from the state for expenses of the general or runoff primary shall prepare a report that includes:

(1) an itemized list of the actual expenses incurred in connection with the general and runoff primaries by the authority preparing the report and by the executive committee over which he presides;

(2) the amount of the primary candidates' filing fees required to be deposited in the county primary fund if the report is by a county chairman, or in the state primary fund if the report is by the state chairman;

(3) the amount of filing fees that have been refunded;

(4) the amount of the contributions to the executive committee over which the authority preparing the report presides that:

(A) are for the purpose of defraying primary election expenses; and

(B) have not been included in a report filed under this section for a previous primary election year; and

(5) the balance in the county primary fund if the report is by a county chairman, or in the state primary fund if the report is by the state chairman, that remains after deducting the primary election expenses actually incurred and the refunded filing fees.

(b) The authority preparing the report shall file it with the secretary of state not later than the 20th day after runoff primary election day. The secretary for good cause may extend the filing deadline.

(c) The report must be sworn to by the authority preparing it. (V.T.E.C. Arts. 13.08a(c), 13.08a-1(c); New.)

Sec. 173.085. **STATE PAYMENT OF EXCESS PRIMARY EXPENSES.** (a) If the actual expenditure for an item of primary election expense exceeds the amount estimated for the item in the request for state funds, the excess expense is payable with state funds as provided by this section.

(b) To obtain state compensation for an excess expense, the county chairman or state chairman, as applicable, must include in the report required by Section 173.084:

- (1) an identification of the item for which the excess expense was incurred;
- (2) the amount of the excess; and
- (3) an explanation of the reason for exceeding the estimate.

(c) The secretary of state shall approve the payment of the excess expense with state funds if the secretary determines that payment is justified by good cause. If the secretary determines that payment of the entire excess expense is not justified by good cause, the secretary shall approve the excess expense in the reduced amount that he determines is appropriate.

(d) The secretary of state shall promptly notify the authority filing the report of each item of excess expense not approved or approved in a reduced amount.

(e) An item of excess primary election expense that is not approved by the secretary of state, or that part of an item that is not approved, may not be paid with state funds.

(f) If the secretary of state approves an excess expense, the secretary shall include the approved amount in the certified statement prepared under Section 173.083(d). (V.T.E.C. Arts. 13.08a(c), 13.08a-1(c); New.)

Sec. 173.086. **CHALLENGE OF DISBURSEMENT OF STATE FUNDS.** (a) The authority who submitted a request for state funds under this subchapter may challenge in a district court in Travis County the amount of state funds approved by the secretary of state for disbursement.

(b) A petition stating the ground of the challenge must be filed with the court not later than the 20th day after the earlier of:

- (1) the date of receipt of the secretary of state's notice of disapproval or approval in a reduced amount of a primary election expense involved in the challenge; or
- (2) the date of receipt of the comptroller's warrant for payment of a primary election expense involved in the challenge.

(c) If the court determines the challenged amount is less than the amount to which the petitioner is entitled by law, the court shall order payment in the proper amount. (V.T.E.C. Arts. 13.08a(i), 13.08a-1(d); New.)

Sec. 173.087. **LIABILITY OF COUNTY CHAIRMAN AND COUNTY EXECUTIVE COMMITTEE.** The county executive committee is not liable for the debts incurred by the committee or the county chairman in connection with a primary election that are unpaid because the legislative appropriation is insufficient. The county chairman or any other member of the county executive committee is not personally liable for those debts. (V.T.E.C. Arts. 13.08a(e), (h).)

Sec. 173.088. **AVAILABILITY OF GUIDELINES.** The secretary of state shall make available to each county and state chairman, for use in preparing requests for state funding, any guidelines the secretary prescribes for determining the necessity of primary election expenses. (V.T.E.C. Arts. 13.08a(a), 13.08a-1(a).)

CHAPTER 174. CONVENTIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 174.001. **APPLICABILITY OF CHAPTER**

Sec. 174.002. **MEDIA ACCESS**

Sec. 174.003. **DELEGATE TO BE QUALIFIED VOTER**

Sec. 174.004. **ELIGIBILITY REQUIREMENTS EXCLUSIVE**

[Sections 174.005-174.020 reserved for expansion]

SUBCHAPTER B. PRECINCT CONVENTIONS

Sec. 174.021. **SELECTION OF DELEGATES TO COUNTY AND SENATORIAL DISTRICT CONVENTIONS**

Sec. 174.022. **TIME AND PLACE OF CONVENTION**

Sec. 174.023. **NOTICE OF HOUR AND PLACE**

Sec. 174.024. **PARTICIPANT TO BE REGISTERED VOTER**

Sec. 174.025. ORGANIZING THE CONVENTION

Sec. 174.026. CONVENTION BUSINESS

Sec. 174.027. RECORDS OF CONVENTION

[Sections 174.028-174.060 reserved for expansion]

SUBCHAPTER C. COUNTY AND SENATORIAL DISTRICT CONVENTIONS

Sec. 174.061. SELECTION OF DELEGATES TO STATE CONVENTIONS

Sec. 174.062. TYPE OF CONVENTION HELD

Sec. 174.063. TIME AND PLACE OF CONVENTION

Sec. 174.064. NOTICE OF HOUR AND PLACE

Sec. 174.065. ORGANIZING THE CONVENTION

Sec. 174.066. CONVENTION BUSINESS

Sec. 174.067. STATE CONVENTION DELEGATES SERVE FOR REMAINDER OF YEAR

Sec. 174.068. VOTING AT CONVENTION

Sec. 174.069. RECORD OF DELEGATES

[Sections 174.070-174.090 reserved for expansion]

SUBCHAPTER D. BIENNIAL STATE CONVENTION

Sec. 174.091. BIENNIAL STATE CONVENTION

Sec. 174.092. TIME AND PLACE OF CONVENTION

Sec. 174.093. NOTICE OF TIME AND PLACE

Sec. 174.094. ORGANIZING THE CONVENTION

Sec. 174.095. CONVENTION BUSINESS

Sec. 174.096. VOTING AT CONVENTION

Sec. 174.097. ATTENDANCE BY PUBLIC OFFICERS

CHAPTER 174. CONVENTIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 174.001. APPLICABILITY OF CHAPTER. This chapter applies to a political party holding a primary election. (V.T.E.C. Art. 13.34(a); Art. 13.38; Art. 13.45a, Subdiv. 2.)

Sec. 174.002. MEDIA ACCESS. Representatives of the broadcast and print news media are entitled to attend a convention held under this chapter for the purpose of reporting its proceedings. (V.T.E.C. Art. 13.34(f).)

Sec. 174.003. DELEGATE TO BE QUALIFIED VOTER. In addition to the requirement of party affiliation, to be eligible to serve as a delegate to a county, senatorial district, or state convention held under this chapter, a person must be a qualified voter of the territory that he is selected to represent or a resident of that territory who is eligible to vote a limited ballot. (V.T.E.C. Art. 13.34(c); New.)

Sec. 174.004. ELIGIBILITY REQUIREMENTS EXCLUSIVE. A political party may not impose eligibility requirements in addition to those prescribed by this title for serving as a delegate to a county, senatorial district, or state convention held under this code. (V.T.E.C. Arts. 13.34(c), (h).)

[Sections 174.005-174.020 reserved for expansion]

SUBCHAPTER B. PRECINCT CONVENTIONS

Sec. 174.021. SELECTION OF DELEGATES TO COUNTY AND SENATORIAL DISTRICT CONVENTIONS. The delegates to a political party's county and senatorial district conventions held under this chapter shall be selected in accordance with party rules at precinct conventions held as provided by this subchapter. (V.T.E.C. Art. 13.34(c).)

Sec. 174.022. TIME AND PLACE OF CONVENTION. (a) The precinct conventions shall be held on general primary election day in the regular county election precincts.

(b) Not later than the third Monday in March of the primary election year, the county executive committee shall set the hour and place for convening each precinct convention for the precincts served by the committee. If the county executive committee fails to do so, the county chairman shall set the hour and place.

(c) The hour set for convening the conventions may not be earlier than 7 p.m. or later than 9 p.m. Notwithstanding the hour set for convening, the convention may not convene until the last voter has voted at the precinct polling place. (V.T.E.C. Arts. 13.34(a), (e); New.)

Sec. 174.023. NOTICE OF HOUR AND PLACE. (a) The county chairman shall post a notice of the hour and place for convening each precinct convention on the bulletin board used for posting notice of meetings of the commissioners court. The notice must remain posted continuously for the 10 days immediately preceding the date of the convention.

(b) Not later than the 10th day before the date of the precinct conventions, the county chairman shall deliver to the county clerk written notice of the hour and place for convening each precinct convention.

(c) If the county chairman fails to post or deliver notice in accordance with this section, another member of the county executive committee may post or deliver the notice. (V.T.E.C. Art. 13.34(e); New.)

Sec. 174.024. PARTICIPANT TO BE REGISTERED VOTER. In addition to the requirement of party affiliation, to be eligible to participate in a precinct convention held under this subchapter, a person must be a registered voter of the precinct or a precinct resident who is eligible to vote a limited ballot. (V.T.E.C. Art. 13.34(c); New.)

Sec. 174.025. ORGANIZING THE CONVENTION. (a) The precinct chairman is the temporary chairman of the precinct convention held under this subchapter.

(b) If the precinct chairman is absent, a person who is eligible to participate in the convention may act as temporary chairman.

(c) Before conducting business, the temporary chairman shall prepare a list containing the name and residence address of each person who is admitted to participate in the convention.

(d) The temporary chairman shall call the convention to order.

(e) The convention shall select a convention chairman and a convention secretary. The convention may select any other officers considered necessary to conduct the convention's business. (V.T.E.C. Art. 13.34(c); New.)

Sec. 174.026. CONVENTION BUSINESS. After the convention is organized, the convention shall select its delegates to the county or senatorial district convention and conduct any other convention business. (V.T.E.C. Art. 13.34(c).)

Sec. 174.027. RECORDS OF CONVENTION. (a) The convention chairman shall prepare, sign, and make a copy of a list of the names and residence addresses of the delegates and any alternates selected by the convention.

(b) The convention chairman shall sign and make a copy of the list of precinct convention participants required by Section 174.025(c).

(c) The convention chairman shall deliver the originals and copies of the lists to the county clerk not later than the third day after the date of the precinct convention, except that if delivered by mail, they shall be deposited in the mail not later than the second day after the date of the precinct convention.

(d) The county clerk shall sign and put a file mark on the originals and copies of the lists. The county chairman shall obtain the originals from the county clerk before the date of the county and senatorial district conventions. The county clerk shall retain the copies until the end of the voting year in which they are received.

(e) If senatorial district conventions will be held in the county, the county chairman shall deliver the originals of the lists to the temporary chairmen of the senatorial district conventions before the conventions convene.

(f) The original lists are not public information. (V.T.E.C. Arts. 13.34(c), (d); New.)

[Sections 174.028-174.060 reserved for expansion]

SUBCHAPTER C. COUNTY AND SENATORIAL DISTRICT CONVENTIONS

Sec. 174.061. SELECTION OF DELEGATES TO STATE CONVENTIONS. The delegates to a political party's state conventions held under this code shall be selected in accordance with party rules at county and senatorial district conventions held as provided by this subchapter. (V.T.E.C. Arts. 13.34(a), (b).)

Sec. 174.062. TYPE OF CONVENTION HELD. (a) A county convention shall be held in a county if the county is not situated in more than one state senatorial district.

(b) If a county is situated in more than one state senatorial district, instead of a county convention a senatorial district convention shall be held in each part of the county that is situated in a different senatorial district. (V.T.E.C. Art. 13.34(a).)

Sec. 174.063. **TIME AND PLACE OF CONVENTION.** (a) The county and senatorial district conventions shall be held on the second Saturday after general primary election day.

(b) The hour and place for the convening of a county convention shall be set in the same manner as for the precinct conventions held under this chapter.

(c) The hour and place for the convening of a senatorial district convention shall be set in the same manner as for the precinct conventions held under this chapter, except that only those members of the county executive committee who are the precinct chairmen for the precincts in the territory represented at the senatorial district convention may participate in setting the convention's hour and place, and if they fail to do so, the temporary chairman of the senatorial district convention shall set the hour and place. (V.T.E.C. Arts. 13.34(a), (e); New.)

Sec. 174.064. **NOTICE OF HOUR AND PLACE.** (a) A notice of the hour and place for convening each county and senatorial district convention shall be posted on the bulletin board used for posting notice of meetings of the commissioners court. The notice must remain posted continuously for the 10 days immediately preceding the date of the convention.

(b) Not later than the 10th day before the date of the county and senatorial district conventions, written notice of the hour and place for convening each convention shall be delivered to the county clerk.

(c) The county chairman shall post and deliver the notice of a county convention. The temporary chairman of a senatorial district convention shall post and deliver the notice of the senatorial district convention.

(d) If the county chairman fails to post or deliver notice in accordance with this section, another member of the county executive committee may post or deliver the notice. If the temporary chairman of a senatorial district convention fails to post or deliver notice in accordance with this section, another member of the county executive committee who may participate in setting the convention's hour and place may post or deliver the notice. (V.T.E.C. Art. 13.34(e); New.)

Sec. 174.065. **ORGANIZING THE CONVENTION.** (a) The county chairman is the temporary chairman of a county convention held under this subchapter. If a senatorial district is situated in more than one county, the senatorial district executive committeeman from each county is the temporary chairman of the senatorial district convention held in the territory that he represents. If a senatorial district is not situated in more than one county, the chairman of the district executive committee is the temporary chairman of the senatorial district convention.

(b) If the person designated as temporary chairman by Subsection (a) is absent, a delegate to the convention may act as temporary chairman.

(c) The temporary chairman shall call the convention to order and deliver the lists of delegates prepared under Section 174.027 to the convention.

(d) The convention shall select a convention chairman and a convention secretary from among the delegates present. The convention may select any other officers considered necessary to conduct the convention's business. (V.T.E.C. Art. 13.34(d); New.)

Sec. 174.066. **CONVENTION BUSINESS.** After the convention is organized, the convention shall select its delegates to the state convention and conduct any other convention business. (V.T.E.C. Arts. 13.34(b), (d).)

Sec. 174.067. **STATE CONVENTION DELEGATES SERVE FOR REMAINDER OF YEAR.** State convention delegates selected under this subchapter serve as the delegates for all state conventions held during the remainder of the year in which they are selected. (V.T.E.C. Art. 13.34(b).)

Sec. 174.068. **VOTING AT CONVENTION.** (a) The delegates selected by a particular precinct convention who attend the county or senatorial district convention are entitled to cast a number of votes equal to as many delegates as that precinct convention was entitled to select.

(b) A person may not vote a proxy at a county or senatorial district convention. (V.T.E.C. Arts. 13.34(c), (d).)

Sec. 174.069. **RECORD OF DELEGATES.** (a) The chairman of a county or senatorial district convention shall prepare and sign a list of the names and residence addresses of the delegates and any alternate delegates to the state convention selected by the convention.

(b) The convention chairman shall deliver the list to the state chairman not later than the fifth day after the date the convention adjourns. (V.T.E.C. Art. 13.34(d); New.)

[Sections 174.070-174.090 reserved for expansion]

SUBCHAPTER D. BIENNIAL STATE CONVENTION

Sec. 174.091. BIENNIAL STATE CONVENTION. Each political party shall hold a state convention in each even-numbered year as provided by this subchapter. (V.T.E.C. Art. 13.38.)

Sec. 174.092. TIME AND PLACE OF CONVENTION. (a) The biennial state convention shall be convened on any day in June.

(b) Not later than the second Wednesday in March of the convention year, the state executive committee shall set the date, hour, and place for convening the state convention. (V.T.E.C. Art. 13.35; New.)

Sec. 174.093. NOTICE OF TIME AND PLACE. Before the date of the party's precinct conventions held under this chapter, the state chairman shall deliver written notice of the date, hour, and place for convening the biennial state convention to the secretary of state, each county chairman, and each temporary chairman of a senatorial district convention. (V.T.E.C. Art. 13.35; New.)

Sec. 174.094. ORGANIZING THE CONVENTION. (a) The state chairman is the temporary chairman of the biennial state convention.

(b) The temporary chairman shall call the convention to order.

(c) The temporary chairman shall prepare a list of the names and residence addresses of the delegates and any alternate delegates to the convention and shall deliver the list to the convention.

(d) The convention shall select a convention chairman and a convention secretary. The convention may select any other officers considered necessary to conduct the convention's business. (V.T.E.C. Art. 13.34(d); New.)

Sec. 174.095. CONVENTION BUSINESS. After the convention is organized, the convention shall conduct its business. (V.T.E.C. Art. 13.38.)

Sec. 174.096. VOTING AT CONVENTION. (a) The delegates selected by a particular county or senatorial district convention who attend the biennial state convention are entitled to cast a number of votes equal to as many delegates as that county or senatorial district convention was entitled to select.

(b) A person may not vote a proxy for delegates from more than one county or senatorial district. A person who votes a proxy for a delegate from a county may not do so for a delegate from a senatorial district and vice versa. (V.T.E.C. Arts. 13.34(b), (d); New.)

Sec. 174.097. ATTENDANCE BY PUBLIC OFFICERS. A nominee for or holder of an office of the state or federal government is entitled to attend a state convention of his party but may not vote in the convention unless serving as a delegate. (V.T.E.C. Art. 13.34(g); New.)

SUBTITLE C. PARTIES NOMINATING BY CONVENTION

CHAPTER 181. PARTY WITH STATE ORGANIZATION

SUBCHAPTER A. NOMINATING BY CONVENTION GENERALLY

Sec. 181.001. APPLICABILITY OF CHAPTER

Sec. 181.002. NOMINATING BY CONVENTION AUTHORIZED

Sec. 181.003. NOMINATING BY CONVENTION REQUIRED

Sec. 181.004. PARTY ORGANIZATION

Sec. 181.005. QUALIFYING FOR PLACEMENT ON BALLOT BY PARTY REQUIRED TO NOMINATE BY CONVENTION

Sec. 181.006. PETITION SUPPLEMENTING PRECINCT CONVENTION LISTS

Sec. 181.007. NOTICE OF QUALIFYING PARTIES

[Sections 181.008-181.030 reserved for expansion]

SUBCHAPTER B. APPLICATION FOR NOMINATION

Sec. 181.031. APPLICATION REQUIRED

Sec. 181.032. AUTHORITY WITH WHOM APPLICATION FILED

Sec. 181.033. FILING DEADLINE

Sec. 181.034. DISPOSITION OF APPLICATIONS

[Sections 181.035-181.060 reserved for expansion]

SUBCHAPTER C. CONVENTIONS

- Sec. 181.061. CONVENTIONS AT WHICH NOMINATIONS MADE
- Sec. 181.062. NUMBER OF DELEGATES SELECTED
- Sec. 181.063. HOUR AND PLACE OF PRECINCT AND COUNTY CONVENTIONS
- Sec. 181.064. NOTICE OF HOUR AND PLACE
- Sec. 181.065. PARTICIPANT TO BE REGISTERED VOTER
- Sec. 181.066. ORGANIZING PRECINCT CONVENTION
- Sec. 181.067. DELIVERY OF LIST OF PRECINCT CONVENTION PARTICIPANTS
- Sec. 181.068. PARTY'S CERTIFICATION OF NOMINEES

SUBTITLE C. PARTIES NOMINATING BY CONVENTION

CHAPTER 181. PARTY WITH STATE ORGANIZATION

SUBCHAPTER A. NOMINATING BY CONVENTION GENERALLY

Sec. 181.001. **APPLICABILITY OF CHAPTER.** This chapter applies to a political party making nominations by convention except a party making nominations only for county and precinct offices under Chapter 182. (V.T.E.C. Arts. 13.47, 13.54.)

Sec. 181.002. **NOMINATING BY CONVENTION AUTHORIZED.** A political party may make nominations for the general election for state and county officers by convention, as provided by this chapter, if the party is authorized by Section 172.002 to make nominations by primary election. (V.T.E.C. Art. 13.45, Subdiv. 1; New.)

Sec. 181.003. **NOMINATING BY CONVENTION REQUIRED.** A political party must make nominations for the general election for state and county officers by convention, as provided by this chapter, if the party is not required or authorized to nominate by primary election. (V.T.E.C. Art. 13.45, Subdiv. 2(a).)

Sec. 181.004. **PARTY ORGANIZATION.** (a) A political party making nominations under this chapter shall:

- (1) establish a state executive committee;
- (2) establish a county executive committee for each county in which the party will hold a county convention; and
- (3) select a precinct chairman for each election precinct in which the party will hold a precinct convention.

(b) The party shall provide by rule for the selection of a chairman of the state executive committee and each county executive committee. (V.T.E.C. Art. 13.45, Subdivs. 2(a), (d); Art. 13.45a, Subdivs. 3, 4; Art. 13.47; Art. 13.47a, Sec. 1; Art. 13.48; New.)

Sec. 181.005. **QUALIFYING FOR PLACEMENT ON BALLOT BY PARTY REQUIRED TO NOMINATE BY CONVENTION.** (a) To be entitled to have the names of its nominees placed on the general election ballot, a political party required to make nominations by convention must file with the secretary of state, not later than the 75th day after the date of the precinct conventions held under this chapter, lists of precinct convention participants indicating that the number of participants equals at least one percent of the total number of votes received by all candidates for governor in the most recent gubernatorial general election. The lists must include each participant's residence address and voter registration number.

(b) A political party that has qualified to have the names of its nominees placed on the ballot under Subsection (a) and that had a nominee for a statewide office who received a number of votes equal to at least five percent of the total number of votes received by all candidates for that office is entitled to have the names of its nominees placed on the ballot in the subsequent general election. (V.T.E.C. Art. 13.45, Subdivs. 2(a), (d); New.)

Sec. 181.006. **PETITION SUPPLEMENTING PRECINCT CONVENTION LISTS.** (a) If the number of precinct convention participants indicated on the lists filed under Section 181.005 is fewer than the number required for the political party to qualify to have the names of its nominees placed on the ballot, the party may qualify by filing a petition as provided by this section.

(b) A petition must:

- (1) satisfy the requirements prescribed by Section 141.062 for a candidate's petition;
- (2) contain signatures in a number that, when added to the number of convention participants indicated on the lists, equals at least one percent of the total number of votes received by all candidates for governor in the most recent gubernatorial general election; and

- (3) be filed with the secretary of state by the state chairman before the deadline for filing the lists of precinct convention participants.
- (c) Except as provided by this section, the petition is subject to the applicable provisions of Subchapter C, Chapter 141.
- (d) A signer's voter registration is not required to be in any particular territory.
- (e) A copy of a request for the withdrawal of a signature must be delivered to the state chairman at the time the withdrawal request is filed.
- (f) The following statement must appear at the top of each page of the petition: "I know that the purpose of this petition is to entitle the _____ Party to have its nominees placed on the ballot in the general election for state and county officers. I have not voted in a primary election or participated in a convention of another party during this voting year, and I understand that I become ineligible to do so by signing this petition. I understand that signing more than one petition to entitle a party to have its nominees placed on the general election ballot in the same election is prohibited."
- (g) A person who has voted in a primary election or participated in a convention of another party during the voting year in which the petition is circulated is ineligible to sign the petition, and the signature of such a person is invalid.
- (h) A signature is invalid if the person signed the petition subsequent to his signing a petition to qualify another political party to have the names of its nominees placed on the ballot for the same election, whether the other party is circulating the petition under this chapter or under Chapter 182.
- (i) On signing the petition, the person becomes ineligible to affiliate with another party during the voting year in which the petition is signed.
- (j) The petition may not be circulated until after the date of the party's precinct conventions held under this chapter. A signature obtained on or before that date is invalid.
- (k) The secretary of state shall post a notice of the receipt of a petition on the bulletin board used for posting notice of meetings of state governmental bodies. Any person may challenge the validity of the petition by filing a written statement of the challenge with the secretary of state not later than the fifth day after the date notice is posted. If a petition that complies with the other applicable requirements appears on its face to contain a sufficient number of valid signatures, the secretary of state may not verify the signatures unless the petition is timely challenged. (V.T.E.C. Art. 13.45, Subdivs. 2(a), (b), (c); New.)
- Sec. 181.007. NOTICE OF QUALIFYING PARTIES. (a) The secretary of state shall deliver to the authority responsible for having the official general election ballot prepared in each county written notice of the name of each party required to nominate by convention that qualifies to have the names of its nominees placed on the general election ballot.
- (b) The notice shall be delivered at the same time as the secretary of state's certification of nominees for statewide and district offices for placement on the general election ballot.
- (c) The names of the nominees of a party required to nominate by convention may not be placed on the ballot without the notice. (V.T.E.C. Art. 13.45, Subdiv. 2(e).)

[Sections 181.008-181.030 reserved for expansion]

SUBCHAPTER B. APPLICATION FOR NOMINATION

Sec. 181.031. APPLICATION REQUIRED. (a) To be entitled to be considered for nomination by a convention held under this chapter, a person must make an application for nomination.

(b) An application must comply with the requirements prescribed by Section 141.031 for an application for a place on the ballot, with changes appropriate to indicate that the application is for nomination by a convention instead of for a place on the ballot.

(c) This section does not apply to a nomination for an unexpired term if the vacancy occurs after the 10th day before the date of the regular deadline for filing an application for convention nomination. (V.T.E.C. Art. 13.47a, Secs. 1, 4.)

Sec. 181.032. AUTHORITY WITH WHOM APPLICATION FILED. (a) An application for nomination by a convention must be filed with:

- (1) the state chairman, for a statewide or district office; or
- (2) the county chairman, for a county or precinct office.

(b) Not later than the 10th day after the date of the filing deadline prescribed by Section 181.033, the authority with whom an application is filed shall deliver to the secretary of state a list containing each candidate's name and residence address and the office sought by the candidate. (V.T.E.C. Art. 13.47a, Sec. 1; New.)

Sec. 181.033. FILING DEADLINE. (a) Except as provided by Subsection (b), an application for nomination by a convention must be filed not later than 5 p.m. on the first Monday in February preceding the convention.

(b) A political party by rule may extend the filing deadline for applications for nomination for an office for which a candidate who has made an application withdraws, dies, or is declared ineligible. (V.T.E.C. Art. 13.47a, Sec. 1; New.)

Sec. 181.034. DISPOSITION OF APPLICATIONS. (a) A political party shall provide by rule for transmitting information regarding applications for nomination to the chairman of the appropriate convention.

(b) If an application is delivered to a convention, it shall be returned to the authority with whom it was filed not later than the 10th day after the date of the convention.

(c) The authority with whom an application is filed shall preserve each application for two years after the date of the appropriate convention. (New.)

[Sections 181.035-181.060 reserved for expansion]

SUBCHAPTER C. CONVENTIONS

Sec. 181.061. CONVENTIONS AT WHICH NOMINATIONS MADE. (a) A political party nominating by convention must make its nominations for statewide offices at a state convention held on the second Saturday in June of the election year. The state convention consists of delegates selected at the county conventions held under Subsection (c).

(b) A party nominating by convention must make its nominations for offices of districts situated in more than one county at district conventions held on the third Saturday in May. A district convention consists of delegates selected at the county conventions held under Subsection (c).

(c) A party nominating by convention must make its nominations for county and precinct offices and for offices of districts not situated in more than one county at county conventions held on the second Saturday in May. A county convention consists of delegates selected at precinct conventions held on the first Saturday in May in the regular county election precincts.

(d) A party by rule may limit the delegates making nominations to those from the territory from which the office sought is elected. (V.T.E.C. Art. 13.47.)

Sec. 181.062. NUMBER OF DELEGATES SELECTED. A political party shall provide by rule for the number of delegates to be selected at the precinct conventions for the county conventions and the number of delegates to be selected at the county conventions for the district conventions and the state convention held under this chapter. (V.T.E.C. Art. 13.47.)

Sec. 181.063. HOUR AND PLACE OF PRECINCT AND COUNTY CONVENTIONS. The hours and places for convening the county convention and precinct conventions held under this chapter shall be set as provided by Section 174.022(b) for setting the hours and places of precinct conventions of a party holding a primary election. (V.T.E.C. Art. 13.45a, Subdiv. 3; New.)

Sec. 181.064. NOTICE OF HOUR AND PLACE. Notice of the hour and place for convening the county convention and precinct conventions held under this chapter shall be posted and delivered as provided by Section 174.023 for posting and delivering notice of the hour and place for convening precinct conventions for a party holding a primary election, except that notice of a county convention shall:

(1) be posted for the 10 days immediately preceding the date of the county convention; and

(2) be delivered to the county clerk not later than the 10th day before the date of the county convention. (V.T.E.C. Art. 13.45a, Subdiv. 3; New.)

Sec. 181.065. PARTICIPANT TO BE REGISTERED VOTER. To be eligible to participate in a precinct convention held under this chapter, a person must be a registered voter of the precinct or a precinct resident who is eligible to vote a limited ballot. (V.T.E.C. Art. 13.45, Subdiv. 2(a); Art. 13.45a, Subdivs. 3, 4; New.)

Sec. 181.066. ORGANIZING PRECINCT CONVENTION. (a) The precinct chairman is the temporary chairman of a precinct convention held under this chapter.

(b) Before conducting business, the temporary chairman shall prepare a list containing the name and residence address of each person who is admitted to participate in the convention.

(c) The temporary chairman shall call the convention to order.

(d) The convention shall select a convention chairman. The convention may select any other officers considered necessary to conduct the convention's business. (V.T.E.C. Art. 13.45a, Subdiv. 4; New.)

Sec. 181.067. DELIVERY OF LIST OF PRECINCT CONVENTION PARTICIPANTS. (a) The chairman of a precinct convention shall sign and make a copy of the list of precinct convention participants required by Section 181.066(b).

(b) The convention chairman shall deliver the original and copy to the county chairman not later than the third day after the date of the precinct convention, except that if delivered by mail

they shall be deposited in the mail not later than the second day after the date of the precinct convention.

(c) If the party is required to nominate by convention, the convention chairman shall make an additional copy of the list and deliver it to the state chairman not later than the third day after the date of the precinct convention. (V.T.E.C. Art. 13.45a, Subdiv. 4; New.)

Sec. 181.068. **PARTY'S CERTIFICATION OF NOMINEES.** (a) The presiding officer of each convention held under this chapter shall certify in writing for placement on the general election ballot the name and address of each candidate nominated by the convention.

(b) Not later than the 20th day after the date of the convention making the nomination, the presiding officer shall deliver the certification to:

- (1) the authority responsible for having the official general election ballot prepared in the county, for certification of a county or precinct office; or
- (2) the secretary of state, for certification of a statewide or district office.

(c) A presiding officer may not certify a candidate's name if, before delivering the certification, the presiding officer learns that the name is to be omitted from the ballot under Section 145.035. (V.T.E.C. Art. 13.48; New.)

CHAPTER 182. PARTY WITHOUT STATE ORGANIZATION

Sec. 182.001. **NOMINATING BY CONVENTION AUTHORIZED**

Sec. 182.002. **PARTY ORGANIZATION**

Sec. 182.003. **QUALIFYING FOR PLACEMENT ON BALLOT**

Sec. 182.004. **PETITION SUPPLEMENTING PRECINCT CONVENTION LISTS**

Sec. 182.005. **NOMINATIONS MADE BY COUNTY CONVENTION**

Sec. 182.006. **ORGANIZING PRECINCT CONVENTION**

Sec. 182.007. **PARTY'S CERTIFICATION OF NOMINEES**

CHAPTER 182. PARTY WITHOUT STATE ORGANIZATION

Sec. 182.001. **NOMINATING BY CONVENTION AUTHORIZED.** A political party that does not have a state executive committee may make nominations for county or precinct offices by convention as provided by this chapter. (V.T.E.C. Art. 13.54.)

Sec. 182.002. **PARTY ORGANIZATION.** A political party making nominations under this chapter shall:

- (1) establish a county executive committee for each county in which the party will hold a county convention;
- (2) select a chairman for each county executive committee; and
- (3) select a precinct chairman for each election precinct in which the party will hold a precinct convention. (V.T.E.C. Art. 13.54; New.)

Sec. 182.003. **QUALIFYING FOR PLACEMENT ON BALLOT.** To be entitled to have the names of its nominees placed on the general election ballot, a political party making nominations under this chapter must file with the county clerk, not later than the 75th day after the date of the precinct conventions held under this chapter, lists of precinct convention participants indicating that the number of participants equals at least three percent of the total number of votes received in the county by all candidates for governor in the most recent gubernatorial general election. (V.T.E.C. Art. 13.54; New.)

Sec. 182.004. **PETITION SUPPLEMENTING PRECINCT CONVENTION LISTS.** (a) If the number of precinct convention participants indicated on the lists filed under Section 182.003 is fewer than the number required for the political party to qualify to have the names of its nominees placed on the ballot, the party may qualify by filing a petition as provided by this section.

(b) A petition must:

- (1) satisfy the requirements prescribed by Section 141.062 for a candidate's petition;
- (2) contain signatures in a number that, when added to the number of convention participants indicated on the lists, equals at least three percent of the total number of votes received in the county by all candidates for governor in the most recent gubernatorial general election; and
- (3) be filed with the county clerk by the county chairman before the deadline for filing the lists of precinct convention participants.

(c) Except as provided by this section, the petition is subject to the applicable provisions of Subchapter C, Chapter 141.

(d) A signer's voter registration must be in the county in which the party seeks to be qualified but is not required to be in any other particular territory.

(e) A copy of a request for the withdrawal of a signature must be delivered to the county chairman when the withdrawal request is filed.

(f) Sections 181.006(f)-(j) apply to a petition circulated under this section. (V.T.E.C. Art. 13.54; New.)

Sec. 182.005. **NOMINATIONS MADE BY COUNTY CONVENTION.** A political party must make its nominations under this chapter at a county convention held on the second Saturday in May of the election year. The convention consists of delegates selected at precinct conventions held on the first Saturday in May in the regular county election precincts. (V.T.E.C. Art. 13.54.)

Sec. 182.006. **ORGANIZING PRECINCT CONVENTION.** A precinct convention held under this chapter shall be organized as provided by Section 181.066. (New.)

Sec. 182.007. **PARTY'S CERTIFICATION OF NOMINEES.** (a) The county chairman shall certify in writing for placement on the general election ballot the name and address of each of the political party's nominees.

(b) Not later than the 20th day after the date of the county convention, the county chairman shall deliver the certification to the authority responsible for having the official general election ballot prepared in the county.

(c) The county chairman may not certify a candidate's name if, before delivering the certification, the county chairman learns that the name is to be omitted from the ballot under Section 145.035. (V.T.E.C. Art. 13.54; New.)

TITLE 11. PRESIDENTIAL ELECTIONS

Chapter 191. Selection of Delegates to National Nominating Convention

Chapter 192. Presidential Electors and Candidates

TITLE 11. PRESIDENTIAL ELECTIONS

CHAPTER 191. SELECTION OF DELEGATES TO NATIONAL NOMINATING CONVENTION

Sec. 191.001. **PARTY HOLDING PRIMARY ELECTION**

Sec. 191.002. **PARTY NOT HOLDING PRIMARY ELECTION**

TITLE 11. PRESIDENTIAL ELECTIONS

CHAPTER 191. SELECTION OF DELEGATES TO NATIONAL NOMINATING CONVENTION

Sec. 191.001. **PARTY HOLDING PRIMARY ELECTION.** (a) If a political party holding a primary election in a presidential election year desires to send delegates to a national presidential nominating convention of the party, the party shall select the delegates at a state convention convened on any day in June of the presidential election year. Before the date of the party's precinct conventions held under Chapter 174, the party's state executive committee shall choose the date, hour, and place for the state convention.

(b) The state convention shall consist of delegates selected at the party's county and senatorial district conventions held under Chapter 174.

(c) Before the date of the party's precinct conventions, the party's state chairman shall deliver written notice of the date, hour, and place for the state convention to:

- (1) the secretary of state;
- (2) each county chairman of the party; and
- (3) the temporary chairman of each senatorial district convention of the party. (V.T.E.C. Art. 13.58(a).)

Sec. 191.002. **PARTY NOT HOLDING PRIMARY ELECTION.** If a political party not holding a primary election in a presidential election year desires to send delegates to a national presidential nominating convention of the party, the party shall select the delegates at the state convention at which the party is authorized by this code to make nominations for state offices. (V.T.E.C. Art. 13.58(b).)

CHAPTER 192. PRESIDENTIAL ELECTORS AND CANDIDATES

SUBCHAPTER A. PRESIDENTIAL ELECTORS

Sec. 192.001. **TIME OF ELECTION**

- Sec. 192.002. ELIGIBILITY
- Sec. 192.003. METHOD OF BECOMING ELECTOR CANDIDATE
- Sec. 192.004. ELECTOR CANDIDATE VACANCY
- Sec. 192.005. VOTE REQUIRED FOR ELECTION
- Sec. 192.006. MEETING OF ELECTORS
- Sec. 192.007. REPLACEMENT AFTER ELECTION
- Sec. 192.008. ELECTOR EXPENSES

[Sections 192.009-192.030 reserved for expansion]

SUBCHAPTER B. PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES

- Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT
- Sec. 192.032. INDEPENDENT CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT
- Sec. 192.033. CERTIFICATION OF CANDIDATES FOR PLACEMENT ON BALLOT
- Sec. 192.034. LISTING CANDIDATES ON BALLOT
- Sec. 192.035. VOTE FOR CANDIDATE COUNTS FOR CORRESPONDING ELECTORS
- Sec. 192.036. WRITE-IN CANDIDATE
- Sec. 192.037. RULES FOR COUNTING VOTES NOT CAST FOR BOTH CANDIDATES

[Sections 192.038-192.060 reserved for expansion]

SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES

- Sec. 192.061. WITHDRAWAL, DEATH, OR INELIGIBILITY GENERALLY
- Sec. 192.062. PRESIDENTIAL OR VICE-PRESIDENTIAL PARTY NOMINEE
- Sec. 192.063. INDEPENDENT PRESIDENTIAL CANDIDATE
- Sec. 192.064. INDEPENDENT VICE-PRESIDENTIAL CANDIDATE

CHAPTER 192. PRESIDENTIAL ELECTORS AND CANDIDATES

SUBCHAPTER A. PRESIDENTIAL ELECTORS

Sec. 192.001. TIME OF ELECTION. Electors for president and vice-president of the United States shall be elected at the general election for state and county officers held in a presidential election year. (V.T.E.C. Art. 11.01, Subdiv. 1.)

Sec. 192.002. ELIGIBILITY. (a) To be eligible to serve as a presidential elector, a person must:

- (1) be a qualified voter of this state; and
- (2) not hold the office of United States senator, United States representative, or any other federal office of profit or trust.

(b) To be eligible to serve as a presidential elector for a political party, a person must be affiliated with the party. (V.T.E.C. Art. 11.01, Subdiv. 2; Art. 13.01a(3).)

Sec. 192.003. METHOD OF BECOMING ELECTOR CANDIDATE. To become a presidential elector candidate, a person must be nominated as a political party's elector candidate in accordance with party rules or named as an elector candidate by an independent or write-in candidate for president. (V.T.E.C. Arts. 11.01a, 11.01b.)

Sec. 192.004. ELECTOR CANDIDATE VACANCY. (a) An elector candidate may withdraw from the presidential election before presidential election day, by delivering written notice of the withdrawal to:

- (1) the secretary of state; and
- (2) the state chairman of the party that nominated the elector candidate or to the independent or write-in candidate for president who named the elector candidate.

(b) If an elector candidate withdraws, dies, or is declared ineligible before presidential election day, a replacement elector candidate may be named by the party that nominated the elector candidate or by the independent or write-in candidate for president who named the elector candidate.

(c) An independent or write-in candidate for president naming a replacement elector candidate must file with the secretary of state, before presidential election day, the name and residence address of the replacement candidate and a written statement, signed by the replacement candidate, that the person consents to be a candidate.

(d) If a political party's rules do not provide the manner of choosing a replacement elector candidate, the party's state executive committee may choose the replacement candidate. The state chairman of a political party naming a replacement elector candidate must file with the secretary of state, before presidential election day, the name and residence address of the replacement candidate. (New.)

Sec. 192.005. VOTE REQUIRED FOR ELECTION. The set of elector candidates that is elected is the one that corresponds to the candidates for president and vice-president receiving the most votes. (V.T.E.C. Art. 11.02; New.)

Sec. 192.006. MEETING OF ELECTORS. (a) The electors shall convene at the State Capitol at 2 p.m. on the first Monday after the second Wednesday in December following their election and shall perform their duties as prescribed by federal law.

(b) The secretary of state shall arrange for the meeting place, notify the electors, and call the meeting to order. The secretary shall act as temporary chairman of the meeting until the electors elect a chairman from among themselves.

(c) If an elector is absent at the time for convening the meeting, the electors may declare the elector position vacant by a majority vote of those present at the meeting. (V.T.E.C. Art. 11.05; New.)

Sec. 192.007. REPLACEMENT AFTER ELECTION. (a) The electors meeting to vote for president and vice-president may appoint a replacement elector by a majority vote of the qualified electors present if:

- (1) the vacancy occurred before presidential election day and a replacement was not chosen under Section 192.004;
- (2) on or after presidential election day, an elector is declared ineligible or dies; or
- (3) the vacancy is declared under Section 192.006(c).

(b) The chairman of the electors shall notify the secretary of state of the name and residence address of a replacement elector immediately on the replacement's appointment. (V.T.E.C. Art. 11.05.)

Sec. 192.008. ELECTOR EXPENSES. (a) In performing their official duties, presidential electors are entitled to the same allowances for travel expenses as those granted to state employees.

(b) The secretary of state shall provide assistance to the electors in submitting vouchers for travel expenses. (V.T.E.C. Art. 11.06; New.)

[Sections 192.009-192.030 reserved for expansion]

SUBCHAPTER B. PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES

Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT. A political party is entitled to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election if:

- (1) the nominees possess the qualifications for those offices prescribed by federal law;
- (2) before 5 p.m. of the 60th day before presidential election day, the party's state chairman signs and delivers to the secretary of state a written certification of:
 - (A) the names of the party's nominees for president and vice-president; and
 - (B) the names and residence addresses of presidential elector candidates nominated by the party, in a number equal to the number of presidential electors that federal law allocates to this state; and
- (3) the party is:
 - (A) required or authorized by Subchapter A of Chapter 172 to make its nominations by primary election; or
 - (B) entitled to have the names of its nominees placed on the general election ballot under Chapter 181. (V.T.E.C. Arts. 11.01a, 11.04; New.)

Sec. 192.032. INDEPENDENT CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT. (a) To be entitled to a place on the general election ballot, an independent candidate for president of the United States must make an application for a place on the ballot.

- (b) An application must:
 - (1) comply with Section 141.031, except that:

- (A) the application is not required to include a candidate's occupation or length of residence; and
 - (B) the application must contain the applicable information required by Section 141.031(4) with respect to both the presidential candidate and the running mate;
 - (2) state the names and residence addresses of presidential elector candidates in a number equal to the number of presidential electors that federal law allocates to the state; and
 - (3) be accompanied by:
 - (A) a petition that satisfies the requirements prescribed by Section 141.062; and
 - (B) written statements signed by the vice-presidential candidate and each of the presidential elector candidates indicating that each of them consents to be a candidate.
 - (c) The application must be filed with the secretary of state not later than the second Monday in July of the presidential election year.
 - (d) The minimum number of signatures that must appear on the petition is one percent of the total vote received in the state by all candidates for president in the most recent presidential general election.
 - (e) A petition signer's voter registration is not required to be in any particular territory.
 - (f) The following statement must appear at the top of each page of the petition: "I did not vote this year in the general primary election of a political party that is holding a national presidential nominating convention this year."
 - (g) A signature on the petition is invalid if the signer:
 - (1) signs the petition on or before general primary election day of the presidential election year; or
 - (2) voted in the general primary election of a political party that is holding a national presidential nominating convention during the presidential election year. (V.T.E.C. Art. 11.01b, Subdivs. 1, 2, 3; New.)
- Sec. 192.033. **CERTIFICATION OF CANDIDATES FOR PLACEMENT ON BALLOT.** (a) Except as provided by Subsection (c), the secretary of state shall certify in writing for placement on the general election ballot the names of the candidates for president and vice-president who are entitled to have their names placed on the ballot.
- (b) Not later than the 55th day before presidential election day, the secretary of state shall deliver the certification to the authority responsible for having the official ballot prepared in each county.
 - (c) A candidate's name may not be certified if, before delivering the certification, the secretary of state learns that the name is to be omitted from the ballot under Subchapter C. (V.T.E.C. Art. 1.03, Subdiv. 2; Art. 1.05, Subdiv. 4.)
- Sec. 192.034. **LISTING CANDIDATES ON BALLOT.** (a) The names of a presidential candidate and the candidate's running mate shall be placed on the ballot as one race.
- (b) The names of presidential elector candidates may not be placed on the ballot. (V.T.E.C. Art. 6.05, Subdiv. 4.)
- Sec. 192.035. **VOTE FOR CANDIDATE COUNTS FOR CORRESPONDING ELECTORS.** A vote for a presidential candidate and the candidate's running mate shall be counted as a vote for the corresponding presidential elector candidates. (V.T.E.C. Arts. 11.02, 11.03.)
- Sec. 192.036. **WRITE-IN CANDIDATE.** (a) With respect to a write-in candidacy for the office of president of the United States, this section supersedes Subchapter B, Chapter 146, to the extent of any conflict.
- (b) A declaration of write-in candidacy for president must satisfy the requirements prescribed by Section 192.032(b) for an independent presidential candidate's application for a place on the ballot, except that a petition is not required.
 - (c) The certification for placement on the list of write-in candidates must include the names of both the presidential candidate and the vice-presidential candidate. (V.T.E.C. Art. 11.01c, Subdivs. 1, 2; New.)
- Sec. 192.037. **RULES FOR COUNTING VOTES NOT CAST FOR BOTH CANDIDATES.** (a) If a voter writes in the name of a write-in candidate for president or vice-president but does not write in a name for a running mate, the vote shall be counted as a vote for the candidate and the candidate's running mate.
- (b) A vote shall be counted for both candidates of a set of candidates for president and vice-president if:
 - (1) the ballot is marked to indicate that the voter is voting for one of the two candidates;
 - (2) the ballot is marked to indicate that the voter is not voting for the other candidate in the set; and
 - (3) the voter has not:
 - (A) indicated a vote for a presidential or vice-presidential candidate of another set; or

(B) written in the name of a person that he desires to vote for instead of the candidate he is not voting for under Subdivision (2).

(c) The secretary of state shall prescribe guidelines consistent with this code to assist counting officers in counting ballots in which the presidential race is irregularly marked. (V.T.E.C. Art. 11.02; New.)

[Sections 192.038-192.060 reserved for expansion]

SUBCHAPTER C. WITHDRAWAL, DEATH, AND INELIGIBILITY OF PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES

Sec. 192.061. WITHDRAWAL, DEATH, OR INELIGIBILITY GENERALLY. With respect to withdrawal, death, or ineligibility of a presidential or vice-presidential candidate in a general election, this subchapter supersedes Subchapter A, Chapter 145, to the extent of any conflict. (New.)

Sec. 192.062. PRESIDENTIAL OR VICE-PRESIDENTIAL PARTY NOMINEE. (a) The secretary of state shall certify in writing for placement on the ballot the name of a political party's replacement nominee for president or vice-president of the United States if:

(1) the original nominee withdraws, dies, or is declared ineligible on or before the 65th day before presidential election day; and

(2) the party's state chairman delivers certification of the replacement nominee's name, signed by the state chairman, to the secretary of state not later than 5 p.m. of the 60th day before presidential election day.

(b) If the state chairman's certification of a replacement nominee is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

(c) The name of a nominee who has withdrawn, died, or been declared ineligible shall be omitted from the ballot and the name of the replacement nominee placed on the ballot if a replacement nominee is certified for placement on the ballot as provided by this section. Otherwise, the withdrawn, deceased, or ineligible nominee's name shall be placed on the ballot.

(d) A vote for a withdrawn, deceased, or ineligible nominee whose name appears on the ballot shall be counted as a vote for the nominating political party's presidential elector candidates. (New.)

Sec. 192.063. INDEPENDENT PRESIDENTIAL CANDIDATE. (a) The name of an independent presidential candidate and the name of the candidate's running mate shall be omitted from the ballot if the presidential candidate withdraws, dies, or is declared ineligible on or before the 65th day before presidential election day.

(b) A vote for an independent presidential candidate who has withdrawn, died, or been declared ineligible may not be counted. (New.)

Sec. 192.064. INDEPENDENT VICE-PRESIDENTIAL CANDIDATE. (a) The secretary of state shall certify in writing for placement on the ballot the name of a replacement vice-presidential running mate for an independent candidate for president of the United States if:

(1) the original running mate withdraws, dies, or is declared ineligible on or before the 65th day before presidential election day; and

(2) the independent presidential candidate delivers certification of the replacement running mate's name, signed by the presidential candidate, to the secretary of state not later than 5 p.m. of the 60th day before presidential election day.

(b) If the presidential candidate's certification of a replacement running mate is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

(c) The name of a vice-presidential candidate who has withdrawn, died, or been declared ineligible shall be omitted from the ballot and the name of the replacement candidate placed on the ballot if a replacement candidate is certified for placement on the ballot as provided by this section. Otherwise, the withdrawn, deceased, or ineligible candidate's name shall be placed on the ballot.

(d) The fact that the name of an independent vice-presidential candidate who has withdrawn, died, or been declared ineligible is placed on the ballot does not affect the counting of votes for the candidate's running mate. (New.)

TITLE 12. ELECTIONS TO FILL VACANCY IN OFFICE

Chapter 201. Determination of and Election to Fill Vacancy

Chapter 202. Vacancy in Office of State or County Government

Chapter 203. Vacancy in Legislature

Chapter 204. Vacancy in Congress

TITLE 12. ELECTIONS TO FILL VACANCY IN OFFICE
CHAPTER 201. DETERMINATION OF AND ELECTION TO FILL
VACANCY

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- Sec. 201.001. RESIGNING OR DECLINING OFFICE
Sec. 201.002. AUTHORITY TO ACT ON RESIGNATION OR DECLINATION
[Sections 201.003-201.020 reserved for expansion]

SUBCHAPTER B. TIME VACANCY OCCURS

- Sec. 201.021. TIME VACANCY OCCURS GENERALLY
Sec. 201.022. DEATH
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Sec. 201.029. DECLINATION OF OFFICER-ELECT
[Sections 201.030-201.050 reserved for expansion]

SUBCHAPTER C. SPECIAL ELECTION TO FILL VACANCY
GENERALLY

- Sec. 201.051. TIME FOR ORDERING ELECTION
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TITLE 12. ELECTIONS TO FILL VACANCY IN OFFICE
CHAPTER 201. DETERMINATION OF AND ELECTION TO FILL
VACANCY

SUBCHAPTER A. RESIGNING OR DECLINING OFFICE

Sec. 201.001. RESIGNING OR DECLINING OFFICE. (a) To be effective, a public officer's resignation or an officer-elect's declination must be in writing and signed by the officer or officer-elect and delivered to the appropriate authority for acting on the resignation or declination. A resignation must be accepted by that authority.

(b) If the authority to act on a resignation or declination is a body, the resignation or declination may be delivered to the presiding officer of the body or to its clerk or secretary.

(c) An officer-elect who intends to qualify for the office but desires to resign at a subsequent date may submit a resignation in the same manner as an officer who has assumed office, and the vacancy may be filled in the same manner as if the resignation had been submitted after the officer-elect assumed office. (V.T.E.C. Art. 4.09, Secs. 4, 5; New.)

Sec. 201.002. AUTHORITY TO ACT ON RESIGNATION OR DECLINATION. Unless otherwise provided by law, the authority to act on a public officer's resignation or an officer-elect's declination is the officer or body authorized to make an appointment or order a special election to fill a vacancy in the office. (V.T.E.C. Art. 4.09, Sec. 7; New.)

[Sections 201.003-201.020 reserved for expansion]

SUBCHAPTER B. TIME VACANCY OCCURS

Sec. 201.021. TIME VACANCY OCCURS GENERALLY. For purposes of this title, a vacancy in office occurs at the time prescribed by this subchapter. (New.)

Sec. 201.022. **DEATH.** If an officer or officer-elect dies, a vacancy occurs on the date of death. (V.T.E.C. Art. 4.09, Secs. 3, 6.)

Sec. 201.023. **RESIGNATION.** If an officer submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the appropriate authority. (V.T.E.C. Art. 4.09, Sec. 4; Art. 13.12a(a).)

Sec. 201.024. **REMOVAL.** If an officer is removed from office by a court or other tribunal, a vacancy occurs on the date the judgment becomes final. (New.)

Sec. 201.025. **ACCEPTANCE OF ANOTHER OFFICE.** If an officer accepts another office and the two offices may not lawfully be held simultaneously, a vacancy in the first office occurs on the date the person qualifies for the other office. (New.)

Sec. 201.026. **DECLARATION OF INELIGIBILITY.** (a) If an officer or officer-elect is declared ineligible to hold the office by a judgment of a court or other tribunal, a vacancy occurs on the date the judgment becomes final.

(b) If an officer or officer-elect is declared ineligible to hold the office by an administrative authority, a vacancy occurs on the date the declaration is made. (New.)

Sec. 201.027. **NEW OFFICE.** If a new office is created, a vacancy occurs on the effective date of the statute creating the office or on the date the order creating the office is adopted. (V.T.E.C. Art. 13.12a(a); New.)

Sec. 201.028. **DECEASED OR INELIGIBLE CANDIDATE RECEIVING VOTE REQUIRED FOR ELECTION.** If a deceased or ineligible candidate receives the vote required for election to an office, a vacancy occurs on the date the final canvass of the election is completed. (New.)

Sec. 201.029. **DECLINATION OF OFFICER-ELECT.** If an officer-elect declines to qualify for the office before assuming office for the term for which elected, a vacancy in the term occurs on the date the declination is delivered to the appropriate authority. (V.T.E.C. Art. 4.09, Sec. 5; New.)

[Sections 201.030-201.050 reserved for expansion]

SUBCHAPTER C. SPECIAL ELECTION TO FILL VACANCY GENERALLY

Sec. 201.051. **TIME FOR ORDERING ELECTION.** If a vacancy in office is to be filled by special election, the election shall be ordered as soon as practicable after the vacancy occurs. (V.T.E.C. Art. 4.09.)

Sec. 201.052. **DATE OF ELECTION.** (a) Except as otherwise provided by this code, a special election to fill a vacancy shall be held on the first authorized uniform election date occurring on or after the 30th day after the date the election is ordered.

(b) If a law outside this code authorizes the holding of the election on a date earlier than the 30th day after the date of the order, the election shall be held on the first authorized uniform election date occurring on or after the earliest date that the election could be held under that law. (New.)

Sec. 201.053. **EMERGENCY REQUIRING EARLY ELECTION.** (a) If the governor determines that an emergency warrants holding a special election to fill a vacancy before the first authorized uniform election date, the election may be held on an earlier nonuniform date.

(b) An authority of a political subdivision desiring to order a special election as an emergency election under this section must ask the governor for permission to do so. If the governor determines that an emergency exists, he shall grant permission.

(c) The proclamation or order for an emergency election under this section must include a statement identifying the nature of the emergency. (V.T.E.C. Art. 2.01b(b); New.)

Sec. 201.054. **UNEXPIRED TERM AND FULL TERM FILLED SIMULTANEOUSLY.** (a) If, after the general election for an office for which a vacancy is filled by special election but before the succeeding full term begins, a vacancy occurs in both the unexpired portion of the current term and in the succeeding full term that was filled at the general election, the special election shall be ordered to fill only the full term.

(b) If any portion of the unexpired current term remains after the date the final canvass of the special election for the full term is completed, the person elected to the full term, if eligible to hold the unexpired current term, is considered to be elected to the remainder of the unexpired current term also and is entitled to qualify and assume office for the unexpired current term and the succeeding full term immediately on receiving a certificate of election. The certificate must recite that it is for both the unexpired current term and the full term.

(c) After qualifying for the unexpired current term, the person is not required to qualify again for the full term. If a bond is required, the amount of the bond for the unexpired current term and the full term is the same as for the full term. (V.T.E.C. Art. 4.09, Sec. 3; New.)

Sec. 201.055. FILING PERIOD FOR APPLICATION FOR PLACE ON BALLOT. (a) A candidate's application for a place on a special election ballot must be filed not later than:

(1) 5 p.m. of the 31st day before election day, if election day is on or after the 36th day after the date the election is ordered; or

(2) 5 p.m. of a day fixed by the authority ordering the election, which day must be not earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered.

(b) If a special election is to be held as an emergency election and a law outside this code prescribes a filing deadline, that deadline applies.

(c) The election order must state the filing deadline.

(d) An application may not be filed before the election is ordered.

(e) An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority. (V.T.E.C. Art. 4.10, Subdiv. 2; New.)

CHAPTER 202. VACANCY IN OFFICE OF STATE OR COUNTY GOVERNMENT

Sec. 202.001. APPLICABILITY OF CHAPTER

Sec. 202.002. VACANCY FILLED AT GENERAL ELECTION

Sec. 202.003. NEW OFFICE

Sec. 202.004. NOMINATION BY PRIMARY ELECTION

Sec. 202.005. NOMINATION BY CONVENTION

Sec. 202.006. NOMINATION BY EXECUTIVE COMMITTEE

Sec. 202.007. FILING DEADLINE FOR APPLICATION OF INDEPENDENT CANDIDATE

CHAPTER 202. VACANCY IN OFFICE OF STATE OR COUNTY GOVERNMENT

Sec. 202.001. APPLICABILITY OF CHAPTER. This chapter applies to elective offices of the state and county governments except the offices of state senator and state representative. (New.)

Sec. 202.002. VACANCY FILLED AT GENERAL ELECTION. (a) If a vacancy occurs on or before the 65th day before the general election for state and county officers held in the next-to-last even-numbered year of a term of office, the remainder of the unexpired term shall be filled at the next general election for state and county officers, as provided by this chapter.

(b) If a vacancy occurs after the 65th day before a general election day, an election for the unexpired term may not be held at that general election. The appointment to fill the vacancy continues until the next succeeding general election and until a successor has been elected and has qualified for the office. (V.T.E.C. Arts. 13.12a(a), (g).)

Sec. 202.003. NEW OFFICE. An election for the first full term of an office for which no previous election has been held is governed by the same provisions as an election for the remainder of an unexpired term, and for that purpose, references in this chapter to an unexpired term include a full term in the case of those offices. (New.)

Sec. 202.004. NOMINATION BY PRIMARY ELECTION. (a) A political party's nominee for an unexpired term must be nominated by primary election if:

(1) the political party is making nominations by primary election for the general election in which the vacancy is to be filled; and

(2) the vacancy occurs on or before the 65th day before general primary election day.

(b) If the vacancy occurs on or before the 10th day before the date of the regular deadline for candidates to file applications for a place on the general primary ballot, an application for the unexpired term must be filed by the regular filing deadline.

(c) If the vacancy occurs after the 10th day before the date of the regular filing deadline, an application for the unexpired term must be filed not later than 5 p.m. of the 15th day after the date the vacancy occurs or 5 p.m. of the 60th day before general primary election day, whichever is earlier.

(d) The filing fee or petition requirements for a candidate for an unexpired term are the same as for a candidate for a full term. (V.T.E.C. Arts. 13.12a(b)(1), (2); New.)

Sec. 202.005. NOMINATION BY CONVENTION. A political party's nominee for an unexpired term must be nominated by the appropriate party convention if:

(1) the political party is making nominations by convention for the general election in which the vacancy is to be filled; and

(2) the vacancy occurs on or before the fourth day before the date the convention convenes. (V.T.E.C. Art. 13.12a(c); New.)

Sec. 202.006. NOMINATION BY EXECUTIVE COMMITTEE. (a) A political party's state, district, county, or precinct executive committee, as appropriate for the particular office, may nominate a candidate for the unexpired term if:

(1) in the case of a party holding a primary election, the vacancy occurs after the 65th day before general primary election day; or

(2) in the case of a party nominating by convention, the vacancy occurs after the fourth day before the date the convention having the power to make a nomination for the office convenes.

(b) The nominating procedure for an unexpired term under this section is the same as that provided by Subchapter B, Chapter 145, for filling a vacancy in a party's nomination, to the extent that it can be made applicable. (V.T.E.C. Arts. 13.12a(b)(3), (c), (d); New.)

Sec. 202.007. FILING DEADLINE FOR APPLICATION OF INDEPENDENT CANDIDATE. (a) If a vacancy occurs after runoff primary election day, an independent candidate for the unexpired term must file the application for a place on the ballot not later than 5 p.m. of the 30th day after the date the vacancy occurs or 5 p.m. of the 60th day before general election day, whichever is earlier.

(b) An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority. (V.T.E.C. Art. 13.12a(e); New.)

CHAPTER 203. VACANCY IN LEGISLATURE

Sec. 203.001. APPLICABILITY OF CHAPTER

Sec. 203.002. VACANCY FILLED AT SPECIAL ELECTION

Sec. 203.003. MAJORITY VOTE REQUIRED

Sec. 203.004. DATE OF ELECTION

Sec. 203.005. APPLICATION REQUIRED

Sec. 203.006. APPLICATION FILED WITH SECRETARY OF STATE

Sec. 203.007. NUMBER OF PETITION SIGNATURES REQUIRED

Sec. 203.008. CIRCULATION OF PETITION

Sec. 203.009. CERTIFICATION OF CANDIDATES FOR PLACEMENT ON BALLOT

Sec. 203.010. TIME FOR CERTIFICATION OF RUNOFF CANDIDATES

Sec. 203.011. PARTY ALIGNMENT ON BALLOT

Sec. 203.012. TIME OF CANVASS

Sec. 203.013. EXPEDITED ELECTION

Sec. 203.014. DISPOSITION OF FILING FEES

CHAPTER 203. VACANCY IN LEGISLATURE

Sec. 203.001. APPLICABILITY OF CHAPTER. This chapter applies to the offices of state senator and state representative. (New.)

Sec. 203.002. VACANCY FILLED AT SPECIAL ELECTION. An unexpired term in office may be filled only by a special election in accordance with this chapter. (Tex. Const. Art. III, Sec. 13; V.T.E.C. Art. 4.12.)

Sec. 203.003. MAJORITY VOTE REQUIRED. To be elected in a special election for an unexpired term, a candidate must receive a majority of the total number of votes received by all candidates for the unexpired term. (V.T.E.C. Art. 4.12, Subdiv. 1.)

Sec. 203.004. DATE OF ELECTION. (a) Except as provided by Subsection (b), a special election shall be held on the first uniform election date occurring on or after the 36th day after the date the election is ordered.

(b) If the election is to be held as an emergency election under Section 201.053, it shall be held on a Tuesday or Saturday occurring on or after the 36th day and before the 50th day after the date the election is ordered. (V.T.E.C. Arts. 2.01b; 4.01; 4.09, Sec. 1; New.)

Sec. 203.005. APPLICATION REQUIRED. (a) To be entitled to a place on a special election ballot, a candidate must make an application for a place on the ballot.

(b) An application must, in addition to complying with Section 141.031:

(1) state the political party with which the candidate is aligned or, if the candidate is not aligned with a party, state that fact; and

(2) be accompanied by:

(A) a filing fee in the amount prescribed by Section 172.024 for a candidate for nomination for the same office in a general primary election; or

(B) a petition that satisfies the requirements prescribed by Section 141.062. (V.T.E.C. Art. 4.10, Subdivs. 1, 3; New.)

Sec. 203.006. **APPLICATION FILED WITH SECRETARY OF STATE.** An application for a place on a special election ballot must be filed with the secretary of state. (V.T.E.C. Art. 4.10, Subdiv. 3.)

Sec. 203.007. **NUMBER OF PETITION SIGNATURES REQUIRED.** The minimum number of signatures that must appear on the petition authorized by Section 203.005(b)(2)(B) is 500. (V.T.E.C. Art. 4.10, Subdiv. 3.)

Sec. 203.008. **CIRCULATION OF PETITION.** A petition authorized by Section 203.005(b)(2)(B) may not be circulated before the day after the date the vacancy occurs. (New.)

Sec. 203.009. **CERTIFICATION OF CANDIDATES FOR PLACEMENT ON BALLOT.** (a) Except as provided by Subsection (c), the secretary of state shall certify in writing for placement on the special election ballot the name of each candidate who files with the secretary an application that complies with Section 203.005(b).

(b) As soon as practicable after the deadline for filing applications, the secretary of state shall deliver the certification to the authority responsible for having the official special election ballot prepared in each county in which the special election is to be held.

(c) A candidate's name may not be certified if, before delivering the certification, the secretary of state learns that the name is to be omitted from the ballot under Section 145.094.

(d) This section does not apply to the certification of candidates for a runoff election. (V.T.E.C. Art. 4.10, Subdiv. 3(b); New.)

Sec. 203.010. **TIME FOR CERTIFICATION OF RUNOFF CANDIDATES.** The certification of the names of the runoff candidates for placement on a runoff ballot shall be delivered not later than the fifth day after the date the final canvass is completed. (V.T.E.C. Art. 4.12, Subdiv. 3.)

Sec. 203.011. **PARTY ALIGNMENT ON BALLOT.** The party alignment of each candidate shall be printed on the official ballot next to the candidate's name. (V.T.E.C. Art. 4.10, Subdiv. 3(c).)

Sec. 203.012. **TIME OF CANVASS.** (a) The commissioners court shall convene to conduct the local canvass not later than the third day after election day.

(b) The state canvassing board shall convene to conduct the state canvass not later than the seventh day after election day. (V.T.E.C. Art. 4.12, Subdivs. 2, 3; Art. 8.42.)

Sec. 203.013. **EXPEDITED ELECTION.** (a) This section applies to a special election to fill an unexpired term if a vacancy occurs:

(1) during a regular session of the legislature and more than 25 days before the last possible day of the session; or

(2) during the 60 days immediately prior to the date of convening any session of the legislature.

(b) This section supersedes other provisions of this title to the extent of any conflict.

(c) The election must be held on a Tuesday or Saturday occurring not earlier than the 21st day or later than the 45th day after the date the election is ordered.

(d) If the election is to be held before the 36th day after the date the election is ordered, the governor shall set the deadline for filing candidates' applications for a place on the ballot, which must be 5 p.m. of a day not earlier than the fifth day after the date of the order and not later than the 16th day before election day.

(e) If a runoff election is necessary, it must be held on a Tuesday or Saturday occurring not earlier than the 12th day or later than the 25th day after the date the election is ordered.

(f) If a runoff election is to be held before the 21st day after the date the election is ordered, an election notice given by posting shall be posted not later than the seventh day after the date of the order.

(g) If a runoff election is to be held before the 16th day after the date the election is ordered, an election notice given by publication shall be published not later than the third day before election day. (V.T.E.C. Art. 4.12, Subdiv. 4; New.)

Sec. 203.014. **DISPOSITION OF FILING FEES.** The secretary of state shall deposit the filing fees received under Section 203.005 in a suspense account with the state treasurer until after election day. The funds remaining in the account after any refunds are made shall be deposited to the credit of the General Revenue Fund. (V.T.E.C. Art. 4.10, Subdiv. 3(a); New.)

CHAPTER 204. VACANCY IN CONGRESS

SUBCHAPTER A. VACANCY IN SENATE

Sec. 204.001. APPLICABILITY OF SUBCHAPTER

Sec. 204.002. TEMPORARY APPOINTMENT TO FILL VACANCY

Sec. 204.003. VACANCY FILLED AT GENERAL ELECTION

Sec. 204.004. NOMINATION FOR VACANCY FILLED AT GENERAL ELECTION

Sec. 204.005. VACANCY FILLED AT SPECIAL ELECTION

[Sections 204.006-204.020 reserved for expansion]

SUBCHAPTER B. VACANCY IN HOUSE OF REPRESENTATIVES

Sec. 204.021. VACANCY FILLED AT SPECIAL ELECTION

CHAPTER 204. VACANCY IN CONGRESS

SUBCHAPTER A. VACANCY IN SENATE

Sec. 204.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies to the office of United States senator. (New.)

Sec. 204.002. TEMPORARY APPOINTMENT TO FILL VACANCY. The governor shall appoint a person to fill a vacancy in office if the vacancy exists or will exist when congress is in session. The appointee serves until a successor has been elected and has qualified. (U.S. Const., Amend. 17; V.T.E.C. Art. 12.02(2).)

Sec. 204.003. VACANCY FILLED AT GENERAL ELECTION. If a vacancy occurs on or after January 1 of an even-numbered year and on or before the 65th day before general primary election day, the remainder of the unexpired term shall be filled at the next general election for state and county officers. (V.T.E.C. Arts. 12.02(1), (3); New.)

Sec. 204.004. NOMINATION FOR VACANCY FILLED AT GENERAL ELECTION. A nomination by a political party for an unexpired term to be filled at the general election for state and county officers is made in the manner prescribed by Section 202.004 or 202.005, as applicable. (V.T.E.C. Art. 12.02(3); New.)

Sec. 204.005. VACANCY FILLED AT SPECIAL ELECTION. If a vacancy occurs during an odd-numbered year or after the 65th day before general primary election day in an even-numbered year, the remainder of the unexpired term shall be filled by a special election in the same manner as provided by Chapter 203 for the legislature, except that:

- (1) the minimum number of signatures that must appear on a petition accompanying a candidate's application for a place on the ballot is 5,000; and
- (2) Section 203.013 does not apply. (V.T.E.C. Arts. 12.02(4), (5), (6); New.)

[Sections 204.006-204.020 reserved for expansion]

SUBCHAPTER B. VACANCY IN HOUSE OF REPRESENTATIVES

Sec. 204.021. VACANCY FILLED AT SPECIAL ELECTION. An unexpired term in the office of United States representative may be filled only by a special election in the same manner as provided by Chapter 203 for the legislature, except that Section 203.013 does not apply. (U.S. Const., Art. I, Sec. 2; V.T.E.C. Art. 4.11; New.)

TITLE 13. RECOUNTS

- Chapter 211. General Provisions
- Chapter 212. Requesting Recount
- Chapter 213. Conduct of Recount
- Chapter 214. Counting Procedures
- Chapter 215. Costs of Recount

TITLE 13. RECOUNTS

CHAPTER 211. GENERAL PROVISIONS

Sec. 211.001. ELECTIONS IN WHICH RECOUNT MAY BE OBTAINED

Sec. 211.002. DEFINITIONS

Sec. 211.003. CHANGE IN OUTCOME OF ELECTION

Sec. 211.004. PRESIDING OFFICER OF CANVASSING AUTHORITY INELIGIBLE OR UNABLE TO SERVE

Sec. 211.005. METHOD OF GIVING NOTICE; RECORD OF NOTICE

Sec. 211.006. PROMPT PERFORMANCE OF RECOUNT FUNCTIONS

Sec. 211.007. PRESERVATION OF RECOUNT PAPERS

TITLE 13. RECOUNTS

CHAPTER 211. GENERAL PROVISIONS

Sec. 211.001. ELECTIONS IN WHICH RECOUNT MAY BE OBTAINED. A recount may be obtained as provided by this title in any election. (V.T.E.C. Art. 7.14, Sec. 19; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdivs. 1, 13.)

Sec. 211.002. DEFINITIONS. In this title:

(1) "Recount" means the process conducted under this title for verifying the vote count in an election.

(2) "Initial recount" means a recount obtained under Subchapter B, Chapter 212.

(3) "Partial recount" means a recount in fewer than the total number of election precincts involved in an election.

(4) "Supplementary recount" means a recount obtained under Subchapter C, Chapter 212, following a partial initial recount.

(5) "Expedited recount" means a recount obtained under Subchapter D, Chapter 212.

(6) "Recount coordinator" means the authority to whom a petition for an initial recount or an expedited recount is submitted under Section 212.026 or 212.082.

(7) "Recount supervisor" means the authority designated by Section 213.001 to manage and supervise a recount in election precincts in the jurisdiction of a local canvassing authority.

(8) "Recount document" means a petition for an initial recount, a petition for an expedited recount, an application for a supplementary recount, or an application for including remaining paper ballot precincts.

(9) "Recount deposit" means the deposit required by Section 212.111.

(10) "Voting system vote" means a vote cast in a voting system that is not a write-in vote. (New.)

Sec. 211.003. CHANGE IN OUTCOME OF ELECTION. In this title, a change in the outcome of an election occurs if, as a result of a recount in the precincts included in a recount document:

(1) a candidate who was shown by the previous vote count to be nominated, elected, or entitled to a place on a runoff ballot or to be tied for nomination, election, or entitlement to a place on a runoff ballot loses that status;

(2) in a presidential general election, the presidential candidate who was shown by the previous vote count to have received the most votes in this state loses that status; or

(3) in an election on a measure, the winning side becomes the losing side. (New.)

Sec. 211.004. PRESIDING OFFICER OF CANVASSING AUTHORITY INELIGIBLE OR UNABLE TO SERVE. (a) The presiding officer of a local canvassing authority who is a candidate in a race for which a recount is to be made is ineligible to serve as the recount coordinator or recount supervisor.

(b) The presiding officer of a local canvassing authority may designate the following authority as the recount coordinator or recount supervisor, and if the presiding officer is ineligible or unable to serve as recount coordinator or recount supervisor, the following authority shall serve in that capacity:

(1) the county clerk, if a commissioners court is the canvassing authority;

(2) the city secretary, if a city's governing body is the canvassing authority;

(3) the secretary of the governing body, or the authority performing the duties of a secretary under this code, if the governing body of a political subdivision other than a county or city is the canvassing authority; or

(4) the secretary of the county executive committee, if a political party's county executive committee is the canvassing authority and the committee has a secretary who is a member of the committee, or the county clerk if the committee does not have a member-secretary.

(c) A substitute recount coordinator does not replace the presiding officer of the local canvassing authority in a canvass following a recount. (New.)

Sec. 211.005. METHOD OF GIVING NOTICE; RECORD OF NOTICE. (a) The authority responsible for giving a notice required by this title shall use the most expeditious means available for giving the notice. If the authority cannot give personal notice when required, the authority shall give notice by another method.

(b) The authority giving notice shall make a written record of the time at which each notice is given to a person and the method by which the notice is given. The record shall be preserved with the recount document to which the notice pertains. (New.)

Sec. 211.006. PROMPT PERFORMANCE OF RECOUNT FUNCTIONS. (a) Each authority responsible for performing a function in a recount shall perform the function diligently and shall take prompt action at every stage of the proceeding.

(b) This section is enforceable by writ of mandamus. (New.)

Sec. 211.007. PRESERVATION OF RECOUNT PAPERS. (a) In this section, “recount papers” means the documents requesting a recount, amendments to those documents, records of notices given, records of costs of the recount, and file copies of statements of costs.

(b) A recount coordinator shall retain the recount papers in his possession for the longest of the following periods:

- (1) the period for preserving the precinct election records;
- (2) 60 days after the date the canvass of the recount is completed;
- (3) 30 days after the date assessed costs are finally settled; or
- (4) 30 days after the date an amount owed by a person against whom costs are assessed is referred for collection.

(c) If a recount supervisor is also the recount coordinator for a recount, the papers accumulated in the officer’s capacity as supervisor shall be retained for the same period as those accumulated in his capacity as coordinator.

(d) A recount supervisor who is not the recount coordinator shall retain the recount papers in his possession for the longest of the following periods:

- (1) the period for preserving the precinct election records;
- (2) 60 days after the date recount costs for payment of claimants are certified; or
- (3) if costs in the supervisor’s jurisdiction are assessed against a person, six months after the date a statement of costs incurred in the supervisor’s jurisdiction is delivered to the recount coordinator.

(e) Subsections (b), (c), and (d) do not apply to recount papers delivered to the authority to whom an amount owed by a person against whom costs are assessed is referred for collection. (New.)

CHAPTER 212. REQUESTING RECOUNT

SUBCHAPTER A. REQUESTING RECOUNT GENERALLY

- Sec. 212.001. GENERAL REQUIREMENTS FOR RECOUNT DOCUMENT
 - Sec. 212.002. DESIGNATION OF AGENT TO RECEIVE NOTICE
 - Sec. 212.003. SUBMISSION OF RECOUNT DOCUMENT
 - Sec. 212.004. FURNISHING COPIES OF DOCUMENTS TO CERTAIN INTERESTED PERSONS
 - Sec. 212.005. MULTIPLE RECOUNTS ON SAME OFFICE OR MEASURE
- [Sections 212.006-212.020 reserved for expansion]

SUBCHAPTER B. INITIAL RECOUNT

- Sec. 212.021. APPLICABILITY OF SUBCHAPTER
- Sec. 212.022. OBTAINING INITIAL RECOUNT IN ELECTION ON OFFICE
- Sec. 212.023. OBTAINING INITIAL RECOUNT IN ELECTION FOR PRESIDENTIAL ELECTORS
- Sec. 212.024. OBTAINING INITIAL RECOUNT IN ELECTION ON MEASURE
- Sec. 212.025. PETITION FOR INITIAL RECOUNT REQUIRED
- Sec. 212.026. AUTHORITY TO WHOM PETITION SUBMITTED
- Sec. 212.027. NOTICE OF PETITION SUBMISSION TO OTHER CANVASSING AUTHORITIES
- Sec. 212.028. TIME FOR SUBMITTING PETITION
- Sec. 212.029. INITIAL REVIEW OF PETITION
- Sec. 212.030. AMENDMENT OF PETITION
- Sec. 212.031. FINAL ACTION ON PETITION

- Sec. 212.032. NOTICE OF APPROVAL TO OTHERS INVOLVED IN ELECTION
- Sec. 212.033. EFFECT OF PETITION SUBMISSION ON CANVASS
- Sec. 212.034. COUNTING ERRORS AS GROUND FOR RECOUNT IN PAPER BALLOT PRECINCTS
- Sec. 212.035. APPLICATION FOR INCLUDING REMAINING PAPER BALLOT PRECINCTS

[Sections 212.036-212.050 reserved for expansion]

**SUBCHAPTER C. SUPPLEMENTARY RECOUNT FOLLOWING
PARTIAL RECOUNT IN PAPER BALLOT PRECINCTS**

- Sec. 212.051. APPLICABILITY OF SUBCHAPTER
- Sec. 212.052. SUPPLEMENTARY RECOUNT AUTHORIZED
- Sec. 212.053. OBTAINING SUPPLEMENTARY RECOUNT
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CHAPTER 212. REQUESTING RECOUNT

SUBCHAPTER A. REQUESTING RECOUNT GENERALLY

Sec. 212.001. GENERAL REQUIREMENTS FOR RECOUNT DOCUMENT. A recount document submitted under this title must:

- (1) be in writing;
- (2) identify the office or measure for which a recount is desired;
- (3) state the side of the measure that the person requesting the recount represents, if applicable;
- (4) identify the election precincts, grouped by county or other appropriate territorial unit if the election involves more than one local canvassing authority, for which a recount is desired and must indicate the method of voting used in each precinct;
- (5) be signed by:
 - (A) the person requesting the recount or, if there is more than one, any one or more of them; or
 - (B) an agent of the person requesting the recount;
- (6) state each requesting person's name, residence address, and, if authorization to obtain the recount is based on eligibility to vote in the election, voter registration number, and county of registration if the election covers territory in more than one county;
- (7) designate an agent who is a resident of this state to receive notice under this title on behalf of the person requesting the recount if:
 - (A) the person requesting the recount is not a resident of this state; or
 - (B) there is more than one person requesting the recount; and
- (8) state the mailing address and at least one telephone number, if any, at which the person requesting the recount or an agent, identified by name, may receive notice given under this title. (New.)

Sec. 212.002. DESIGNATION OF AGENT TO RECEIVE NOTICE. (a) If a recount involves votes canvassed by more than one local canvassing authority, the document requesting the recount may designate, for any one or more of the counties served by the local canvassing authorities, a person residing in the county to receive notice of the time and place of the recount on behalf of the person requesting the recount.

(b) The designation is not effective unless the document states the designee's name, address, and telephone number, if any. (New.)

Sec. 212.003. SUBMISSION OF RECOUNT DOCUMENT. (a) A recount document or a document amending a recount document is considered to be submitted at the time of its receipt by the recount coordinator.

(b) On submission of a document, the recount coordinator shall enter on the document the date and hour of submission and the form and amount of the deposit accompanying the document. (New.)

Sec. 212.004. FURNISHING COPIES OF DOCUMENTS TO CERTAIN INTERESTED PERSONS. The recount coordinator shall furnish without charge a copy of a recount document or a document amending a recount document to each person, other than the person submitting the document, who is entitled to notice of its approval. (New.)

Sec. 212.005. MULTIPLE RECOUNTS ON SAME OFFICE OR MEASURE. (a) The approval of a petition for a recount does not preclude the submission and approval of another petition on the same office or measure. A petition with respect to a particular office or measure may not be submitted after an initial recount or an expedited recount on the office or measure is completed.

(b) If more than one recount petition, application for a supplementary recount, or application for including remaining paper ballot precincts is submitted, the recount coordinator shall promptly inform each petitioner or applicant of the submission by the other person.

(c) If more than one petition or application is approved, the recount requested by each person shall be conducted at the same time. (New.)

[Sections 212.006-212.020 reserved for expansion]

SUBCHAPTER B. INITIAL RECOUNT

Sec. 212.021. APPLICABILITY OF SUBCHAPTER. This subchapter applies to all elections except an election to which an expedited recount under Subchapter D applies. (New.)

Sec. 212.022. OBTAINING INITIAL RECOUNT IN ELECTION ON OFFICE. A candidate for nomination or election to an office may obtain an initial recount in an election in which he was a candidate if:

(1) the difference in the number of votes received by him and any candidate for the office who is shown by the election returns to be nominated, elected, or entitled to a place on a runoff ballot or tied for nomination, election, or entitlement to a place on a runoff ballot is less than 10 percent of that candidate's number of votes;

(2) the candidate is shown by the election returns to be entitled to a place on a runoff ballot or tied for nomination, election, or entitlement to a place on a runoff ballot;

(3) the secretary of state certifies that counting errors affecting the election occurred in one or more election precincts in which paper ballots were used, as provided by Section 212.034; or

(4) the total number of votes received by all candidates for the office is less than 1,000 as shown by the election returns. (V.T.E.C. Art. 7.14, Sec. 19; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 1; New.)

Sec. 212.023. **OBTAINING INITIAL RECOUNT IN ELECTION FOR PRESIDENTIAL ELECTORS.** (a) An initial recount in a presidential general election may be obtained if one of the grounds prescribed by Section 212.022 is satisfied.

(b) The following persons may obtain an initial recount in a presidential general election:

(1) a presidential candidate whose name appeared on the ballot in this state or who had qualified as a write-in candidate in this state;

(2) one or more presidential elector candidates corresponding to a presidential candidate described by Subdivision (1), acting jointly; or

(3) a presidential candidate described by Subdivision (1) and one or more corresponding elector candidates, acting jointly. (New.)

Sec. 212.024. **OBTAINING INITIAL RECOUNT IN ELECTION ON MEASURE.** (a) An initial recount in an election on a measure may be obtained if:

(1) the difference in the number of votes received for the measure and against the measure is less than 10 percent of the total number of votes received on the measure as shown by the election returns;

(2) the secretary of state certifies that counting errors affecting the election occurred in one or more election precincts in which paper ballots were used, as provided by Section 212.034; or

(3) the total number of votes received for and against the measure is less than 1,000 as shown by the election returns.

(b) The following persons may obtain an initial recount in an election on a measure:

(1) the campaign treasurer of a specific-purpose political committee that was involved in the election; or

(2) any 25 or more persons, acting jointly, who were eligible to vote in the election. (V.T.E.C. Art. 7.14, Sec. 19; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 13; New.)

Sec. 212.025. **PETITION FOR INITIAL RECOUNT REQUIRED.** An initial recount may not be conducted unless a person authorized to obtain the recount submits, as provided by this subchapter, a petition for the recount that complies with the applicable requirements prescribed by this title. (New.)

Sec. 212.026. **AUTHORITY TO WHOM PETITION SUBMITTED.** (a) In an election for which there is only one canvassing authority, a petition for an initial recount must be submitted to the presiding officer of the canvassing authority.

(b) In an election for which there is only one canvassing authority and which is canvassed jointly with another election, a recount petition must be submitted to the presiding officer of the authority designated by law as the canvassing authority for the election rather than the presiding officer of the canvassing authority designated by the joint election agreement.

(c) In an election for which a final canvass is made by a canvassing authority at the state level, a recount petition must be submitted to the presiding officer of the final canvassing authority.

(d) In an election for which there is more than one local canvassing authority and no final canvass at the state level, a recount petition must be submitted to the presiding officer of each local canvassing authority within whose jurisdiction a recount is desired.

(e) In a general election for governor or lieutenant governor, a recount petition must be submitted to the secretary of state.

(f) If the presiding officer of a local canvassing authority is ineligible or unable to serve as recount coordinator, the timely submission of a recount petition to that officer instead of the person substituting as the recount coordinator does not make the petition invalid. In that case, the presiding officer shall promptly deliver the petition to the substitute coordinator. (V.T.E.C. Art. 7.14, Sec. 19; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 2(a); New.)

Sec. 212.027. NOTICE OF PETITION SUBMISSION TO OTHER CANVASSING AUTHORITIES. (a) On submission of a recount petition under Section 212.026(b), the recount coordinator, if he is not the same person as the presiding officer of the canvassing authority designated by the joint election agreement, shall notify that presiding officer of the submission.

(b) On submission of a recount petition under Section 212.026(d), the recount coordinator shall notify the presiding officer of each of the other canvassing authorities of the submission of the petition. (New.)

Sec. 212.028. TIME FOR SUBMITTING PETITION. A petition for an initial recount must be submitted by the later of:

(1) 5 p.m. of the fifth day after election day; or

(2) 5 p.m. of the second day after the date the canvassing authority to whose presiding officer the petition must be submitted would have convened to canvass the original election returns, if the canvass is delayed by the submission of a petition, or 5 p.m. of the second day after the date the canvassing authority completes its canvass of the original election returns, if the canvass is not delayed. (V.T.E.C. Art. 9.38a, Subdiv. 2(a); New.)

Sec. 212.029. INITIAL REVIEW OF PETITION. (a) On submission of a recount petition, the recount coordinator shall promptly review the petition for compliance with the applicable requirements.

(b) If the recount petition does not comply with the applicable requirements, the recount coordinator shall promptly notify the petitioner of each defect in the petition and shall enter on the petition a description of each defect and the date of the notice. A deposit in an improper form or amount is a defect for purposes of this subsection. (New.)

Sec. 212.030. AMENDMENT OF PETITION. (a) A petitioner may amend a recount petition to correct a defect.

(b) An amendment must be submitted to the recount coordinator not later than the deadline for submitting the petition or 5 p.m. of the second day after the date notice of the defect under Section 212.029 is received by the petitioner, whichever is later.

(c) On submission of an amendment, the recount coordinator shall enter on the amendment the date and hour it is submitted.

(d) If an amendment is timely, the recount coordinator shall promptly review the petition as amended.

(e) For purposes of this section, a correction of an improper deposit is considered an amendment of the petition. (New.)

Sec. 212.031. FINAL ACTION ON PETITION. (a) If a recount petition complies with the applicable requirements, the recount coordinator shall approve the petition and note on the petition its approved status and the date of the approval.

(b) If the petition does not comply with the applicable requirements, the recount coordinator shall determine whether it is correctable by amendment. If the petition is not correctable, the coordinator shall reject the petition. If the petition is correctable, the coordinator shall delay acting on the petition until the deadline for amending it. If at that time the petition is not corrected, the coordinator shall reject the petition.

(c) On rejecting a petition, the recount coordinator shall note on the petition its rejected status and the reason for and date of the rejection.

(d) After approving or rejecting a petition, the recount coordinator shall promptly notify the petitioner of the action taken.

(e) After approving or rejecting a petition submitted under Section 212.026(b), the recount coordinator, if he is not the same person as the presiding officer of the canvassing authority designated by the joint election agreement, shall promptly notify that presiding officer of the action taken. (New.)

Sec. 212.032. NOTICE OF APPROVAL TO OTHERS INVOLVED IN ELECTION. After approving a recount petition, the recount coordinator shall promptly notify the following persons of the petition's approval:

(1) if the recount involves an election for nomination or election to an office, each opposing candidate;

(2) if the recount involves an election for presidential electors, the presidential candidate who is shown by the election returns to have received the most votes; or

(3) if the recount involves a measure:

(A) the campaign treasurer of each specific-purpose political committee involved in the election on the side opposite the side that the petitioner represents; or

(B) a person eligible to vote in the election, selected by the recount coordinator as an appropriate representative of the interests of the opposite side, if no specific-purpose committee was involved in the election. (V.T.E.C. Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 2(b); New.)

Sec. 212.033. EFFECT OF PETITION SUBMISSION ON CANVASS. (a) The submission of a recount petition under Section 212.026(a) or (b) before the canvassing authority completes its canvass delays the canvass for the office or measure involved in the recount until final action on the petition is taken under Section 212.031. If the petition is approved, the canvass is delayed until the recount is completed. If a petition submitted under Section 212.026(b) is rejected, the authority designated by the joint election agreement shall make the canvass. If it is approved, the canvassing authority designated by law shall make the canvass.

(b) The submission of a recount petition under Section 212.026(c) before the final canvassing authority completes its canvass delays the final canvass for the office or measure involved in the recount until final action on the petition is taken under Section 212.031. If the petition is approved, the canvass is delayed until the recount is completed. The submission of the petition does not affect the canvass by a local canvassing authority.

(c) The submission of a recount petition under Section 212.026(d) has the effect stated in Subsection (a) on the canvass by the authority to whose presiding officer the petition is submitted but does not affect the canvass by the other local canvassing authorities.

(d) If a recount petition is submitted before the final canvass in an election in which the office or measure involved in the recount was the only matter on the ballot, the presiding officer of the final canvassing authority shall retain the copy of the original returns delivered to him until the canvass following the recount is made. The returns shall then be delivered to the custodian of canvassed returns.

(e) The submission of a recount petition has no effect on the canvass of other offices or measures voted on at the same election. (New.)

Sec. 212.034. COUNTING ERRORS AS GROUND FOR RECOUNT IN PAPER BALLOT PRECINCTS. (a) To obtain a recount on the ground of counting errors in election precincts in which paper ballots were used, a person must attach to the recount petition an affidavit or affidavits from one or more presiding judges of the election stating that certain votes cast for the office or measure, as applicable, were either counted or not counted, as appropriate, with a brief description of the circumstances involved. At the same time the recount petition is submitted to the recount coordinator, the petitioner must deliver a copy of the recount petition and each affidavit to each opposing candidate or to the campaign treasurer of each specific-purpose political committee that was involved in the election on the measure, as appropriate, and to the secretary of state. The copies must be delivered personally or by registered or certified mail, return receipt requested.

(b) The recount coordinator shall delay final action on a recount petition submitted with an attached affidavit under Subsection (a) pending receipt of the secretary of state's certification.

(c) Any opposing candidate or any person listed in Section 212.023(b) or 212.024(b), as appropriate, is entitled to submit to the secretary of state an affidavit contradicting statements made in an affidavit submitted by the petitioner. A contradicting affidavit must be received by the secretary of state not later than the third day after the date the copy of the recount petition and each affidavit is received by the secretary.

(d) A recount on the ground of counting errors may be obtained if the secretary of state determines from uncontradicted statements, based on undisputed facts, in an affidavit submitted by the petitioner and from the election returns that certain votes cast for the office or measure, as applicable, clearly were erroneously counted or not counted, as appropriate, and that without the errors the petitioner possibly would have received the vote necessary to gain or tie for nomination, election, or entitlement to a place on a runoff ballot or the petitioner's side on a measure possibly would have received the most votes, as applicable. The secretary may not make the determination if the facts are disputed or raise unresolved legal questions as to whether counting errors occurred.

(e) Not earlier than the fourth or later than the fifth day after the date the copy of the recount petition and each affidavit is received by the secretary of state, the secretary shall deliver written certification of whether grounds exist for obtaining a recount on the basis of counting errors to the recount coordinator and shall deliver a copy of the certification to the petitioner and to each opposing candidate or to the campaign treasurer of each specific-purpose political committee that was involved in the election on the measure, as appropriate. (V.T.E.C. Art. 9.38a, Subdivs. 1, 3, 4, 13.)

Sec. 212.035. APPLICATION FOR INCLUDING REMAINING PAPER BALLOT PRECINCTS. (a) If a petition is approved for a partial recount in election precincts in which paper ballots were used, any opposing candidate or any person listed in Section 212.023(b) or 212.024(b), as appropriate, may have the remaining election precincts in which paper ballots were used included in the initial recount by submitting an application for including the precincts to the recount coordinator.

(b) The application must be submitted not later than 2 p.m. of the second day after the date the applicant receives notice of the petition's approval.

(c) The application is subject to review, amendment, and action by the recount coordinator in the same manner as a petition submitted under this subchapter.

(d) After approving an application for including remaining precincts, the recount coordinator shall promptly give notice of the approval to the applicant, the petitioner, and any other person entitled to notice under Section 212.032. (V.T.E.C. Art. 9.38a, Subdivs. 6, 13; New.)

[Sections 212.036-212.050 reserved for expansion]

SUBCHAPTER C. SUPPLEMENTARY RECOUNT FOLLOWING PARTIAL RECOUNT IN PAPER BALLOT PRECINCTS

Sec. 212.051. **APPLICABILITY OF SUBCHAPTER.** This subchapter does not apply to an election to which an expedited recount under Subchapter D applies. (New.)

Sec. 212.052. **SUPPLEMENTARY RECOUNT AUTHORIZED.** If a partial recount is conducted in election precincts in which paper ballots were used, a recount of votes cast in the remaining precincts in which paper ballots were used may be obtained as provided by this subchapter. (V.T.E.C. Art. 9.38a, Subdivs. 6, 11, 13.)

Sec. 212.053. **OBTAINING SUPPLEMENTARY RECOUNT.** (a) A person who was not entitled to obtain an initial recount on the grounds prescribed by Section 212.022(1) or (2) or 212.024(a)(1) may obtain a supplementary recount if the partial recount included less than 50 percent of the total vote received by all candidates in the race or for the measure, as applicable, as shown by the original election returns, and as a result of the partial recount those grounds are satisfied.

(b) A person who was not entitled to obtain an initial recount on the grounds prescribed by Section 212.022(1) or (2) or 212.024(a)(1) may obtain a supplementary recount if the partial recount included 50 percent or more but less than 75 percent of the total vote received by all candidates in the race or for the measure, as applicable, as shown by the original election returns, and as a result of the partial recount those grounds are satisfied, except that the percentage factor is two percent rather than 10 percent. (V.T.E.C. Art. 9.38a, Subdivs. 11, 13.)

Sec. 212.054. **APPLICATION FOR SUPPLEMENTARY RECOUNT REQUIRED.** A supplementary recount may not be conducted unless a person authorized to obtain the recount submits, as provided by this subchapter, an application for the recount that complies with the applicable requirements prescribed by this title. (V.T.E.C. Art. 9.38a, Subdivs. 6, 11.)

Sec. 212.055. **AUTHORITY TO WHOM APPLICATION SUBMITTED.** A supplementary recount application must be submitted to the recount coordinator. (V.T.E.C. Art. 9.38a, Subdivs. 6, 11(c); New.)

Sec. 212.056. **TIME FOR SUBMITTING APPLICATION.** (a) Except as provided by Subsection (b), a supplementary recount application must be submitted not later than 5 p.m. of the second day after the date the applicant receives notice of the initial recount result under Section 213.032 or 213.056.

(b) An application for a supplementary recount on a measure must be submitted not later than 5 p.m. of the second day after the date notice of the initial recount result under Section 213.032 or 213.056 was given to the person selected to receive notice of the petition's approval under Section 212.032 if the applicant is:

(1) the campaign treasurer of a specific-purpose political committee who did not receive the notice of the initial recount result; or

(2) a group of persons, none of whom received the notice of the initial recount result. (V.T.E.C. Art. 9.38a, Subdivs. 6, 11(c); New.)

Sec. 212.057. **PROCESSING APPLICATION.** (a) An application for a supplementary recount is subject to review, amendment, and action by the recount coordinator in the same manner as prescribed by Sections 212.029, 212.030, and 212.031 for a petition for an initial recount.

(b) After approving an application, the recount coordinator shall promptly give notice of the approval of the application to the petitioner for the initial recount and to each person entitled to notice of an approved petition under Section 212.032. (New.)

[Sections 212.058-212.080 reserved for expansion]

SUBCHAPTER D. EXPEDITED RECOUNT

Sec. 212.081. **APPLICABILITY OF SUBCHAPTER.** This subchapter applies to a recount in an election on an office in which:

(1) a majority vote is required for nomination or election;

(2) votes were cast for more than two candidates; and

(3) a regularly scheduled runoff for another office that was voted on at the same election, or at an election held jointly with the election for which a recount is desired, is to be held in any part of the territory covered by the election on the office for which a recount is desired. (New.)

Sec. 212.082. **RECOUNT PETITION.** Except as otherwise provided by this subchapter, a recount under this subchapter is initiated by a petition submitted and processed in accordance with Subchapter B. (V.T.E.C. Art. 7.14, Sec. 19; Art. 7.15, Subdiv. 23; Art. 9.38a; New.)

Sec. 212.083. **DEADLINE FOR SUBMITTING PETITION.** (a) If the date for the regularly scheduled runoff may not be earlier than the 25th day after the date of the election in which the recount is desired, the deadline for submitting a recount petition under this subchapter is the later of:

- (1) 2 p.m. of the third day after election day; or
- (2) 2 p.m. of the first day after the date of the local canvass.

(b) If the date for the regularly scheduled runoff may be earlier than the 25th day after the date of the election, the deadline for submitting the petition is 2 p.m. of the second day after election day. (New.)

Sec. 212.084. **NOTICE OF PETITION SUBMISSION.** If the recount coordinator determines that a recount petition does not comply with the applicable requirements but is correctable by amendment, the coordinator shall promptly give notice of the submission to each opposing candidate. The notice required by this section is in addition to the notice of approval of a petition required by Section 212.032. (New.)

Sec. 212.085. **DEADLINE FOR AMENDING PETITION.** (a) The deadline for amending a petition governed by Section 212.083(a) is:

- (1) 10 a.m. of the day after the date notice of defect is received, if received at or after 12 midnight and before 12 noon; or
- (2) 4 p.m. of the day after the date notice of defect is received, if received at or after 12 noon and before 12 midnight.

(b) The deadline for amending a petition governed by Section 212.083(b) is:

- (1) 4 p.m. of the day notice of defect is received, if received at or after 12 midnight and before 10 a.m.;
- (2) 10 a.m. of the day after the date notice of defect is received, if received at or after 10 a.m. and before 5 p.m.; or
- (3) 2 p.m. of the day after the date notice of defect is received, if received at or after 5 p.m. and before 12 midnight. (New.)

Sec. 212.086. **APPLICATION FOR INCLUDING REMAINING PAPER BALLOT PRECINCTS.** Except as otherwise provided by this subchapter, the provisions of Subchapter B governing an application for including remaining paper ballot precincts govern the application in an expedited recount. (V.T.E.C. Art. 9.38a, Subdivs. 6, 11, 13; New.)

Sec. 212.087. **PROCESSING APPLICATION.** An application for including remaining paper ballot precincts is subject to review, amendment, and action by the recount coordinator in the same manner as a petition submitted under this subchapter, except that Section 212.084 does not apply. (New.)

Sec. 212.088. **DEADLINE ON SATURDAY, SUNDAY, OR HOLIDAY.** (a) If the deadline for submitting an expedited recount petition falls on a Saturday, Sunday, or legal state holiday, the deadline is extended to 9 a.m. of the next regular business day.

(b) Except as provided by Subsection (a), a deadline prescribed by this subchapter is not affected by its falling on a Saturday, Sunday, or holiday.

(c) If the deadline for submitting an application for including remaining paper ballot precincts or an amendment to a petition or application falls on a Saturday, Sunday, or legal state holiday, the recount coordinator shall be accessible or have an agent accessible at the coordinator's office for at least one hour immediately preceding the deadline unless the document subject to the deadline has already been submitted. Failure of the coordinator to comply with this subsection excuses performance until 9 a.m. of the next day that is not a Saturday, Sunday, or legal state holiday. (New.)

Sec. 212.089. **DAYS AND HOURS FOR PERFORMING DUTIES.** The recount coordinator, each recount supervisor, and each recount committee involved in an expedited recount shall continue performing their duties on days that are not regular working days and during hours that are not regular working hours if necessary to complete the recount in time to avoid interfering with the orderly conduct of the scheduled runoff election. (New.)

[Sections 212.090-212.110 reserved for expansion]

SUBCHAPTER E. DEPOSIT FOR COSTS OF RECOUNT

Sec. 212.111. **DEPOSIT REQUIRED.** (a) A deposit to cover the costs of a recount must accompany the submission of a recount document.

(b) Except as provided by Subsection (c), the deposit must be in the form of a cashier's check made payable to the recount coordinator.

(c) If the deadline for submitting or amending a document under this chapter falls on a Saturday, Sunday, or legal state holiday, a temporary deposit may be made in the form of cash or a personal check. If a temporary deposit is made, a cashier's check must be delivered to the recount coordinator by 5 p.m. of the day after the next regular business day. On receiving a cashier's check in substitution for cash or a personal check, the recount coordinator shall promptly return the cash or personal check to the person who submitted it. (V.T.E.C. Art. 7.14, Sec. 19a; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdivs. 5, 6, 11; New.)

Sec. 212.112. **AMOUNT OF DEPOSIT.** (a) Subject to Subsection (d), the amount of the recount deposit is determined by the number of precincts for which a recount is requested in the document that the deposit accompanies, in accordance with the following schedule:

(1) five times the maximum hourly rate of pay for election judges, for a precinct in which:

- (A) regular paper ballots were used;
- (B) electronic voting system ballots are to be recounted manually; or
- (C) both write-in votes and voting system votes are to be recounted;

(2) three times the maximum hourly rate of pay for election judges, for a precinct in which ballots are to be recounted by automatic tabulating equipment and no write-in votes are to be recounted; and

(3) two times the maximum hourly rate of pay for election judges, for a precinct in which:

- (A) voting machines were used and no write-in votes are to be recounted; or
- (B) only the write-in votes cast in connection with a voting system are to be recounted.

(b) In a recount of an election for which a majority vote is required for nomination or election to an office, the rate prescribed by Subsection (a)(1)(C) applies to each precinct in which a voting system was used, regardless of whether any write-in votes were cast in the precinct, if:

- (1) the original election results show that write-in votes were cast in the election; and
- (2) an exclusion of write-in votes from the recount is not obtained under Section 212.136.

(c) If more than one method of voting is used for absentee voting, each additional method of voting used for the absentee voting shall be treated as constituting an additional precinct in determining the amount of a recount deposit for a recount of absentee votes.

(d) The minimum amount of a deposit accompanying a petition for a recount is \$50. (V.T.E.C. Art. 7.14, Sec. 19a; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 5; New.)

Sec. 212.113. **RETURN OF DEPOSIT.** On rejection of a recount document, the recount coordinator shall return the recount deposit to the person who submitted the document. (New.)

[Sections 212.114-212.130 reserved for expansion]

SUBCHAPTER F. SCOPE OF RECOUNT

Sec. 212.131. **SCOPE OF INITIAL RECOUNT.** (a) Except as provided by Subsection (d), an initial recount in an election for which there is no canvass at the state level must include each election precinct in the election.

(b) In an election for which there is a final canvass at the state level, an initial recount of votes cast on paper ballots must include each election precinct in which paper ballots were used in the election, except as provided by Subsection (d).

(c) In an election for which there is a final canvass at the state level, an initial recount of votes cast in a voting system may include any one or more counties covered by the election, but must include all the voting system precincts in each county recounted.

(d) An initial recount may include any one or more election precincts in which counting errors occurred as certified by the secretary of state under Section 212.034. (V.T.E.C. Art. 7.14, Sec. 19; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdivs. 1, 13; New.)

Sec. 212.132. **SCOPE OF SUPPLEMENTARY RECOUNT.** A supplementary recount must include each remaining election precinct in which paper ballots were used in the election. (V.T.E.C. Art. 9.38a, Subdivs. 6, 11.)

Sec. 212.133. **SCOPE OF EXPEDITED RECOUNT.** An expedited recount is governed by Section 212.131. (New.)

Sec. 212.134. **ABSENTEE VOTES TREATED AS PRECINCT.** (a) Except as provided by Subsection (b), for the purpose of specifying which election precincts are to be included in a

recount, all the absentee votes canvassed by a local canvassing authority shall be treated as constituting one election precinct.

(b) Each absentee polling place in which voting machines were used shall be treated as constituting one election precinct. (V.T.E.C. Art. 9.38a, Subdiv. 5; New.)

Sec. 212.135. VOTES TO BE RECOUNTED. Except as provided by Section 212.136, all votes cast in the election precincts included in a recount on the office or measure specified by the recount document are subject to the recount. (V.T.E.C. Art. 7.14, Sec. 19; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdivs. 1, 6, 11; New.)

Sec. 212.136. EXCLUSION OF CERTAIN VOTES FROM RECOUNT IN PRECINCTS USING VOTING SYSTEM. (a) Except as provided by Subsection (c), write-in votes cast in connection with a voting system shall be excluded from a recount of an election in which a plurality vote is sufficient.

(b) Except as provided by Subsection (c), in a recount of an election in which a majority vote is required, if the candidate who first requests a recount in one or more precincts in which a voting system was used specifies in the recount document that only a recount of the write-in votes or only a recount of the voting system votes is requested, the votes for which the recount is not requested shall be excluded from the recount unless an objection to the exclusion is made under Section 212.137. A request for a recount of only write-in votes or only voting system votes must apply to all precincts included in the recount in which a voting system was used.

(c) Write-in votes may not be excluded from a recount in which a write-in candidate is the petitioner or a person entitled to notice of an approved petition under Section 212.032.

(d) The treatment given to the votes in the recount obtained under the recount document in which a recount in a voting system precinct is first requested must be given to the votes in all voting system precincts for which a recount is obtained under a subsequently submitted recount document pertaining to the same election.

(e) In a precinct in which voting system votes are excluded from a recount, the vote count entered on the original precinct election returns for the excluded votes shall be treated as the count for those votes for the purposes of the recount. (New.)

Sec. 212.137. OBJECTION TO EXCLUSION OF VOTES. (a) The notice of approval of a recount document in which an exclusion of votes is requested under Section 212.136 must include notice that the exclusion has been requested.

(b) The votes subject to the requested exclusion may not be excluded if a candidate entitled to notice under Subsection (a) notifies the recount coordinator not later than 18 hours after receiving the notice that he objects to the exclusion.

(c) The sufficiency of the deposit accompanying a recount document requesting an exclusion is not affected by a timely objection to the exclusion, but the candidate is liable for the full costs of the recount, including the costs attributable to the recount of the votes requested to be excluded, if the costs are assessed against him. (New.)

CHAPTER 213. CONDUCT OF RECOUNT

SUBCHAPTER A. CONDUCT OF RECOUNT GENERALLY

Sec. 213.001. GENERAL SUPERVISION OF RECOUNT

Sec. 213.002. RECOUNT COMMITTEE

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Sec. 213.013. REPRESENTATION OF PARTIES AT RECOUNT

Sec. 213.014. CANVASS BY COMMITTEE FOLLOWING RECOUNT

[Sections 213.015-213.030 reserved for expansion]

SUBCHAPTER B. ELECTIONS WITHOUT STATE LEVEL CANVASS

Sec. 213.031. **APPLICABILITY OF SUBCHAPTER**

Sec. 213.032. **NOTICE OF PARTIAL INITIAL RECOUNT ON ELECTION; NOTICE**

Sec. 213.033. **CANVASS FOLLOWING RECOUNT**

[Sections 213.034-213.050 reserved for expansion]

SUBCHAPTER C. ELECTIONS WITH STATE LEVEL CANVASS

Sec. 213.051. **APPLICABILITY OF SUBCHAPTER**

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Sec. 213.059. **GENERAL ELECTION FOR GOVERNOR OR LIEUTENANT GOVERNOR**

CHAPTER 213. CONDUCT OF RECOUNT**SUBCHAPTER A. CONDUCT OF RECOUNT GENERALLY**

Sec. 213.001. **GENERAL SUPERVISION OF RECOUNT.** (a) The presiding officer of each local canvassing authority having jurisdiction of election precincts included in a recount shall manage and supervise the recount for the precincts in that authority's jurisdiction.

(b) In a recount of an election canvassed jointly with another election, the presiding officer of the authority designated by law as the canvassing authority for the election, rather than the presiding officer of the joint canvassing authority, shall manage and supervise the recount.

(c) The custodian of voted ballots in the election, or the custodian's designee, is entitled to be present at each phase of the recounting process. (New.)

Sec. 213.002. **RECOUNT COMMITTEE.** (a) Before beginning a recount, each recount supervisor shall appoint a recount committee composed of as many members as the supervisor determines are necessary for a speedy recount. The committee must be composed of at least four members.

(b) The recount supervisor shall appoint a chairman from the membership.

(c) The recount committee shall count the votes in a recount under the direct management and supervision of the chairman. The recount supervisor or his designee may exercise the chairman's authority when present during the counting process. (V.T.E.C. Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 7(b); New.)

Sec. 213.003. **ELIGIBILITY FOR COMMITTEE MEMBERSHIP.** (a) To be eligible for appointment as a member of a recount committee, a person must be a qualified voter of the political subdivision served by the recount supervisor.

(b) A tabulation supervisor, assistant tabulation supervisor, or manager of a central counting station appointed in a recount using automatic tabulating equipment to recount ballots originally counted at a central counting station is not subject to Subsection (a). (V.T.E.C. Art. 9.38a, Subdiv. 7(b); New.)

Sec. 213.004. **COMPENSATION OF COMMITTEE MEMBERS.** (a) Except as provided by Subsection (b), a member of a recount committee is entitled to compensation for time spent in making a recount at an hourly rate set by the recount supervisor, not to exceed the maximum hourly rate for election judges.

(b) A tabulator assisting in a recount using automatic tabulating equipment to recount ballots originally counted at a central counting station is entitled to compensation in an amount set by the recount supervisor, not to exceed the rate of compensation for the tabulation supervisor of the central counting station. (V.T.E.C. Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 10(a); New.)

Sec. 213.005. **COUNTING TEAMS.** (a) A recount committee in a recount other than a recount on automatic tabulating equipment shall function as one or more counting teams composed of three members each.

(b) Subject to the authority of the recount supervisor or his designee, the recount committee chairman shall designate the members to serve on each team and the duties to be performed by each member. (New.)

Sec. 213.006. DETERMINATION OF COUNTING QUESTIONS. The recount committee chairman has the same authority as a presiding election judge to determine whether a particular ballot may be lawfully counted and how a voter's marking of a ballot should be interpreted. (New.)

Sec. 213.007. ACCESS TO BALLOTS, EQUIPMENT, AND OTHER MATERIALS. (a) On presentation by a recount committee chairman of a written order signed by the recount supervisor, the custodian of voted ballots, voting machines or test materials or programs used in counting electronic voting system ballots shall make the ballots, machines, or materials or programs available to the committee.

(b) The custodian of keys to secured materials or equipment shall make the keys available to the committee in the same manner as provided by Subsection (a).

(c) The recount committee chairman shall have the materials and equipment restored to their secured condition and returned to the appropriate custodian. (V.T.E.C. Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 8; New.)

Sec. 213.008. ARRANGEMENTS FOR RECOUNT; SETTING TIME AND PLACE. The recount supervisor shall make the arrangements necessary for conducting the recount and shall set the time and place for beginning the recount. (V.T.E.C. Art. 9.38a, Subdiv. 7(a); New.)

Sec. 213.009. NOTICE OF RECOUNT. (a) The recount supervisor shall give personal notice of an initial recount to the petitioner, personal notice of a supplementary recount to both the petitioner and applicant, and personal notice of an expedited recount to the petitioner and to any applicant.

(b) Notice required by Subsection (a) shall also be given to each person entitled to notice under Section 212.032.

(c) The notice must include the time and place at which the recount is scheduled to begin and the number of counting teams designated for the recount, if applicable.

(d) Except as provided by Section 213.010, the notice shall be given at least 18 hours before the recount begins. (V.T.E.C. Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 7(a); New.)

Sec. 213.010. EARLY RECOUNT. A recount may begin earlier than 18 hours after notice is given under Section 213.009 if each person entitled to the notice agrees to begin at a specified earlier time. (New.)

Sec. 213.011. VOTES COUNTED BY PRECINCT. The recount committee shall count the votes separately by precinct. (New.)

Sec. 213.012. COMMITTEE REPORT OF RECOUNT. (a) After the recount is completed, the recount committee chairman shall prepare a report of the committee's vote count and sign the report. Votes shall be reported separately by precinct.

(b) The chairman shall deliver one copy of the report to the recount supervisor and one copy to the general custodian of election records.

(c) The copies of the report shall be preserved for the period for preserving the precinct election records. (V.T.E.C. Art. 9.38a, Subdiv. 8(c); New.)

Sec. 213.013. REPRESENTATION OF PARTIES AT RECOUNT. (a) Each person entitled to notice of the recount under Section 213.009 is entitled to be present at a recount.

(b) In a recount of an election on an office, each candidate for the office is entitled to be present at the recount and have representatives present in the number corresponding to the number of counting teams designated for the recount. If only one counting team is designated or the recount is conducted on automatic tabulating equipment, each candidate is entitled to two representatives. (V.T.E.C. Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 7(b); New.)

Sec. 213.014. CANVASS BY COMMITTEE FOLLOWING RECOUNT. If a canvassing authority that normally makes the canvass following a recount consists of more than five members, the presiding officer of the authority may require the canvass to be made by a committee composed of the presiding officer and four other members of the canvassing authority designated by the presiding officer. (New.)

[Sections 213.015-213.030 reserved for expansion]

SUBCHAPTER B. ELECTIONS WITHOUT STATE LEVEL CANVASS

Sec. 213.031. APPLICABILITY OF SUBCHAPTER. This subchapter applies to recounts in elections for which there is no canvass at the state level. (New.)

Sec. 213.032. NOTICE OF PARTIAL INITIAL RECOUNT. After receiving the recount committee's report of a partial initial recount, the recount supervisor shall promptly give notice

of the result of the recount to each person entitled to notice of the recount under Section 213.009. (New.)

Sec. 213.033. **CANVASS FOLLOWING RECOUNT.** (a) Except as provided by Subsection (b), on completion of a recount, the canvassing authority shall conduct a canvass for the office or measure involved using the recount committee's report in the recount supervisor's possession, instead of the original precinct election returns, for each precinct in which a recount was conducted.

(b) If a partial initial recount is conducted, the canvass shall be conducted after the deadline for submitting an application for a supplementary recount or, if a supplementary recount is conducted, on its completion.

(c) In a recount of an election in which there is more than one local canvassing authority, the result of the canvass conducted under this section shall be reported to the other canvassing authorities in the same manner as the result of an original canvass.

(d) The appropriate authority shall take any further action that may be necessary in the same manner as for an original canvass. (V.T.E.C. Art. 9.38a, Subdiv. 9; New.)

[Sections 213.034-213.050 reserved for expansion]

SUBCHAPTER C. ELECTIONS WITH STATE LEVEL CANVASS

Sec. 213.051. **APPLICABILITY OF SUBCHAPTER.** This subchapter applies to recounts in elections for which there is a final canvass at the state level. (New.)

Sec. 213.052. **AGENT FOR RECEIVING NOTICE OF RECOUNT.** (a) If a recount includes election precincts in the jurisdiction of more than one local canvassing authority, a person entitled to notice under Section 212.032 may designate an agent for any one or more of the jurisdictions to receive the notice required by Section 213.009(b).

(b) The recount coordinator shall ascertain whether a person notified under Section 212.032 desires to appoint agents under Subsection (a) and, if so, each agent's name, address, and telephone number. (New.)

Sec. 213.053. **NOTICE OF RECOUNT TO SUPERVISOR.** The recount coordinator shall give each recount supervisor involved in a recount notice of:

(1) the precincts in the supervisor's jurisdiction included in the recount and any other pertinent information concerning the recount; and

(2) the name, address, and telephone number of each person to be notified of the recount under Section 213.009. (New.)

Sec. 213.054. **NOTICE OF RECOUNT RESULT TO COORDINATOR.** After receiving the recount committee's report, the recount supervisor shall promptly notify the recount coordinator of the result of the recount. (New.)

Sec. 213.055. **SUPERVISOR'S REPORT.** (a) As soon as practicable after receiving the recount committee's report, the recount supervisor shall prepare and sign a report of the vote count by precinct in the supervisor's jurisdiction, using the recount committee's report for the precincts recounted and the original precinct election returns for the precincts not recounted.

(b) The report prepared under this section is the official statement of the vote count in the local canvassing authority's jurisdiction.

(c) On completion of the report required by this section, the recount supervisor shall deliver one copy to the recount coordinator and one copy to the general custodian of election records. The copies shall be preserved for the period for preserving the precinct election records. (New.)

Sec. 213.056. **DETERMINATION OF RESULT OF RECOUNT; NOTICE.** (a) After receiving the notices of the results of a recount from all the recount supervisors, the recount coordinator shall promptly determine the result of the recount.

(b) The recount coordinator shall give notice of the result of the recount to:

(1) the petitioner and each person entitled to notice under Section 212.032, for an initial recount or an expedited recount; and

(2) the petitioner, the applicant, and any other person entitled to notice under Section 212.032, for a supplementary recount. (New.)

Sec. 213.057. **CANVASS FOLLOWING RECOUNT.** As soon as practicable after completion of a recount, the final canvassing authority shall conduct a canvass for the office or measure involved using the recount supervisor's report, instead of the original county election returns, for each county in which a recount was conducted. (V.T.E.C. Art. 9.38a, Subdiv. 9.)

Sec. 213.058. **CANVASS FOLLOWING EXPEDITED RECOUNT.** (a) Unless a person entitled to notice under Section 213.056 makes an objection to the recount coordinator before the canvass, the final canvassing authority may use results reported to the recount coordinator by telephone or telegraph under Section 213.054 as the basis for its canvass following an expedited

recount if the orderly conduct of a runoff election would be disrupted by delaying the canvass until the recount supervisors' written reports are received.

(b) If an objection is made under Subsection (a), the recount coordinator shall ascertain the grounds for the objection and shall verify with the appropriate recount supervisor each result to which objection is made. If the verification changes the overall result as originally determined by the coordinator, the coordinator shall give notice of the change to the persons entitled to receive the original notice of the result and shall continue the verification process until no objection exists. The canvass may then be conducted on the basis of telephone or telegraph reports as verified.

(c) If a canvass is conducted on the basis of results reported by telephone or telegraph, on receiving a recount supervisor's written report, the recount coordinator shall compare the report with the result used in the canvass. If a discrepancy exists, the coordinator shall ascertain the correct vote count from the supervisor. The supervisor shall deliver a corrected written report to the coordinator if the original written report is incorrect.

(d) If a discrepancy that affects the outcome of the election is discovered in the comparison made under Subsection (c), the recount coordinator shall immediately call a meeting of the canvassing authority to conduct another canvass and shall take the necessary action for correction of the ballots for the runoff election. If discovered discrepancies do not affect the outcome, the coordinator shall correct the canvassing authority's vote tabulation to conform to the written reports. (New.)

Sec. 213.059. GENERAL ELECTION FOR GOVERNOR OR LIEUTENANT GOVERNOR. (a) A recount in a general election for the office of governor or lieutenant governor shall be conducted in the same manner as a recount of a general election for a state office in which the final canvass is made by the state board of canvassers, except as provided by this section.

(b) The state board of canvassers is considered to be the final canvassing authority for the election and the board's tabulation of the county election returns is considered to be the declaration of the official result.

(c) The recount supervisor shall deliver two copies of the report prepared under Section 213.055 to the recount coordinator. The state board of canvassers shall use one copy for the tabulation of the votes after the recount is completed. The coordinator shall deliver the other copy to the speaker of the house of representatives. (New.)

CHAPTER 214. COUNTING PROCEDURES

SUBCHAPTER A. MANUALLY COUNTED BALLOTS

Sec. 214.001. APPLICABILITY OF SUBCHAPTER

Sec. 214.002. COUNTING PROCEDURE

Sec. 214.003. DISPOSITION OF TALLY LISTS

[Sections 214.004-214.020 reserved for expansion]

SUBCHAPTER B. VOTES CAST ON MECHANICAL VOTING MACHINE

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Sec. 214.022. RECOUNT METHOD

Sec. 214.023. COMPARISON WITH ORIGINAL RETURNS

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Sec. 214.026. DISPOSITION OF RECOUNT RETURNS

[Sections 214.027-214.040 reserved for expansion]

SUBCHAPTER C. BALLOTS COUNTED BY AUTOMATIC TABULATING EQUIPMENT

Sec. 214.041. APPLICABILITY OF SUBCHAPTER

Sec. 214.042. COUNTING METHOD FOR RECOUNT

Sec. 214.043. EQUIPMENT USED FOR RECOUNT

Sec. 214.044. CHARGE FOR USE OF EQUIPMENT

Sec. 214.045. COMPOSITION OF COMMITTEE

Sec. 214.046. TEST OF PROGRAM AND EQUIPMENT

Sec. 214.047. TEST USING UNOFFICIAL TEST MATERIALS

Sec. 214.048. REQUEST FOR MANUAL RECOUNT AFTER SUCCESSFUL TEST

Sec. 214.049. COUNTING PROCEDURE

Sec. 214.050. COUNTING AND RECORDING WRITE-IN VOTES

Sec. 214.051. DISPOSITION OF RECOUNT RETURNS

[Sections 214.052-214.070 reserved for expansion]

SUBCHAPTER D. OTHER VOTING SYSTEMS

Sec. 214.071. PROCEDURES PRESCRIBED BY SECRETARY OF STATE

CHAPTER 214. COUNTING PROCEDURES

SUBCHAPTER A. MANUALLY COUNTED BALLOTS

Sec. 214.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies to a recount of regular paper ballots and any other ballots not recounted under Subchapter B, C, or D. (New.)

Sec. 214.002. COUNTING PROCEDURE. (a) One member of a counting team shall read the ballots, and the other two members shall tally the votes as the ballots are read.

(b) The count shall be made, and the correctness of the tally lists shall be certified, in the same manner as an original count of regular paper ballots, except that only two tally lists are prepared. (New.)

Sec. 214.003. DISPOSITION OF TALLY LISTS. (a) On completion of the count for a precinct, a member of the counting team shall place one tally list in the ballot box containing the voted ballots and shall deliver the other tally list to the recount committee chairman.

(b) The recount committee chairman shall use the tally list received from the counting team in preparing the committee report of the recount. The chairman shall attach the tally list to the copy of the committee report that is to be delivered to the recount supervisor. The attached tally list is part of the report. (New.)

[Sections 214.004-214.020 reserved for expansion]

SUBCHAPTER B. VOTES CAST ON MECHANICAL VOTING MACHINE

Sec. 214.021. APPLICABILITY OF SUBCHAPTER. This subchapter applies to a recount of the votes cast on a mechanical voting machine. (New.)

Sec. 214.022. RECOUNT METHOD. (a) A recount of votes cast on mechanical voting machines is conducted by comparing the results registered on the registering counters with the results recorded on the original election returns.

(b) The recount committee chairman shall designate one member of each counting team to perform the duties of a presiding judge at a polling place using voting machines in verifying and certifying the precinct recount returns.

(c) In this subchapter, "recount returns" means verified, corrected original election returns prepared under Section 214.023.

(d) The recount returns shall be prepared as one original document. (V.T.E.C. Art. 7.14, Sec. 19; New.)

Sec. 214.023. COMPARISON WITH ORIGINAL RETURNS. (a) The original precinct election returns intended for use in the official canvass of the election shall be used for making the comparison and correction of results.

(b) One member of a counting team shall announce the votes registered on the registering counters of the voting machine or on the printout, and the other two members shall verify the entry on the returns. If an error is discovered in an entry, a member shall enter the correction on the returns in a manner that will not obliterate the original entry. Each member of the counting team shall initial each corrected entry. (V.T.E.C. Art. 7.14, Sec. 19; New.)

Sec. 214.024. VOTING MACHINE WITH PRINTOUT. (a) Except as provided by Subsection (b), in a verification of votes registered on a voting machine that produces a printout of the votes cast, the counting team shall use the printout produced in the election instead of the registering counters as the source for comparing the votes on the recount returns.

(b) A verification shall be conducted by a direct reading of the registering counters if a direct reading is requested by a person entitled to notice of the recount under Section 213.009 or the person's representative at the recount.

(c) A request for a direct reading of the registering counters may be made in the recount document or may be made orally or in writing to a member of the recount committee before the

recount returns for the precinct are completed. The request may apply to any one or more machines in any one or more precincts. (New.)

Sec. 214.025. **COUNTING AND RECORDING WRITE-IN VOTES.** (a) A counting team other than the team that prepares the recount returns may recount write-in votes.

(b) Write-in votes shall be counted in the manner prescribed by Section 214.002. One write-in tally list shall be placed with the write-in record or paper write-in ballots, as applicable, and one tally list shall be delivered to the counting team that prepares the recount returns. A member of the counting team shall make any necessary corrections on the original election returns. (New.)

Sec. 214.026. **DISPOSITION OF RECOUNT RETURNS.** (a) After a counting team certifies the recount returns for a precinct, a member of the team shall deliver the returns to the recount committee chairman.

(b) The recount committee chairman shall use the recount returns in preparing the committee report of the recount. The chairman shall attach the recount returns to the copy of the committee report that is to be delivered to the recount supervisor. The attached returns are part of the report. (New.)

[Sections 214.027-214.040 reserved for expansion]

SUBCHAPTER C. BALLOTS COUNTED BY AUTOMATIC TABULATING EQUIPMENT

Sec. 214.041. **APPLICABILITY OF SUBCHAPTER.** (a) This subchapter applies to a recount of electronic voting system ballots on automatic tabulating equipment.

(b) In this subchapter, "electronic recount" means a recount on automatic tabulating equipment. (New.)

Sec. 214.042. **COUNTING METHOD FOR RECOUNT.** (a) A person requesting a recount of electronic voting system ballots has a choice of:

- (1) an electronic recount using the same program as the original count;
- (2) an electronic recount using a corrected program under Section 214.046(c), if obtainable; or
- (3) a manual recount.

(b) The same counting method must be used in all precincts included in the recount document for which the same program was used in the original count.

(c) Unless a different counting method is requested, the ballots shall be counted electronically using the same program as the original count.

(d) Except as otherwise provided by this subchapter, a request for a specific counting method must be made in the recount document, specifying the precincts to which the request applies if it does not apply to all precincts in which electronic voting system ballots are to be recounted.

(e) After a recount document is approved, the person requesting the recount may change the counting method specified in the document by filing with the appropriate recount supervisor a written request for a different method before the supervisor gives notice of the time and place for beginning the recount. If the requested change is to a manual recount, the request must be accompanied by a cashier's check payable to the recount coordinator in the amount of the difference between the amount of the deposit for a manual recount and the amount for an electronic recount.

(f) If a recount supervisor who receives a request for a change to a manual recount under Subsection (e) is not also the recount coordinator, the supervisor shall notify the coordinator of the change and shall deliver the accompanying check to the coordinator. (V.T.E.C. Art. 7.15, Subdiv. 23; New.)

Sec. 214.043. **EQUIPMENT USED FOR RECOUNT.** (a) The recount supervisor shall designate the automatic tabulating equipment to be used for an electronic recount in precincts in the supervisor's jurisdiction.

(b) A recount of ballots originally counted on automatic tabulating equipment at a polling place must be made on the same or a similar unit of equipment unless the person requesting the recount requests that other equipment be used.

(c) A recount of ballots originally counted at a central counting station must be made on the same equipment unless:

- (1) the equipment is unavailable or is not in usable condition; or
- (2) the person requesting the recount requests that other equipment be used.

(d) If the equipment used for the original count is available and in usable condition, the recount supervisor is not required to grant a request that the recount be made on different equipment unless the request is contained in the recount document or in a written request filed

with the supervisor before the supervisor gives notice of the time and place for beginning the recount.

(e) Equipment other than that used for the original count must:

(1) be located at a site that complies with Section 127.001(c) unless all persons entitled to notice of the recount consent to a site that does not comply; and

(2) be approved by:

(A) the programmer for the election if the ballots were counted at a polling place and the unit to be used for the recount was not used in the election; or

(B) the programmer for the election or the tabulation supervisor of the central counting station at which the ballots were counted, if counted at a central counting station. (V.T.E.C. Art. 7.15, Subdiv. 23; New.)

Sec. 214.044. CHARGE FOR USE OF EQUIPMENT. The person having control of the automatic tabulating equipment used in the original count shall make it available for a recount for a reasonable charge at a rate not to exceed the rate charged for its use in the election being recounted. If the equipment is owned or leased by the authority responsible for the expenses of the election, a charge may not be made for its use in the recount. (V.T.E.C. Art. 7.15, Subdiv. 23; New.)

Sec. 214.045. COMPOSITION OF COMMITTEE. (a) The recount committee chairman shall designate one member of the recount committee for an electronic recount to operate the automatic tabulating equipment. In this subchapter, "recount tabulator" means the member designated to operate the equipment.

(b) In a recount of ballots originally counted at a central counting station, the recount tabulator must be the tabulation supervisor of the station, an assistant to the supervisor, or a person approved by the supervisor.

(c) In a recount of ballots originally counted at a polling place, the recount tabulator must be a person who has served as an election officer at a polling place using the type of equipment on which the recount is made and must have had experience in operating the equipment.

(d) At least one member of the recount committee other than the recount tabulator must have had experience in operating the type of equipment on which the recount is made. (V.T.E.C. Art. 7.15, Subdiv. 23; New.)

Sec. 214.046. TEST OF PROGRAM AND EQUIPMENT. (a) After the time set for beginning an electronic recount but before the recount is made, the recount tabulator shall conduct a test of the program and equipment in the same manner as the test that is conducted immediately before an original count of ballots for an election. Each person entitled to notice of the recount or the person's representative at the recount is entitled to examine the program and the test materials on request.

(b) If the test is unsuccessful, the recount tabulator shall notify the recount committee chairman, who shall notify the recount supervisor, and the supervisor shall investigate the cause of the test's failure. The electronic recount may not proceed until a test is successful on the equipment used for the first test or on other equipment selected by the supervisor.

(c) If the recount supervisor determines that the program is defective, the supervisor shall inform the person requesting the recount or the person's agent. The person requesting the recount may notify the supervisor:

(1) to have the ballots recounted manually; or

(2) to attempt to correct the program so that an electronic recount may be conducted with the corrected program.

(d) A recount using a corrected program may not be made unless the tabulation supervisor of the central counting station or the presiding election judge of the polling place at which the ballots were counted, as applicable, and the person who prepared the program sign a written statement indicating that the original program is defective. If the statement cannot be obtained, the recount supervisor shall have the ballots recounted manually.

(e) If a recount using a corrected program is to be made, the original program shall be preserved without change and a complete new program shall be prepared. The original set of test materials shall also be preserved without change and a complete new set shall be prepared if the original set is unsuitable for testing the corrected program.

(f) The recount supervisor shall obtain from the person who prepares a new program a signed statement that the program was prepared by him, with the date of preparation and the person's address shown on the statement. The new program, the preparer's statement, and the test materials used for verification shall be preserved in a sealed container in the same manner and for the same period as the original program.

(g) The costs of a recount under Subsection (c) may not be assessed against a person regardless of its outcome. If other precincts are included in the same recount document, the

assessment of the costs in the other precincts shall be determined by the overall outcome in all precincts included in the document. (V.T.E.C. Art. 7.15, Subdiv. 23; New.)

Sec. 214.047. **TEST USING UNOFFICIAL TEST MATERIALS.** (a) In addition to a test conducted under Section 214.046 using official test materials, a person requesting a recount of electronic voting system ballots but not requesting a manual recount is entitled to have each test repeated, using test materials furnished by the person, if the person offers the materials to the recount tabulator before or immediately after the official test is made.

(b) The outcome of a test using unofficial test materials has no legal effect on the conduct of the recount. (New.)

Sec. 214.048. **REQUEST FOR MANUAL RECOUNT AFTER SUCCESSFUL TEST.** (a) If a person requesting an electronic recount is dissatisfied with the program or the equipment to be used for the recount after a successful test conducted under Section 214.046, the person may change the method of counting to a manual recount as provided by this section.

(b) A person desiring a manual recount under this section must notify the recount supervisor immediately after the test is concluded that a manual recount is desired.

(c) After being notified under Subsection (b) that a manual recount is desired, the recount supervisor shall promptly deliver to the person requesting the recount a written statement of the costs incurred for use of the equipment in making the tests and for compensation of the recount committee for time spent in making the tests.

(d) To obtain a manual recount, the person requesting the recount must deliver to the recount supervisor within 24 hours after receiving the cost statement under Subsection (c):

(1) a cashier's check payable to the recount supervisor in the amount specified in the statement; and

(2) a cashier's check payable to the recount coordinator in the amount of the difference between the amount of the deposit for a manual recount and the amount for an electronic recount.

(e) On receiving checks complying with Subsection (d), the recount supervisor shall promptly arrange for a manual recount of the ballots.

(f) The recount supervisor shall place a check remitted under Subsection (d)(1) in the fund from which the costs covered by the check are payable. No part of the amount is refundable. If the recount costs are assessed against the person requesting the recount, the costs covered by the check may not be included in the assessment.

(g) If the recount supervisor is not the recount coordinator, the supervisor shall notify the coordinator of the change in the counting method and shall deliver to the coordinator the check remitted under Subsection (d)(2). The check is subject to disposition in the same manner as the check accompanying the recount document.

(h) If the person requesting the recount does not comply with Subsection (d), a recount of the precincts for which the manual recount is requested may not be made, and the person shall be assessed for the amount of the costs specified in the cost statement prepared under Subsection (c) regardless of the outcome of a recount in any other precincts. (New.)

Sec. 214.049. **COUNTING PROCEDURE.** (a) All members of the recount committee in an electronic recount shall be present during the testing of the program and equipment and during the counting of the ballots. The other members of the committee may assist the recount tabulator in the handling of the test materials and the ballots, but only the tabulator may operate the equipment.

(b) After the ballots are counted, a member of the recount committee shall prepare returns for each precinct in the same manner as original election returns are prepared, except that the returns shall be prepared as an original and one copy.

(c) If it is necessary to count any of the ballots manually, other than write-in votes, the recount committee shall count the ballots, and a member shall enter the result of the count on the returns. (New.)

Sec. 214.050. **COUNTING AND RECORDING WRITE-IN VOTES.** (a) Write-in votes shall be counted in the manner prescribed by Section 214.002. One write-in tally list shall be placed in the ballot box with the voted ballots, and one tally list shall be retained by the recount committee. A member of the committee shall enter the write-in results on the recount returns.

(b) For a precinct in which a recount of write-in votes is excluded under Section 212.136, a member of the recount committee shall enter on the recount returns the write-in votes as recorded on the original returns. (New.)

Sec. 214.051. **DISPOSITION OF RECOUNT RETURNS.** (a) After the recount committee certifies the recount returns for a precinct, a member of the committee shall place the copy of the returns in the ballot box containing the voted ballots and shall deliver the original to the recount committee chairman.

(b) The recount committee chairman shall use the returns received from the recount committee in preparing the committee report of the recount. The chairman shall attach the recount returns to the copy of the committee report that is to be delivered to the recount supervisor. The attached returns are part of the report. (New.)

[Sections 214.052-214.070 reserved for expansion]

SUBCHAPTER D. OTHER VOTING SYSTEMS

Sec. 214.071. PROCEDURES PRESCRIBED BY SECRETARY OF STATE. The secretary of state shall prescribe the counting procedures for a recount of votes cast by means of a voting system to which Subchapter B or C does not apply. (New.)

CHAPTER 215. COSTS OF RECOUNT

Sec. 215.001. PAYMENT OF COSTS

Sec. 215.002. ASSESSABLE COSTS

Sec. 215.003. ASSESSMENT OF COSTS

Sec. 215.004. DISPOSITION OF DEPOSIT FOR COSTS

Sec. 215.005. ADMINISTRATION OF COSTS

Sec. 215.006. MAINTAINING RECORD OF COSTS

Sec. 215.007. STATEMENT OF COSTS FOR COORDINATOR

Sec. 215.008. STATEMENT OF COSTS FOR PERSON ASSESSED

Sec. 215.009. ITEMIZED STATEMENT AND INSPECTION OF RECORDS

Sec. 215.010. COLLECTION OF COSTS

CHAPTER 215. COSTS OF RECOUNT

Sec. 215.001. PAYMENT OF COSTS. (a) The authority responsible for paying the expenses of an election in which a recount is conducted shall pay the costs of the recount.

(b) The fund from which a payment is made for a cost that is assessed against a person shall be reimbursed from the money received from that person.

(c) Claims for compensation of members of a recount committee and other costs incurred by a recount supervisor are payable on certification of the costs by the supervisor. (New.)

Sec. 215.002. ASSESSABLE COSTS. Only the following costs of a recount are assessable against a person:

- (1) compensation of members of a recount committee as provided by Section 213.004;
- (2) charges for use of automatic tabulating equipment as provided by Section 214.044;
- (3) a service charge of \$15 for each recount supervisor involved in the recount as a reimbursement to the fund from which the telephone, postage, and other office expenses of the recount supervisor are paid; and

- (4) in a recount of an election for which the final canvass is at the state level, a service charge of \$15 for each recount supervisor involved in the recount plus an additional \$15 as a reimbursement to the fund from which the telephone, postage, and other office expenses of the recount coordinator are paid. (V.T.E.C. Art. 7.14, Sec. 19a; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 10; New.)

Sec. 215.003. ASSESSMENT OF COSTS. (a) The costs of a recount for the precincts included in an initial recount petition shall be assessed against the petitioner if the recount in those precincts does not cause a change in the outcome of the election.

(b) The costs of a recount for the precincts included in an application for a supplementary recount shall be assessed against the applicant if the recount in those precincts does not cause a change in the outcome of the election as indicated by the initial recount.

(c) The costs of a recount for the precincts included in a petition for an expedited recount shall be assessed against the petitioner if the recount in those precincts does not cause a change in the outcome of the election.

(d) The costs of a recount for the precincts included in an application for including remaining paper ballot precincts shall be assessed against the applicant if the recount in those precincts does not cause a change in the outcome of the election as indicated by the recount in the precincts included in the recount petition. (V.T.E.C. Art. 7.14, Sec. 19a; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 10; New.)

Sec. 215.004. DISPOSITION OF DEPOSIT FOR COSTS. (a) If none of the costs of a recount are assessed against a person, the entire deposit shall be returned to the person.

(b) If any of the costs of a recount are assessed against a person, any of the deposit in excess of the amount of the assessment shall be refunded to the person.

(c) If the amount of costs assessed against a person exceeds the amount of the person's deposit, the person is liable to the authority responsible for paying the expenses of the election for the amount of the excess. (V.T.E.C. Art. 7.14, Sec. 19a; Art. 7.15, Subdiv. 23; Art. 9.38a, Subdiv. 10; New.)

Sec. 215.005. ADMINISTRATION OF COSTS. (a) The recount coordinator shall determine the allocation of the costs of a recount and dispose of the recount deposits. The coordinator shall make the disposition as soon as practicable after a recount is completed.

(b) In a recount of an election for which there is no canvass at the state level, other than a primary election, the recount coordinator shall place the deposit of a person against whom costs are assessed in the fund from which the expenses of the recount are payable. If the person is entitled to a refund, the authority receiving the deposit shall issue a warrant in the appropriate amount to the person.

(c) In a recount of an election for which the final canvass is at the state level, other than a primary election, the recount coordinator shall deliver the deposit of a person against whom costs are assessed to the comptroller of public accounts, who shall place the deposit in trust with the state treasurer. The comptroller shall issue a warrant in the amount certified by the coordinator to each county in which assessed costs were incurred and to the person for any refund to which the person is entitled.

(d) The secretary of state shall prescribe procedures for the administration of costs of a recount in a primary election. (New.)

Sec. 215.006. MAINTAINING RECORD OF COSTS. (a) A recount supervisor shall maintain records of the assessable recount costs incurred in the supervisor's jurisdiction.

(b) If more than one person requests a recount of precincts in a recount supervisor's jurisdiction, the records must be maintained to enable a determination of the costs attributable to each person.

(c) If more than one person requests a recount of precincts that are recounted at the same stage, the recount supervisor may record the costs attributable to each person on the basis of an estimate, taking into account the number of precincts requested by each person, the number of votes cast in each precinct, or any other relevant factor. (New.)

Sec. 215.007. STATEMENT OF COSTS FOR COORDINATOR. (a) On receiving notice of an assessment of costs against a person from the recount coordinator in a recount of an election for which the final canvass is at the state level, each recount supervisor shall prepare a statement of assessable costs incurred in the supervisor's jurisdiction and deliver the statement to the recount coordinator.

(b) The costs must be listed separately for the precincts included in each document requesting a recount if precincts in the recount supervisor's jurisdiction were included in more than one document. (New.)

Sec. 215.008. STATEMENT OF COSTS FOR PERSON ASSESSED. (a) The recount coordinator shall prepare a statement of the amount of costs assessed against a person and deliver the statement to the person. The coordinator shall retain a copy of the statement.

(b) If the amount of the assessed costs exceeds the amount of the person's deposit, the recount coordinator shall demand payment of the amount of the excess. (New.)

Sec. 215.009. ITEMIZED STATEMENT AND INSPECTION OF RECORDS. (a) On request of a person against whom recount costs are assessed, the recount coordinator shall furnish to the person an itemized statement of the costs. The coordinator shall retain a copy of each statement furnished under this subsection for the period for preserving the precinct election records.

(b) A person against whom recount costs are assessed is entitled to inspect the cost records of each recount supervisor in whose jurisdiction any of the costs accrued. (New.)

Sec. 215.010. COLLECTION OF COSTS. (a) If a person is assessed costs in an amount that exceeds the amount of the person's deposit, the recount coordinator shall take appropriate action to obtain payment of the amount owed.

(b) If an amount owed is unpaid on the 90th day after the date payment is demanded, the recount coordinator shall refer the matter to the appropriate authority for legal action to collect the amount owed.

(c) On referral of an amount for collection under Subsection (b), the recount coordinator and each recount supervisor involved in the recount shall deliver to the authority to whom the referral is made the originals or copies of documents, records, or other papers in his possession that may be relevant to enforcement of the claim. The coordinator may not deliver the original of a document during the period for preserving the precinct election records. (New.)

TITLE 14. ELECTION CONTESTS

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Chapter 221. General Provisions

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TITLE 14. ELECTION CONTESTS

SUBTITLE A. INTRODUCTORY PROVISIONS

CHAPTER 221. GENERAL PROVISIONS

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TITLE 14. ELECTION CONTESTS

SUBTITLE A. INTRODUCTORY PROVISIONS

CHAPTER 221. GENERAL PROVISIONS

Sec. 221.001. APPLICABILITY OF TITLE. This title does not apply to:

(1) a general or special election for the office of United States senator or United States representative; or

(2) an election on a measure that is for advisory purposes only. (New.)

Sec. 221.002. JURISDICTION. (a) Except as otherwise provided by this section, the district court has exclusive original jurisdiction of an election contest.

(b) The senate and the house of representatives, in joint session, have exclusive jurisdiction of a contest of a general election for governor, lieutenant governor, comptroller of public accounts, state treasurer, commissioner of the general land office, or attorney general.

(c) The senate has exclusive jurisdiction of a contest of a general or special election for state senator.

(d) The house of representatives has exclusive jurisdiction of a contest of a general or special election for state representative.

(e) The state board of canvassers has exclusive jurisdiction of a contest of the election of presidential electors.

(f) The court of appeals has appellate jurisdiction of contests originating in the district court. (V.T.E.C. Arts. 9.01, 9.17, 9.20, 9.27, 9.28, 9.29, 9.30, 13.30(1), 13.43a.)

Sec. 221.003. SCOPE OF INQUIRY. (a) The tribunal hearing an election contest shall attempt to ascertain whether the outcome of the contested election, as shown by the final canvass, is not the true outcome because:

- (1) illegal votes were counted; or
- (2) an election officer or other person officially involved in the administration of the election:

- (A) prevented eligible voters from voting;
- (B) failed to count legal votes; or
- (C) engaged in other fraud or illegal conduct or made a mistake.

(b) In this title, "illegal vote" means a vote that is not legally countable.

(c) This section does not limit a provision of this code or another statute expanding the scope of inquiry in an election contest. (V.T.E.C. Arts. 9.14, 9.15, 9.22, 9.33, 13.30(9); New.)

Sec. 221.004. DEFAULT JUDGMENT NOT ALLOWED. A default judgment may not be rendered in an election contest. (V.T.E.C. Art. 13.30(6); New.)

Sec. 221.005. DATE OF DETERMINATION OF OFFICIAL RESULT OF ELECTION. Except as provided by Section 242.003, in this title the date the official result of an election is determined is the date the final canvassing authority for the election completes its canvass for the office or measure involved in the contest. If a recount is taken, the date of the official result is the date the authority completes its canvass on the basis of the recount. (New.)

Sec. 221.006. EFFECT OF CONTEST ON CANVASS. Except as otherwise provided by this title, the filing of an election contest before the canvass of the contested election is completed does not affect the canvassing process, and the result of the election shall be determined and certified as if the contest had not been filed. (New.)

Sec. 221.007. CONTESTEE IN CONTEST FILED BEFORE FINAL CANVASS. (a) If a contest is filed before the official result of the contested election is determined, the contestant may name as contestee the person shown by the election returns at the time of filing to be the appropriate contestee as determined under Subtitle B or C.

(b) If the final canvass reveals that a necessary contestee as determined under Subtitle B or C has not been named, the contestant must name that contestee within the time limit prescribed for filing the petition. Action taken before the necessary contestee is named shall be set aside if it denies to the contestee any right to which a contestee is entitled. (New.)

Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT. A tribunal hearing an election contest may cause secured ballot boxes, voting machines, voting devices, or other equipment used in the election to be unsecured to determine the correct vote count or any other fact that the tribunal considers pertinent to a fair and just disposition of the contest. (V.T.E.C. Art. 13.30(10); New.)

Sec. 221.009. COMPELLING VOTER TO REVEAL VOTE. (a) A voter who cast an illegal vote may be compelled, after the illegality has been established to the satisfaction of the tribunal hearing the contest, to disclose the name of the candidate for whom he voted or how he voted on a measure if the issue is relevant to the election contest.

(b) If the number of illegal votes is equal to or greater than the number of votes necessary to change the outcome of an election, the tribunal may declare the election void without attempting to determine how individual voters voted. (V.T.E.C. Art. 9.38b.)

Sec. 221.010. SECONDARY EVIDENCE FOR UNAVAILABLE BALLOTS. If an examination of ballots is needed in an election contest and the ballots are lost, destroyed, or otherwise beyond the reach of the tribunal, the voters who cast the ballots may testify as to how they voted. (V.T.E.C. Art. 9.38; New.)

Sec. 221.011. ILLEGAL VOTES SUBTRACTED. (a) If the tribunal hearing an election contest can ascertain the candidate or side of a measure for which an illegal vote was cast, the tribunal shall subtract the vote from the official total for the candidate or side of the measure, as applicable.

(b) If the tribunal finds that illegal votes were cast but cannot ascertain how the voters voted, the tribunal shall consider those votes in making its judgment. (V.T.E.C. Arts. 9.14, 9.15.)

Sec. 221.012. TRIBUNAL'S ACTION ON CONTEST. (a) If the tribunal hearing an election contest can ascertain the true outcome of the election, the tribunal shall declare the outcome.

(b) The tribunal shall declare the election void if it cannot ascertain the true outcome of the election. (V.T.E.C. Arts. 9.14, 9.15; Art. 9.26, Subdiv. 2; Art. 9.38b.)

Sec. 221.013. COSTS OF CONTEST WHEN ELECTION DECLARED VOID. (a) If a contested election is declared void, the tribunal shall assess the costs of the contest equally

against the contestant and the contestee unless the tribunal, for good cause stated in the order assessing the costs, determines that they should be assessed otherwise.

(b) Subsection (a) does not authorize assessment of costs against a contestee who is exempt from payment of costs by this title. (New.)

Sec. 221.014. EXPENSES OF NEW ELECTION ORDERED IN ELECTION CONTEST. (a) Except as provided by Subsections (b) and (c), the expenses of a new election ordered by a tribunal in an election contest are paid from the same fund and by the same authority that paid the expenses of the contested election.

(b) The county shall pay the expenses of a new election ordered in the contest of a local option election held under the Alcoholic Beverage Code that was financed from money deposited by the applicants for the petition requesting the election.

(c) In any other case in which petitioners for a contested election were required to make a deposit to be used, conditionally or unconditionally, for paying the election expenses, the district court shall determine the allocation of the expenses of the contested election and new election.

(d) The secretary of state shall prescribe procedures for payment of the expenses of a court-ordered primary election. (New.)

Sec. 221.015. RIGHT TO OCCUPY OFFICE INVOLVED IN CONTEST. (a) If the official result of a contested election shows that the contestee won, on qualifying as provided by law the contestee is entitled to occupy the office after the beginning of the term for which the election was held, pending the determination of the rightful holder of the office.

(b) If the final judgment does not change the official result of a contested election, a contestee occupying the office under Subsection (a) is entitled to continue in office without again qualifying for the office. If the judgment declares the election void and the occupant is elected at the new election, the occupant must again qualify for the office as if no contest had occurred.

(c) If a final judgment declaring the contestant elected is rendered after the beginning of the term for which the contested election was held, on qualifying as provided by law the contestant shall assume office as soon as practicable after the judgment becomes final.

(d) An officeholder under Subsection (a) is entitled to the emoluments of the office that accrue during the period of occupancy. A contestant who gains the office is not entitled to emoluments for any period before the contestant assumes office.

(e) This section applies to a person appointed to fill a vacancy in the contested office. (V.T.E.C. Arts. 9.09, 9.10, 9.11, 9.12, 9.13, 9.25a; Art. 9.26, Subdiv. 3; New.)

Sec. 221.016. PRESERVATION OF CONTEST PAPERS. (a) The papers of a contest in the district court shall be preserved under the rules applicable to the papers in a civil suit.

(b) The papers of a contest in a tribunal other than a court shall be preserved for 10 years after the date the contest is disposed of and shall then be transferred to the state library. (New.)

Sec. 221.017. EFFECT OF STATUTES OUTSIDE CODE. A statute outside this code that relates to contests of a particular type of election supersedes this code to the extent of any conflict. (New.)

SUBTITLE B. CONTESTS IN DISTRICT COURT

CHAPTER 231. CONTEST IN DISTRICT COURT GENERALLY

Sec. 231.001. APPLICABILITY OF SUBTITLE

Sec. 231.002. APPLICABILITY OF RULES GOVERNING CIVIL SUITS

Sec. 231.003. ATTENDANCE ON LEGISLATURE NOT GROUND FOR CONTINUANCE

Sec. 231.004. DISQUALIFICATION OF DISTRICT JUDGE

Sec. 231.005. JURY TRIAL NOT ALLOWED

Sec. 231.006. COMPELLING PRODUCTION OF ELECTION RECORDS AND ATTENDANCE OF ELECTION OFFICERS

Sec. 231.007. PROCEDURES FOR NEW ELECTION GENERALLY

Sec. 231.008. DELIVERY OF CERTIFIED COPIES OF JUDGMENT

Sec. 231.009. PRECEDENCE OF CONTEST ON APPEAL

SUBTITLE B. CONTESTS IN DISTRICT COURT

CHAPTER 231. CONTEST IN DISTRICT COURT GENERALLY

Sec. 231.001. APPLICABILITY OF SUBTITLE. This subtitle applies to an election contest of which the district court has jurisdiction. (New.)

Sec. 231.002. **APPLICABILITY OF RULES GOVERNING CIVIL SUITS.** Except as otherwise provided by this subtitle, the rules governing civil suits in the district court apply to an election contest in the district court. (V.T.E.C. Arts. 9.05, 9.06, 9.07, 9.08, 9.18; New.)

Sec. 231.003. **ATTENDANCE ON LEGISLATURE NOT GROUND FOR CONTINUANCE.** Intended or actual attendance on a session of the legislature by a party or an attorney for a party to an election contest is not a ground for granting a continuance in the trial of the contest. (New.)

Sec. 231.004. **DISQUALIFICATION OF DISTRICT JUDGE.** (a) The judge of a judicial district that includes any territory covered by a contested election that is less than statewide is disqualified to preside in the contest.

(b) If a contest is filed in which a judge is disqualified under Subsection (a), the district clerk shall promptly call the filing to the attention of the judge. The judge shall promptly request the presiding judge of the administrative judicial district to assign a special judge to preside in the contest.

(c) A judge who resides in the territory covered by a contested election is not eligible for assignment as a special judge for the contest.

(d) Subsections (a), (b), and (c) do not apply to a contest of an election for an office of a political party.

(e) In an election contest in which the district judge is disqualified, until a special judge is assigned to preside over the contest, the presiding judge of the administrative judicial district may take any action regarding the contest that a district judge may take if the contested election is:

- (1) a primary election; or
- (2) an election in which a runoff in the contested race is necessary, according to the official returns, or will be necessary if the contestant prevails. (V.T.C.S. Art. 200a, Sec. 6; New.)

Sec. 231.005. **JURY TRIAL NOT ALLOWED.** The district judge shall decide the issues of fact in an election contest without a jury. (V.T.E.C. Arts. 9.14, 9.15, 13.30(9); New.)

Sec. 231.006. **COMPELLING PRODUCTION OF ELECTION RECORDS AND ATTENDANCE OF ELECTION OFFICERS.** The limitation on the distance within which a witness may be compelled to attend the trial of a civil suit does not apply to officers of a contested election or custodians of records, equipment, or supplies of a contested election who are subpoenaed to appear in the contest to give testimony or to produce election records, ballot boxes, or other tangible things. (V.T.E.C. Arts. 9.33, 13.30(8); New.)

Sec. 231.007. **PROCEDURES FOR NEW ELECTION GENERALLY.** (a) If a judgment in an election contest orders that a new election be held, as soon as practicable after the judgment becomes final, the district court shall set the date for the new election. In the case of a general or special election, the court shall direct the appropriate authority to order the election for the date set by the court. In the case of a primary election, the court shall direct the appropriate officers of the political party to hold the election on the date set.

(b) Except as otherwise provided by this subtitle, the new election shall be held in the same manner as the contested election.

(c) The district court may set the election for a date that shortens the regular period for absentee voting, but the date must make it possible for absentee voting by personal appearance to begin not later than the 10th day before election day. In the order setting the date for the election, the court shall also set the date for beginning absentee voting by personal appearance if it is not possible to begin on the regular day.

(d) In addition to public notice required by law, the district court may require the new election to be publicized in the manner prescribed by the court.

(e) If a function in the conduct of a new election for an office would normally be performed by an officer who is a party to the contest, the district court may designate another person to perform the function and may fix a reasonable compensation for the service, to be paid as other expenses of the election.

(f) The district court may shorten the normal period between election day and the date of the official canvass.

(g) The district court retains jurisdiction of the contest until the new election is completed and may make any orders the court considers necessary to ensure its proper conduct. (V.T.E.C. Art. 9.15; New.)

Sec. 231.008. **DELIVERY OF CERTIFIED COPIES OF JUDGMENT.** (a) As soon as practicable after a judgment in an election contest becomes final or, if the judgment orders that a new election be held, after the district court sets the date for the new election, the district clerk shall deliver certified copies of the judgment as provided by this section. If the judgment orders a new election, the clerk shall attach to each copy of the judgment a certified copy of the order setting the election date and any other order relating to the conduct of the election.

(b) If the judgment in a contest for an office affects the preparation of the ballot for a succeeding election, the clerk shall deliver a copy to the authority responsible for having the official ballot prepared or, in the case of a statewide or district office, to the authority responsible for certifying the names of the candidates for placement on the ballot.

(c) If the judgment orders that a new general or special election be held, the clerk shall deliver a copy to the authority responsible for ordering the election. If the judgment orders a new primary election, the clerk shall deliver a copy to the state chairman of the appropriate political party, in the case of a statewide or district office, or to the county chairman, in the case of a county or precinct office.

(d) The clerk shall deliver a copy of the judgment to the custodian of the election register for the final canvassing authority in the contested election. The custodian shall record in the register the judgment or an abstract of the judgment in sufficient detail to show the outcome of the contest.

(e) The district judge may direct the clerk to furnish certified copies of the judgment to other persons as necessary to effectuate the judgment. (V.T.E.C. Arts. 9.15, 13.30(11); New.)

Sec. 231.009. PRECEDENCE OF CONTEST ON APPEAL. An election contest has precedence in the appellate courts and shall be disposed of as expeditiously as practicable. (V.T.E.C. Arts. 9.17, 13.30(12).)

CHAPTER 232. CONTEST FOR OFFICE

SUBCHAPTER A. TRIAL AND DISPOSITION OF CONTEST

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 - Sec. 232.002. CONTESTANT
 - Sec. 232.003. CONTESTEE: GENERAL RULE
 - Sec. 232.004. SUBSTITUTE CONTESTEE
 - Sec. 232.005. ADDITIONAL CONTESTEE
 - Sec. 232.006. VENUE
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Sec. 232.050. BALLOT FORM AND ORDER OF NAMES ON BALLOT

CHAPTER 232. CONTEST FOR OFFICE

SUBCHAPTER A. TRIAL AND DISPOSITION OF CONTEST

Sec. 232.001. APPLICABILITY OF CHAPTER. This chapter applies to a contest of an election for nomination or election to a public office or an office of a political party. (New.)

Sec. 232.002. CONTESTANT. Any candidate in an election may contest the election. (V.T.E.C. Arts. 9.03, 13.30(3).)

Sec. 232.003. CONTESTEE: GENERAL RULE. (a) If a contested election is for nomination or election to an office for which only one person is to be nominated or elected, the contestee is:

(1) the opposing candidate who is officially determined to be nominated or elected, or in the case of a tie for the most votes, each of the opposing tied candidates; or

(2) if the final official canvass shows that a runoff election is necessary to decide the nomination or election:

(A) each of the opposing candidates shown by the canvass to be entitled to or tied for a place on the runoff ballot if the contestant is not so entitled or tied; or

(B) the opposing candidate or candidates shown by the canvass to be entitled to or tied for a place on the runoff ballot if the contestant is so entitled or tied.

(b) If a contested election is for election to an office for which more than one person is to be elected from the same set of candidates, any one or more of the candidates who are officially determined to be elected or to be tied with another candidate for election may be a contestee. The court may require the joinder of any of the candidates who are not named as contestees.

(c) Except as provided by Section 232.004 or 232.005, this section is exclusive as to the persons who may be named contestee in an election contest. (V.T.E.C. Arts. 9.03, 13.30(3); New.)

Sec. 232.004. SUBSTITUTE CONTESTEE. (a) A contestant may name as a substitute contestee the presiding officer of the final canvassing authority for the election if:

(1) a deceased or ineligible candidate receives a sufficient number of votes for nomination or election according to the official result of the contested election;

(2) a candidate who could have been named as contestee under Section 232.003 dies or is declared ineligible before the contest is filed; or

(3) a contestee dies while a contest is pending.

(b) The costs of an election contest may not be assessed against a contestee named under Subsection (a) or against the governmental or political entity the contestee represents.

(c) If in any of the circumstances described by Subsection (a) a person is appointed to a resulting vacancy in the office or in the nomination for the office, the contestant may name the appointee as a substitute contestee or the appointee may intervene on the side of the contestee.

(d) In any of the circumstances described by Subsection (a), the district court may permit one or more qualified voters who voted in the election to intervene for the purpose of representing the interests of the voters who voted for the deceased or ineligible candidate. (New.)

Sec. 232.005. ADDITIONAL CONTESTEE. The district court may require or permit any one or more candidates in a contested election to be named as contestee or may permit the candidates to intervene on the side of the contestee, as the court determines the circumstances warrant. (New.)

Sec. 232.006. VENUE. (a) The venue of an election contest for a statewide office is in Travis County.

(b) The venue of a contest for an office less than statewide that is filled by voters of more than one county is:

(1) in the county in which the contestee or any one of the contestees named under Section 232.003 resides if the residence is in the territory covered by the election; or

(2) in any county wholly or partly in the territory covered by the election if:

(A) no contestee named under Section 232.003 resides in that territory; or

(B) none of the contestees is named under Section 232.003.

(c) The venue of a contest for an office filled by voters of only one county is in that county. (V.T.E.C. Arts. 9.01, 13.30(2); New.)

Sec. 232.007. RUNOFF NOT HELD UNTIL FINAL JUDGMENT. (a) A runoff election for a contested office may not be held until the judgment in the contest becomes final.

(b) This section does not affect the conduct of a regularly scheduled runoff for another office that was voted on at the same election as the contested office or at an election held jointly with the election in which the contested office was voted on. (New.)

Sec. 232.008. **FILING PERIOD FOR PETITION.** (a) A contestant may not file the petition in an election contest earlier than the day after election day.

(b) Except as provided by Subsection (c), a contestant must file the petition not later than the 30th day after the date the official result of the contested election is determined.

(c) A contestant must file the petition not later than the 10th day after the date the official result is determined in a contest of:

(1) a primary election; or

(2) a general or special election for which a runoff is necessary according to the official result or will be necessary if the contestant prevails. (V.T.E.C. Arts. 9.03, 13.30(3); New.)

Sec. 232.009. **NOTICE OF CONTEST TO CANVASSING AUTHORITY.** (a) After an election contest is filed, the district clerk shall promptly deliver written notice of the filing to the presiding officer of the final canvassing authority for the contested election if the election is:

(1) a primary election; or

(2) a general or special election for which a runoff is necessary in the contested race according to the official result or will be necessary if the contestant prevails.

(b) The officer receiving notice under Subsection (a) shall deliver written notice to each authority to whom the names of the candidates in the succeeding election are certified for placement on the ballot that the contest has been filed and that the certification is subject to the outcome of the contest. The officer shall deliver the notice at the same time as the certification or, if the certification is delivered before receipt of notice under Subsection (a), as soon as practicable after certification.

(c) If the contested election is a general or special election and the officer receiving notice under Subsection (a) is not the authority or presiding officer of the authority that orders the runoff election, the clerk shall deliver written notice of the filing to that authority.

(d) The contestant in an election contest in which notice under Subsection (a) is required must attach to the petition a statement informing the clerk that the notice is required and containing the name and address of each person to whom the notice is required to be delivered. (New.)

Sec. 232.010. **FILING PERIOD FOR ANSWER.** A contestee in a contest of a general or special election must file an answer to the contestant's petition not later than 10 a.m. of the 10th day after the date of service of citation on the contestee or 10 a.m. of the fifth day after the date the official result in the contested race is determined, whichever is later. The citation must command the contestee to answer by the specified deadline. (V.T.E.C. Art. 9.04; New.)

Sec. 232.011. **RETURN OF UNSERVED CITATION.** The citation issued in an election contest must direct the officer receiving the citation to return it unserved if it is not served within 20 days after the date of issuance. (New.)

Sec. 232.012. **ACCELERATED PROCEDURES FOR TRIAL OF CERTAIN CONTESTS.** (a) This section applies only to the contest of an election described by Section 232.008(c).

(b) When the contestant's petition is filed, the district clerk shall immediately notify the district judge of the filing.

(c) A contestee must file an answer to the contestant's petition not later than 10 a.m. of the fifth day after the date of service of citation on the contestee. The citation issued for the contestee must command the contestee to answer by the specified deadline and must direct the officer receiving the citation to return it unserved if it is not served within 10 days after the date of issuance.

(d) After the clerk receives the officer's return showing service of citation, the clerk shall promptly notify the district judge of that fact. The judge shall set the contest for trial for a date not later than the fifth day after the date by which the contestee must answer.

(e) The district judge may not grant a continuance in the trial except:

(1) one time for a period not exceeding 10 days for good cause supported by the affidavit of a party; or

(2) with the consent of the parties.

(f) The district judge may limit amendments to the pleadings of a party after the party announces ready for trial.

(g) Subsections (e) and (f) do not apply to continuances or amendments to pleadings for the purpose of bringing in a substitute contestee following the death of a contestee.

(h) This section supersedes other provisions of this subchapter to the extent of any conflict. (V.T.E.C. Arts. 13.30(3)-(6); New.)

Sec. 232.013. **RESCHEDULING RUNOFF FOR CONTESTED RACE.** (a) If the final judgment in an election contest necessitates a runoff election in the contested race, the district judge shall set the date for the runoff if the judge determines that lack of time prevents the proper conduct of the runoff on the regularly scheduled date. The runoff must be held on the same day of the week as the regularly scheduled runoff.

(b) The date set for the runoff may not provide a longer interval between the court order and the runoff than is required or authorized by law between the main election and a regularly scheduled runoff. The date may provide a shorter interval, but the interval must make it possible for absentee voting by personal appearance to begin not later than the 10th day before election day.

(c) If the runoff is set for a date that shortens the regular period for absentee voting, the order setting the date of the election must specify the date for beginning absentee voting by personal appearance.

(d) If the contested election is a primary, the district clerk shall deliver a certified copy of the order setting the date of the runoff to the state chairman of the political party in the case of a statewide or district office or to the county chairman in the case of a county or precinct office. (New.)

Sec. 232.014. **ACCELERATED APPEAL IN PRIMARY CONTEST.** (a) This section applies only to the contest of a primary election.

(b) To be timely, an appellant's bond, affidavit, or cash deposit for costs of appeal must be made not later than the fifth day after the date the district court's judgment in the contest is signed. If the appellant is not required to give security for the costs of appeal, the notice of appeal must be filed by the same deadline.

(c) If an appellant files an affidavit of inability to pay costs of appeal, a challenge to the affidavit must be filed not later than the fifth day after the date the affidavit is filed.

(d) As soon as practicable after an appeal in a contest is perfected, the district judge shall set the deadline for filing the trial court record in the appellate court. The judge may make any other orders to expedite an appeal that are reasonable and appropriate, including reducing the time normally allowed for filing appellate briefs, subject to review by the appellate court on motion of a party.

(e) The court of appeals may refuse to permit a motion for rehearing to be filed or may reduce the time for filing the motion.

(f) The decision of the court of appeals is not reviewable by the supreme court by certified question or any other method. (V.T.E.C. Arts. 13.30(11), (12); New.)

Sec. 232.015. **ACCELERATION OF APPEAL BY COURT IN CONTEST OF GENERAL OR SPECIAL ELECTION.** (a) The trial or appellate court may accelerate the appeal in a contest of a general or special election in a manner consistent with the procedures prescribed by Section 232.014.

(b) Section 232.014(f) does not apply to a contest of a general or special election. (New.)

Sec. 232.016. **APPEAL SUSPENDS EXECUTION OF JUDGMENT.** The perfecting of an appeal in an election contest suspends the execution of the district court's judgment pending the disposition of the appeal without the necessity for a supersedeas bond. (New.)

[Sections 232.017-232.040 reserved for expansion]

SUBCHAPTER B. COURT-ORDERED ELECTION FOLLOWING JUDGMENT OF VOID ELECTION

Sec. 232.041. **NEW ELECTION ORDERED IF CONTESTED ELECTION VOID.** In an election contest in which the contested election is declared void, the court shall include in its judgment an order directing the appropriate authority to order a new election. (V.T.E.C. Art. 9.15.)

Sec. 232.042. **CANDIDATES IN NEW ELECTION.** Except as otherwise provided by this subchapter, the candidates in a new election ordered by a court in an election contest are the same candidates who were in the contested election. (New.)

Sec. 232.043. **WRITE-IN VOTES IN NEW ELECTION.** A write-in vote in a new election ordered by a court in an election contest may not be counted unless write-in votes were received by the candidate in the contested election. (New.)

Sec. 232.044. **WITHDRAWAL IN NEW ELECTION.** The provisions of this code governing withdrawal of candidates in the contested election apply to the new election ordered by a court in an election contest, except that:

- (1) the district court shall set the deadline for withdrawal from the new election; and
- (2) a political party's executive committee may not make a replacement nomination if the party's nominee withdraws from the new election. (New.)

Sec. 232.045. DEATH OR INELIGIBILITY OF CANDIDATE IN NEW ELECTION. (a) If a candidate in a new election ordered by a court in an election contest dies or is declared ineligible before the date on which the district court sets the date for the new election, the candidate's name may not be placed on the ballot for the new election.

(b) If a candidate in the new election dies or is declared ineligible on or after the date on which the district court sets the date for the new election, the candidate's name shall be placed on the ballot, and votes for the candidate shall be given the same effect as votes for a deceased or ineligible candidate whose name appears on the ballot for a regularly held election for the contested office. (New.)

Sec. 232.046. REPLACEMENT PARTY CANDIDATES IN NEW ELECTION: GENERAL ELECTION FOR STATE AND COUNTY OFFICERS. (a) If a candidate who was the nominee of a political party in a new election ordered by a court in an election contest in which the contested office was to have been filled at the general election for state and county officers dies or is declared ineligible before the date on which the district court sets the date for the new election, the appropriate party executive committee may name a replacement nominee in the same manner as the committee fills a vacancy in a nomination in a regularly held election, except that the district court shall set the deadline for certifying the name of the replacement nominee for placement on the ballot.

(b) The district court may not set the certification deadline for a date earlier than the fifth day after the date on which the court sets the date for the new election. (New.)

Sec. 232.047. REPLACEMENT OF PARTISAN NOMINEE IN CITY ELECTION. (a) If a candidate who is a nominee of a political organization in a new election ordered by a court in an election contest involving a city office for which partisan nominations are permitted dies or is declared ineligible before the date on which the district court sets the date for the new election, the candidate may be replaced only by a replacement nominee named in the manner prescribed by:

(1) a charter provision or ordinance of the city for filling a vacancy in a partisan nomination; or

(2) the district court if there is no charter provision or ordinance.

(b) The district court shall set the deadline for certifying the name of the replacement nominee for placement on the ballot. The deadline may not be earlier than the fifth day after the date the court sets the date for the new election. (New.)

Sec. 232.048. RUNOFF FOLLOWING NEW ELECTION. (a) If no candidate receives a majority vote in a new election ordered by a court in the contest of an election in which a majority vote is required, a runoff election shall be held:

(1) for a primary election contest, on the date set by the district court in which the contest was heard, except as provided by Subsection (c); or

(2) for a contest of a general or special election, on the date set by the authority responsible for ordering the runoff election.

(b) Sections 232.013(b), (c), and (d) apply to an election ordered under Subsection (a) of this section.

(c) The candidate receiving the most votes in a new election ordered by a court in a primary election contest is the political party's nominee, regardless of whether the candidate receives a majority vote, if the date of the final canvass of the court-ordered primary is on or after:

(1) the 85th day before the date of the succeeding general election in the case of a statewide or district office; or

(2) the 75th day before the date of the succeeding general election in the case of a county or precinct office.

(d) The district court for an election contest has the same supervisory power over a runoff of the court-ordered election as the court has over the court-ordered election. (New.)

Sec. 232.049. SECOND RUNOFF FOLLOWING CONTEST OF RUNOFF. If in a new election ordered by a court in a contest of a runoff election there are more than two candidates and no candidate receives a majority vote, another runoff to determine the nomination or election to the contested office shall be ordered in accordance with Section 232.048, except as otherwise provided by that section. (New.)

Sec. 232.050. BALLOT FORM AND ORDER OF NAMES ON BALLOT. (a) Except as otherwise provided by this section, the provisions of this code regulating ballot form and preparation apply to the ballot for a new election ordered by a court in an election contest.

(b) The district court hearing an election contest shall prescribe the heading of the official ballot to be used in the new election.

(c) In a new election in which party nominees appear on the ballot, the candidates may be listed on the ballot in the regularly prescribed manner or by office title with each candidate's party alignment shown by printing the candidate's political party next to the candidate's name.

(d) The requirement that a ballot on which a party nominee appears must be arranged to permit casting a straight-party vote does not apply to the ballot for the new election if fewer than three offices are to appear on the ballot.

(e) The provisions of this code applicable to determining the order in which candidates' names appear on the ballot apply to the new election, except that the district court may authorize a shorter period of notice of the drawing for candidates' ballot positions. (New.)

CHAPTER 233. CONTEST ON MEASURE

Sec. 233.001. APPLICABILITY OF CHAPTER

Sec. 233.002. CONTESTANT

Sec. 233.003. CONTESTEE

Sec. 233.004. INTERVENTION

Sec. 233.005. VENUE

Sec. 233.006. FILING PERIOD FOR PETITION

Sec. 233.007. FILING PERIOD FOR ANSWER

Sec. 233.008. RETURN OF UNSERVED CITATION

Sec. 233.009. NOTICE OF FILING AND OUTCOME OF CONTEST TO AUTHORITY RECEIVING ELECTION CERTIFICATION

Sec. 233.010. EFFECT OF CONTEST ON IMPLEMENTATION OF ADOPTED MEASURE

Sec. 233.011. NEW ELECTION ORDERED IF CONTESTED ELECTION VOID

Sec. 233.012. EFFECT OF VOID ELECTION

Sec. 233.013. CONSOLIDATION OF CONTEST

Sec. 233.014. SPECIAL PROCEDURES FOR CONTEST OF CONSTITUTIONAL AMENDMENT ELECTION

CHAPTER 233. CONTEST ON MEASURE

Sec. 233.001. APPLICABILITY OF CHAPTER. This chapter applies to a contest of an election on a measure. (New.)

Sec. 233.002. CONTESTANT. One or more qualified voters of the territory covered by an election on a measure may contest the election. (V.T.E.C. Arts. 9.30, 9.32; New.)

Sec. 233.003. CONTESTEE. (a) The contestee must be at least one of the following:

- (1) the presiding officer of the final canvassing authority for the contested election;
- (2) the presiding officer of the authority that ordered the contested election or the ordering authority, if ordered by an individual; or
- (3) if the person specified by Subdivision (1) or (2) is incapacitated or cannot act for any other reason, another member of the specified authority.

(b) The secretary of state must be a contestee in a contest of an election on a proposed constitutional amendment or any other statewide measure submitted by the legislature.

(c) The costs of an election contest may not be assessed against a contestee specified by this section or against the governmental or political entity the contestee represents.

(d) A contestee specified by this section may not be required to give bond on appeal. (V.T.E.C. Arts. 9.31, 9.32; New.)

Sec. 233.004. INTERVENTION. (a) The court may permit one or more qualified voters of the territory covered by the contested election to intervene as contestants or contestees.

(b) The court shall determine the extent to which each intervenor may participate in the contest as the ends of justice and orderly procedure require. However, the court must permit at least one intervention on the side of the contestee, if requested to do so, and must permit the intervening contestee to participate fully in the conduct of the contest. (V.T.E.C. Arts. 9.30, 9.31, 9.32; New.)

Sec. 233.005. VENUE. The venue of an election contest is:

- (1) in Travis County if the contested election is statewide; or
- (2) in any county wholly or partly in the territory covered by the contested election if the election is less than statewide. (V.T.E.C. Arts. 9.30, 9.32; New.)

Sec. 233.006. FILING PERIOD FOR PETITION. (a) The contestant may not file the petition in the contest earlier than the day after election day.

(b) Except as provided by Section 233.014, the contestant must file the petition not later than the 30th day after the date the official result of the contested election is determined. (V.T.E.C. Arts. 9.03, 9.30; New.)

Sec. 233.007. **FILING PERIOD FOR ANSWER.** (a) A contestee must file an answer to the contestant's petition not later than:

(1) 10 a.m. of the 10th day after the date of service of citation on the contestee or 10 a.m. of the fifth day after the date the official result of the contested election is determined, whichever is later, if the contested election is less than statewide; or

(2) 10 a.m. of the 20th day after the date of service of citation, if the contested election is statewide.

(b) The citation must command the contestee to answer by the specified deadline. (V.T.E.C. Arts. 9.04, 9.32; New.)

Sec. 233.008. **RETURN OF UNSERVED CITATION.** The citation issued in an election contest must direct the officer receiving the citation to return it unserved if it is not served within 20 days after the date of issuance. (New.)

Sec. 233.009. **NOTICE OF FILING AND OUTCOME OF CONTEST TO AUTHORITY RECEIVING ELECTION CERTIFICATION.** If the result of a contested election is required to be certified to an authority other than the authority that ordered the election, the authority responsible for delivering the certification shall:

(1) include with the certification written notice of the filing of the contest or, if the contest is filed after the certification is delivered, deliver the notice promptly after the contest is filed; and

(2) deliver to the authority receiving the certification written notice of the outcome of the contest promptly after the judgment becomes final. (New.)

Sec. 233.010. **EFFECT OF CONTEST ON IMPLEMENTATION OF ADOPTED MEASURE.** (a) The filing of an election contest does not suspend implementation of a contested measure that is shown by the officially determined result to have been adopted, except that in the application of equitable principles, the court in which an election contest is filed may suspend implementation of the contested measure pending outcome of the contest.

(b) Another law that provides that implementation may or may not be suspended supersedes this section. (New.)

Sec. 233.011. **NEW ELECTION ORDERED IF CONTESTED ELECTION VOID.** The court may not order a new election to be held if the contested election is declared void, except that the court shall include in its judgment an order directing the appropriate authority to order a new election if the authority that ordered the contested election was required by law to order it pursuant to a petition requesting the election or requesting other action making the holding of the election necessary. (V.T.E.C. Arts. 9.15, 9.30; New.)

Sec. 233.012. **EFFECT OF VOID ELECTION.** (a) The effect of a void election with respect to a restriction on the authority to order another election or on the time interval between elections of the same or similar nature is the same as if the election had not been held.

(b) If the authorization for ordering the election that was declared void was conditioned on its being ordered or held before a specified date and that condition was satisfied with respect to the void election, the condition is also satisfied if another election is ordered for a date not later than the 120th day after the date the judgment declaring the contested election void becomes final or the first day on which the election may lawfully be held, whichever is later. (New.)

Sec. 233.013. **CONSOLIDATION OF CONTEST.** If more than one election contest involving the same measure is filed, the actions shall be consolidated. (New.)

Sec. 233.014. **SPECIAL PROCEDURES FOR CONTEST OF CONSTITUTIONAL AMENDMENT ELECTION.** (a) This section applies only to a contest of an election on a proposed constitutional amendment.

(b) The contestant's petition must be filed and service of citation on the secretary of state must be obtained before the final official canvass is completed.

(c) The declaration of the official result of a contested election may not be made until the contest is finally determined. The secretary of state shall tabulate the county returns and the state board of canvassers shall announce the final vote count, as ascertained from the returns, in a written document. The document announcing the final vote count must state that a contest of the election has been filed and that the declaration of the official result will not be made until the contest is finally determined.

(d) The trial date may not be earlier than the 45th day after the date of the contested election unless the contestant requests an earlier date.

(e) If an amended petition alleging additional grounds of contest is filed, the contest may not be called for trial earlier than the 20th day after the date the amended petition is filed unless the secretary of state agrees to calling the contest for trial at an earlier date.

(f) The court shall include in its judgment in a contest an order directing the state board of canvassers to declare the official result of the election or to declare the election void, as appropriate, not later than the 10th day after the date the judgment becomes final.

(g) Any question relating to the validity or outcome of a constitutional amendment election may be raised in an election contest. A contest is the exclusive method for adjudicating such questions. (V.T.E.C. Arts. 9.32-9.36; New.)

SUBTITLE C. CONTESTS IN OTHER TRIBUNALS

CHAPTER 241. CONTEST FOR STATE SENATOR OR REPRESENTATIVE

- Sec. 241.001. APPLICABILITY OF CHAPTER
- Sec. 241.002. PARTIES
- Sec. 241.003. PETITION
- Sec. 241.004. ANSWER
- Sec. 241.005. METHOD OF DELIVERING CONTEST PAPERS TO PARTIES
- Sec. 241.006. DELIVERY OF CONTEST PAPERS TO PRESIDING OFFICER
- Sec. 241.007. RUNOFF DELAYED
- Sec. 241.008. PRESIDING OFFICER AS PARTY
- Sec. 241.009. MASTER OF DISCOVERY
- Sec. 241.010. DISCOVERY AND DEPOSITIONS
- Sec. 241.011. REFERRAL OF CONTEST TO COMMITTEE; HEARING BY COMMITTEE
- Sec. 241.012. HEARING PROCEDURE
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- Sec. 241.017. WITHDRAWAL OF CONTEST
- Sec. 241.018. DISPOSITION OF CONTEST BY HOUSE
- Sec. 241.019. DISPOSITION OF CONTEST BY COMMITTEE
- Sec. 241.020. NEW ELECTION ORDERED IF CONTESTED ELECTION VOID
- Sec. 241.021. DELIVERY OF CERTIFIED COPIES OF JUDGMENT
- Sec. 241.022. PROCEDURES FOR NEW ELECTION GENERALLY
- Sec. 241.023. ACCELERATED ELECTION SCHEDULE
- Sec. 241.024. CANDIDATES IN NEW ELECTION
- Sec. 241.025. COSTS OF CONTEST

SUBTITLE C. CONTESTS IN OTHER TRIBUNALS

CHAPTER 241. CONTEST FOR STATE SENATOR OR REPRESENTATIVE

Sec. 241.001. APPLICABILITY OF CHAPTER. This chapter applies to a contest of a general or special election for the office of state senator or state representative. (New.)

Sec. 241.002. PARTIES. The provisions of this title relating to who may be or is required to be a party in an election contest in the district court apply to a contest under this chapter. (V.T.E.C. Art. 9.20, Subdivs. 1, 2; New.)

Sec. 241.003. PETITION. (a) The contestant must state the grounds for the contest in a petition in the same manner as a petition in an election contest in the district court.

(b) The contestant must file the petition with the secretary of state not later than the 10th day after the date the official result of the contested election is determined. The contestant must deliver a copy of the petition to the contestee by the same deadline.

(c) The contestant may not file the petition with the secretary of state or deliver the copy to the contestee before the day after the date of the contested election. (V.T.E.C. Art. 9.20, Subdiv. 2; New.)

Sec. 241.004. ANSWER. (a) The contestee must reply to the contestant's petition in an answer in the same manner as an answer to a petition in an election contest in the district court.

(b) The contestee must file the answer with the secretary of state not later than the 10th day after the date the contestee receives the copy of the petition. The contestee must deliver a copy of the answer to the contestant by the same deadline. (V.T.E.C. Art. 9.20, Subdiv. 3; New.)

Sec. 241.005. METHOD OF DELIVERING CONTEST PAPERS TO PARTIES. (a) The copies of the petition and answer must be delivered to the parties by:

- (1) personal delivery; or
- (2) registered or certified mail, return receipt requested.

(b) Any adult resident of the state may perform the personal delivery. If the party to whom delivery is intended cannot be found in the party's county of residence, the delivery may be completed by leaving the document at the party's usual place of abode or business with a person who is 16 years of age or older.

(c) Personal delivery of a copy of an answer is sufficient if it is delivered to the contestant's attorney of record or left at the attorney's regular office with a person who is 16 years of age or older.

(d) A copy of a petition delivered by mail must be marked for restricted delivery to the addressee only. The delivery is sufficient if the copy is mailed to the contestee's regular residence or business address.

(e) If the contestant's petition states an address to which the copy of the answer is to be delivered, a copy delivered by mail must be mailed to that address. Otherwise, delivery of a copy of an answer by mail is sufficient if the copy is mailed to the contestant at the contestant's regular residence or business address or to the contestant's attorney of record at the attorney's regular business address. (V.T.E.C. Art. 9.20, Subdiv. 4; New.)

Sec. 241.006. DELIVERY OF CONTEST PAPERS TO PRESIDING OFFICER. (a) On receipt of a petition or answer, the secretary of state shall enter the date of filing on the document. If the document is filed by mail, the secretary shall attach to the document the envelope in which it was mailed.

(b) The secretary of state shall deliver a petition to the president of the senate or the speaker of the house of representatives, as appropriate, not later than the third day after the date the petition is received. The secretary shall deliver an answer to the appropriate presiding officer not later than the third day after the date of its receipt.

(c) The secretary of state shall deliver with the petition the secretary's certified statement of the total votes cast for each candidate for the office as shown by the final canvass. If the final canvass has not been completed, the statement shall be delivered as soon as practicable thereafter. (V.T.E.C. Art. 9.20, Subdiv. 5; New.)

Sec. 241.007. RUNOFF DELAYED. (a) If a special election for which a runoff is necessary according to the official result is contested, the secretary of state shall promptly notify the governor in writing of the contest when the canvass is completed or the petition is received, whichever is later.

(b) The governor shall delay ordering the runoff pending the outcome of the contest. (New.)

Sec. 241.008. PRESIDING OFFICER AS PARTY. If the presiding officer of the house having jurisdiction is a party to a contest, the house shall elect one of its members to perform the duties of the presiding officer with respect to the contest. The chairman of the house's committee on administration shall perform those duties until the substitute is elected. (New.)

Sec. 241.009. MASTER OF DISCOVERY. (a) At any time after receiving the contestee's answer, the presiding officer of the house having jurisdiction may appoint a master of discovery to supervise discovery proceedings and the taking of depositions, to receive and report evidence, and to perform any other duties assigned by the presiding officer or by the committee to which the contest is referred.

(b) If an appointment has not already been made, the presiding officer shall appoint a master on request of the committee to which the contest is referred or of any party to the contest.

(c) The master must be a member of the house in which the contest is pending.

(d) The presiding officer or the committee may limit the master's authority in the same manner as a civil court in appointing a master in chancery.

(e) The master acts under the direction of the presiding officer before the case is referred to a committee and acts under the direction of the committee after the referral.

(f) The master's rulings are subject to review by the committee to which the contest is referred unless otherwise provided by rules of the house. (V.T.E.C. Art. 9.21, Subdiv. 2; New.)

Sec. 241.010. DISCOVERY AND DEPOSITIONS. (a) Any party to a contest may conduct discovery and take depositions under the procedures applicable to a civil suit in the district court, subject to changes in those procedures or limitations imposed by the master or by rules of the house in which the contest is pending.

(b) Each party is responsible for the initial payment of the party's costs of discovery and taking depositions, but the costs may be assessed as provided by Section 241.025. (V.T.E.C. Art. 9.21, Subdivs. 1, 3.)

Sec. 241.011. REFERRAL OF CONTEST TO COMMITTEE; HEARING BY COMMITTEE. (a) As soon as practicable after receiving the contestee's answer, the presiding officer of the house in which the contest is pending shall refer the contest to a special committee, a standing committee, or a committee of the whole, as provided by rules of the house.

(b) The committee shall promptly set a time and place for hearing the contest. After notice to the parties, the committee shall investigate the issues raised by the contest, hearing all legal evidence presented by the parties. (V.T.E.C. Art. 9.24, Subdivs. 1, 2.)

Sec. 241.012. HEARING PROCEDURE. The procedure for the committee hearing of an election contest shall be prescribed by rules of the house in which the contest is pending. (V.T.E.C. Art. 9.25, Subdiv. 1.)

Sec. 241.013. EVIDENCE. Except as otherwise provided by house rules, the rules of evidence generally applicable to a civil suit in the district court apply to the hearing of an election contest. (V.T.E.C. Art. 9.25, Subdiv. 2.)

Sec. 241.014. ATTENDANCE OF WITNESSES. (a) The committee to which an election contest is referred has the same authority as other legislative committees to compel attendance of witnesses and production of evidence without the necessity for an express authorization by resolution, rule, or other action of the house creating the committee.

(b) The law generally applicable to the issuance and service of process in legislative committee hearings applies to the hearing of a contest.

(c) A summoned witness is entitled to payment for travel and subsistence expenses in accordance with the laws applicable to in-state travel for state employees.

(d) Each party is responsible for the initial payment of the costs for service of process and attendance of witnesses at the party's request, but the costs may be assessed as provided by Section 241.025. (V.T.E.C. Art. 9.25, Subdiv. 3; Art. 9.26, Subdiv. 3; New.)

Sec. 241.015. COMMITTEE REPORT. (a) Except as provided by Section 241.019, as soon as practicable after completing its hearing on a contest, the committee shall make a written report of its findings of fact and conclusions of law with respect to the contest to the house in which the contest is pending. The report may include any recommendation the committee considers appropriate.

(b) The committee shall accompany its report with all the papers in the contest and the evidence presented to the committee.

(c) The committee chairman shall file the report with the secretary of the senate or the chief clerk of the house of representatives, as appropriate. (V.T.E.C. Art. 9.24, Subdiv. 2; New.)

Sec. 241.016. MINORITY REPORT. Any member of the committee dissenting from the views of the majority may file a minority report. (V.T.E.C. Art. 9.24, Subdiv. 3.)

Sec. 241.017. WITHDRAWAL OF CONTEST. (a) A contestant may withdraw his election contest at any time before the filing of the committee report by filing with the committee chairman and the presiding officer of the house a written statement of withdrawal signed by the contestant or his attorney.

(b) On withdrawal of the contest, the contest is dismissed and the presiding officer shall have the statement of withdrawal read into the journal of the appropriate house.

(c) Costs of the contest following a withdrawal may be assessed as provided by Section 241.025. (V.T.E.C. Art. 9.24, Subdiv. 4.)

Sec. 241.018. DISPOSITION OF CONTEST BY HOUSE. (a) Except as provided by Section 241.019, the house in which a contest is pending shall dispose of the contest as provided by this section.

(b) As soon as practicable after the committee report on the contest is filed, the house shall set a date for consideration of the report.

(c) The house shall take action on the contest as prescribed by Section 221.012.

(d) A contestee may not vote on any matter involving the contest. (V.T.E.C. Art. 9.25a; Art. 9.26, Subdivs. 1, 2.)

Sec. 241.019. DISPOSITION OF CONTEST BY COMMITTEE. The committee to which a contest of a special election is referred shall take action on the contest as prescribed by Section 221.012 if:

(1) no candidate received a majority of the votes according to the official result of the election;

(2) the legislature is not in session on the date the contestant's petition is filed with the secretary of state, or, if it is in session, the session will end before the 25th day after the date the petition is filed;

(3) no session of the legislature is scheduled to begin within 30 days after the date the petition is filed; and

(4) the legislature is not in session on the date the committee completes its hearing, and no session is scheduled to begin within 30 days after that date. (New.)

Sec. 241.020. NEW ELECTION ORDERED IF CONTESTED ELECTION VOID. In an election contest in which the election is declared void, the house or committee, as appropriate, shall include in its judgment an order directing the governor to order a new election. (V.T.E.C. Art. 9.26, Subdiv. 2; New.)

Sec. 241.021. DELIVERY OF CERTIFIED COPIES OF JUDGMENT. (a) After the judgment in a contest is rendered, the secretary of the senate or the chief clerk of the house of representatives, as appropriate, shall promptly deliver a certified copy of the judgment to the secretary of state.

(b) If another election is necessary under the judgment, the secretary of the senate or chief clerk of the house of representatives shall promptly deliver a certified copy of the judgment to the governor. (V.T.E.C. Art. 9.26, Subdiv. 2; New.)

Sec. 241.022. PROCEDURES FOR NEW ELECTION GENERALLY. (a) If the contested election is declared void, the new election shall be held in the same manner as the contested election, except as otherwise provided by this chapter.

(b) Section 232.050 applies to the ballot form for the new election.

(c) Section 232.043 applies to write-in voting in the new election. (New.)

Sec. 241.023. ACCELERATED ELECTION SCHEDULE. If another election is necessary under the judgment in an election contest, the applicable time intervals for conducting a special election for state senator or state representative apply if the judgment is rendered:

(1) during a regular legislative session; or

(2) within 60 days before the date a legislative session is convened. (New.)

Sec. 241.024. CANDIDATES IN NEW ELECTION. (a) The candidates in a new election ordered in an election contest in which the election is declared void under this chapter are determined in accordance with the applicable provisions of Chapter 232, Subchapter B, prescribing the candidates in a new election ordered by a court.

(b) In a new election in which replacement candidates are permitted on the ballot, the governor shall set the filing deadlines that are set by the district court in a new election ordered by a court.

(c) The governor shall set the deadline for withdrawal from a new election. (New.)

Sec. 241.025. COSTS OF CONTEST. (a) Subject to Section 221.013(a), the house considering an election contest may assess the costs of the contest against any one or more of the parties, except that costs may not be assessed against a contestee who prevails in the contest.

(b) In a contest covered by Section 241.019, the committee determines how the costs are to be assessed. (V.T.E.C. Art. 9.23; New.)

CHAPTER 242. CONTEST FOR CONSTITUTIONAL EXECUTIVE OFFICE

Sec. 242.001. APPLICABILITY OF CHAPTER

Sec. 242.002. CONDUCT OF CONTEST GENERALLY

Sec. 242.003. CONTEST FOR OFFICE OF GOVERNOR OR LIEUTENANT GOVERNOR

Sec. 242.004. ACCELERATED ELECTION SCHEDULE

CHAPTER 242. CONTEST FOR CONSTITUTIONAL EXECUTIVE OFFICE

Sec. 242.001. APPLICABILITY OF CHAPTER. This chapter applies to a contest of a general election for the office of governor, lieutenant governor, comptroller of public accounts, state treasurer, land commissioner, or attorney general. (V.T.E.C. Art. 9.27.)

Sec. 242.002. CONDUCT OF CONTEST GENERALLY. (a) Except as otherwise provided by this chapter, the applicable provisions of Chapter 241 govern an election contest under this chapter.

(b) Two copies of the petition and answer must be filed with the secretary of state. The secretary shall deliver one copy of each document to the presiding officer of each house of the legislature.

(c) The presiding officers of the two houses of the legislature shall act jointly in appointing a master of discovery. The master may be a member of either house.

(d) The presiding officers shall refer the contest to a committee constituted in accordance with joint rules of the two legislative houses. Unless otherwise provided by joint rule, the referral is not effective until both presiding officers make the referral.

(e) The committee shall make its report to both houses of the legislature, and the two houses shall consider the report and dispose of the contest in joint session.

(f) Any legislative rules applicable to a contest under this chapter must be joint rules. (V.T.E.C. Art. 9.27; New.)

Sec. 242.003. CONTEST FOR OFFICE OF GOVERNOR OR LIEUTENANT GOVERNOR. (a) This section applies only to a contest for the office of governor or lieutenant governor.

(b) Except as provided by Subsection (d), for purposes of conducting the contest, the official result of the contested election is determined from the tabulation of the election returns prepared by the state board of canvassers.

(c) The secretary of state shall deliver a certified copy of the board's tabulation to each of the presiding officers instead of a certified statement of the votes cast as shown by the official canvass.

(d) The committee to which the contest is referred may treat the board's tabulation as correct until the speaker of the house of representatives opens and publishes the official election returns. If a discrepancy exists between the board's tabulation and the speaker's official count that might be material to a determination of the contest, the committee shall investigate the discrepancy to ascertain, if possible, the correct vote count.

(e) The speaker may announce the result of the election as shown by the election returns but may not declare the candidate receiving the most votes, as shown by the returns, to be elected unless the judgment in the contest warrants that action. No candidate is entitled to take office until the outcome of the contest is finally determined. (New.)

Sec. 242.004. ACCELERATED ELECTION SCHEDULE. The time intervals for conducting a special election to fill a vacancy in the office of state senator or state representative occurring during a regular legislative session apply to any election necessary under the judgment in an election contest under this chapter. (New.)

CHAPTER 243. CONTEST FOR PRESIDENTIAL ELECTORS

Sec. 243.001. APPLICABILITY OF CHAPTER

Sec. 243.002. PARTIES

Sec. 243.003. PETITION

Sec. 243.004. NOTICE TO CONTESTEES

Sec. 243.005. ANSWER

Sec. 243.006. HEARING OF CONTEST

Sec. 243.007. MASTER OF DISCOVERY

Sec. 243.008. DISCOVERY AND DEPOSITIONS

Sec. 243.009. HEARING PROCEDURE

Sec. 243.010. EVIDENCE

Sec. 243.011. ATTENDANCE OF WITNESSES

Sec. 243.012. DISPOSITION OF CONTEST

Sec. 243.013. COSTS OF CONTEST

CHAPTER 243. CONTEST FOR PRESIDENTIAL ELECTORS

Sec. 243.001. APPLICABILITY OF CHAPTER. This chapter applies to a contest of an election of presidential electors for president and vice-president of the United States. (V.T.E.C. Art. 9.29.)

Sec. 243.002. PARTIES. (a) An election of presidential electors may be contested only by:

(1) a presidential candidate whose name appeared on the ballot for the election in this state or who had qualified as a write-in candidate in this state;

(2) any one or more of the presidential elector candidates who correspond to a presidential candidate specified by Subdivision (1), if the presidential candidate gives express approval; or

(3) a presidential candidate specified by Subdivision (1) and one or more corresponding presidential elector candidates acting jointly.

(b) The contestees are the presidential elector candidates officially determined to be elected and the presidential candidate to whom they correspond. (New.)

Sec. 243.003. **PETITION.** (a) The contestant must state the grounds for the contest in a petition in the same manner as a petition in an election contest in the district court.

(b) The contestant must file the petition with the secretary of state not later than the 10th day after the date the official result of the contested election is determined.

(c) The contestant may not file the petition before the day after the date of the contested election.

(d) The petition must state the name and address of the contestant or an agent for the contestant to whom a copy of the contestee's answer is to be delivered. If there is more than one contestant, the petition must designate one to receive the copy on behalf of all the contestants. (V.T.E.C. Art. 9.29; New.)

Sec. 243.004. **NOTICE TO CONTESTEES.** (a) When a petition is filed, the secretary of state shall promptly notify each contestee of the filing and shall deliver a copy of the petition to each contestee who requests one or to an agent designated by the requesting contestee.

(b) The secretary of state shall use the most expeditious means available for notifying each contestee. (New.)

Sec. 243.005. **ANSWER.** (a) The contestee must reply to the contestant's petition in an answer in the same manner as an answer to a petition in an election contest in the district court.

(b) The contestee must file the answer with the secretary of state not later than the eighth day after the date the petition is filed. The contestee must deliver a copy of the answer by the same deadline to the person designated by the petition to receive it. (V.T.E.C. Art. 9.29; New.)

Sec. 243.006. **HEARING OF CONTEST.** When the contestee's answer is filed, the state board of canvassers shall set a time and place for hearing the contest. After notice to the parties, the board shall investigate the issues raised by the contest, hearing all legal evidence presented by the parties. (V.T.E.C. Art. 9.29; New.)

Sec. 243.007. **MASTER OF DISCOVERY.** (a) The state board of canvassers may appoint a master of discovery for the contest. The master has the authority of a master appointed under Section 241.009.

(b) The master must be a resident of the state who:

(1) is not employed by or related within the third degree by consanguinity or affinity to a party to the contest; and

(2) is not an officer of a political party that had a presidential nominee on the ballot of the contested election. (New.)

Sec. 243.008. **DISCOVERY AND DEPOSITIONS.** (a) Any party to a contest may conduct discovery and take depositions under the procedures applicable to a civil suit in the district court, subject to changes in those procedures or limitations imposed by the state board of canvassers or the master of discovery.

(b) Each party is responsible for the initial payment of the party's costs of discovery and taking depositions, but the costs may be assessed as provided by Section 243.013. (V.T.E.C. Art. 9.29; New.)

Sec. 243.009. **HEARING PROCEDURE.** The state board of canvassers shall determine the procedure for hearing an election contest. (V.T.E.C. Art. 9.29; New.)

Sec. 243.010. **EVIDENCE.** Except as otherwise provided by the state board of canvassers, the rules of evidence generally applicable to a civil suit in the district court apply to the hearing of an election contest. (V.T.E.C. Art. 9.29; New.)

Sec. 243.011. **ATTENDANCE OF WITNESSES.** (a) The state board of canvassers has the same authority as a district court in an election contest to require the attendance of witnesses and the production of evidence. The secretary of state shall issue in the name of the board subpoenas or other process as directed by the board.

(b) Any sheriff or constable of the state or a person appointed by the board may serve the process issued by the secretary of state.

(c) Compliance with process issued under this chapter may be enforced in the manner provided for enforcement of process issued under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) The summoned witnesses and the officers serving the process are entitled to mileage and fees as prescribed by law in a civil suit in the district court.

(e) Each party is responsible for the initial payment of the costs for service of process and attendance of witnesses at the party's request, but the costs may be assessed as provided by Section 243.013. (V.T.E.C. Art. 9.29; New.)

Sec. 243.012. **DISPOSITION OF CONTEST.** (a) The state board of canvassers shall determine the outcome of the contested election and render its decision not later than the seventh day before the date set by law for the meeting of the electors.

(b) The decision shall declare which set of presidential elector candidates was elected.

(c) The decision shall be in writing and signed by at least two members of the board.

(d) Section 221.012(b) does not apply to a contest of an election of presidential electors. (V.T.E.C. Art. 9.29; New.)

Sec. 243.013. COSTS OF CONTEST. The state board of canvassers may assess the costs of the contest against any one or more of the parties. (V.T.E.C. Art. 9.29; New.)

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TITLE 16. MISCELLANEOUS PROVISIONS

CHAPTER 271. JOINT ELECTIONS

Sec. 271.001. APPLICABILITY OF OTHER PARTS OF CODE. The other titles of this code apply to a joint election except provisions that are inconsistent with this chapter or that cannot feasibly be applied to a joint election. (New.)

Sec. 271.002. JOINT ELECTIONS AUTHORIZED. (a) If the elections ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same territory, the governing bodies of the political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(b) If an election ordered by the governor and the elections ordered by the authorities of one or more political subdivisions are to be held on the same day in all or part of the same territory, the commissioners court of a county in which the election ordered by the governor is to be held and the governing bodies of the other political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(c) If another law requires two or more political subdivisions to hold a joint election, the governing body of any other political subdivision holding an election on the same day in all or part of the same territory in which the joint election is to be held may enter into an agreement to participate in the joint election with the governing bodies of the political subdivisions holding the joint election.

(d) 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.

(e) The document containing the joint election agreement shall be preserved for the period for preserving the precinct election records. (V.T.E.C. Art. 2.01c; New.)

Sec. 271.003. **LOCATION OF COMMON POLLING PLACE.** The voters of a particular election precinct or political subdivision may be served in a joint election by a common polling place located outside the boundary of the election precinct or political subdivision if the location can adequately and conveniently serve the affected voters and will facilitate the orderly conduct of the election. (New.)

Sec. 271.004. **ALLOCATION OF ELECTION EXPENSES.** The expenses of a joint election are allocated as provided by the joint election agreement. (V.T.E.C. Art. 2.01c(b).)

Sec. 271.005. **ELECTION OFFICERS.** (a) An election officer for a joint election may be appointed to serve more than one of the participating political subdivisions.

(b) A person who is eligible to serve as an election officer in an election of any participating political subdivision is eligible to serve in the same office in a joint election. (V.T.E.C. Art. 2.01c(b).)

Sec. 271.006. **ABSENTEE VOTING.** (a) The governing bodies of the political subdivisions participating in a joint election shall decide whether to conduct their absentee voting jointly. The governing bodies that decide to conduct joint absentee voting shall appoint one of their absentee voting clerks as the absentee voting clerk for the joint absentee voting.

(b) The joint absentee voting shall be conducted at the absentee polling place or places at which the absentee voting clerk regularly conducts absentee voting for the clerk's political subdivision.

(c) The regular absentee voting clerk for each political subdivision participating in the joint absentee voting shall receive applications for absentee ballots to be voted by mail in accordance with Title 7. The remaining procedures for conducting the political subdivision's absentee voting by mail shall be completed by the regular absentee voting clerk or by the absentee voting clerk for the joint absentee voting, at the discretion of the governing body of each political subdivision participating in the joint absentee voting.

(d) If a governing body decides not to participate in the joint absentee voting, the absentee voting for that political subdivision shall be conducted in accordance with Title 7, except that the absentee voting may be conducted at common polling places. (New.)

Sec. 271.007. **BALLOT.** A single ballot containing all the offices or propositions stating measures to be voted on at a particular polling place may be used in a joint election. A voter may not be permitted to select a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote. (V.T.E.C. Art. 2.01c(b).)

Sec. 271.008. **BALLOT BOXES.** (a) One set of ballot boxes may be used at a common polling place in a joint election for the deposit of all the ballots for each of the participating political subdivisions.

(b) If the voted ballots for more than one political subdivision participating in a joint election are deposited in a single ballot box after they are counted, the custodian of the key to the ballot box for voted ballots for elections ordered by an authority of any one of the participating political subdivisions may be appointed as the custodian of the key to that box. (V.T.E.C. Art. 2.01c(b).)

Sec. 271.009. **COMBINING ELECTION FORMS AND RECORDS.** The forms used and records maintained at a common polling place in a joint election may be combined in any manner convenient and adequate to record and report the results of the election for each of the participating political subdivisions. (V.T.E.C. Art. 2.01c(b).)

Sec. 271.010. **CUSTODIAN OF ELECTION RECORDS.** The general custodian of election records for elections ordered by an authority of any one of the political subdivisions participating in a joint election may be appointed as the general custodian of election records for the joint election if:

(1) the election records for a common polling place are combined; or

(2) the ballots for more than one of the participating political subdivisions are deposited by the voters in a single ballot box. (V.T.E.C. Art. 2.01c(b).)

Sec. 271.011. **CANVASS.** (a) The authority responsible for canvassing the precinct returns for the elections of one of the political subdivisions participating in a joint election may be designated to canvass the returns for one or more of the other participating political subdivisions.

(b) If elections are jointly canvassed, the presiding officer of the joint canvassing authority shall deliver the appropriate part of the tabulation of the precinct results to each of the presiding officers of the canvassing authorities designated by law for the elections of the participating political subdivisions. Each tabulation shall then be processed in the same manner as for an election not canvassed jointly. (V.T.E.C. Art. 2.01c(b); New.)

Sec. 271.012. **CERTIFICATE OF ELECTION.** The presiding officer of the canvassing authority that regularly serves a particular political subdivision shall issue certificates of election to candidates elected at the joint election to offices of the political subdivision. (New.)

Sec. 271.013. COMPENSATION OF JUDGES AND CLERKS. (a) Except as provided by this section, compensation for election officers serving at a common polling place in a joint election is the same as that paid to election officers serving at a regular polling place.

(b) If the election records, keys, and supplies for a common polling place are to be delivered to different places for two or more participating political subdivisions:

(1) compensation may be paid in the amount prescribed by this code for delivery, multiplied by the number of participating political subdivisions for which delivery is made to different locations; and

(2) compensation may be paid to one election officer appointed to make the delivery or allocated evenly among the election officers who make the delivery. (V.T.E.C. Art. 3.08(c); New.)

Sec. 271.014. CONFLICTS WITH OTHER LAW. A law outside this code pertaining to a joint election supersedes this chapter to the extent of any conflict. (V.T.E.C. Art. 2.01c(a).)

CHAPTER 272. BILINGUAL REQUIREMENTS

Sec. 272.001. BILINGUAL ELECTION MATERIALS REQUIRED

Sec. 272.002. ELECTION PRECINCTS IN WHICH BILINGUAL MATERIALS USED

Sec. 272.003. EXEMPT ELECTION PRECINCTS

Sec. 272.004. USE OF BILINGUAL MATERIALS FOR ABSENTEE VOTING

Sec. 272.005. REQUIRED BILINGUAL MATERIALS

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Sec. 272.010. VOTER REGISTRATION APPLICATION FORM

CHAPTER 272. BILINGUAL REQUIREMENTS

Sec. 272.001. BILINGUAL ELECTION MATERIALS REQUIRED. Bilingual election materials printed in English and Spanish shall be used in elections in this state as provided by this chapter. (V.T.E.C. Art. 1.08a, Subdiv. 1(a).)

Sec. 272.002. ELECTION PRECINCTS IN WHICH BILINGUAL MATERIALS USED. Except as provided by Section 272.003, bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions. (V.T.E.C. Art. 1.08a, Subdiv. 1; New.)

Sec. 272.003. EXEMPT ELECTION PRECINCTS. (a) An election precinct to which Section 272.002 applies may be exempted from the bilingual requirement as provided by this section if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct's inhabitants.

(b) To exempt an election precinct from the bilingual requirement, the presiding officer of the governing body of the political subdivision responsible for the expenses of an election, with the approval of the governing body, must file with the authority responsible for procuring the election supplies for the political subdivision's elections:

(1) a written certification by the presiding officer that the precinct qualifies for the exemption;

(2) a written summary of the official census information or other information relied on to support the exemption;

(3) a map or maps indicating the precinct's boundary and the boundaries of the census enumeration areas referred to in the summary; and

(4) an authenticated copy of the resolution or other official action showing the governing body's approval of the exemption.

(c) An exemption is effective on the 30th day after the date the certification and other materials required by Subsection (b) are filed.

(d) In a primary election, each county election precinct that has been exempted under this section is exempt. If an election precinct that qualifies for exemption is not certified as exempt before the 60th day before primary election day, the secretary of state may exempt the precinct for the primary election by filing the certification and other materials as provided by Subsection (b).

(e) A precinct exempted under this section remains exempt until:

(1) the precinct becomes subject to Section 272.002 as a result of a subsequent federal decennial census; or

(2) the effective date of a change in the precinct's boundary. (V.T.E.C. Art. 1.08a, Subdiv. 2; New.)

Sec. 272.004. **USE OF BILINGUAL MATERIALS FOR ABSENTEE VOTING.** Bilingual election materials shall be used for absentee voting in each election in which bilingual election materials are used. (V.T.E.C. Art. 1.08a, Subdiv. 4.)

Sec. 272.005. **REQUIRED BILINGUAL MATERIALS.** (a) The instruction posters must be printed in English and Spanish on separate posters or on the same poster with the Spanish text next to the English text. If separate posters are used, they must be posted side by side.

(b) Except as provided by Section 272.006, ballots and voting system ballot labels must be printed with all ballot instructions, office titles, column headings, proposition headings, and propositions appearing in English and Spanish.

(c) Except as provided by Section 272.006, the following materials must contain a Spanish translation beneath the English text:

(1) the official affidavit forms and other official forms that voters are required to sign in connection with voting;

(2) the official application forms for absentee ballots;

(3) written instructions furnished to absentee voters; and

(4) the balloting materials furnished to voters in connection with absentee voting by mail. (V.T.E.C. Art. 1.08a, Subdivs. 3(a), 4.)

Sec. 272.006. **SEPARATE TRANSLATION AUTHORIZED.** (a) In an election precinct in which use of bilingual election materials is required, bilingual printing of the ballot or voting system ballot label is not required if a Spanish translation of the ballot is posted in each voting station and a statement in Spanish is placed on the ballot or ballot label informing the voter that the translation is posted in the station.

(b) If a separate translation of the ballot is made under Subsection (a), the translation must be furnished to each voter to whom an absentee ballot to be voted by mail is provided.

(c) An item specified by Section 272.005(c) is not required to contain a Spanish translation if:

(1) for an item used in connection with voting at a polling place:

(A) a separate translation of the item is made available to the voter on request; and

(B) the item contains a statement in Spanish informing the voter of the availability of the translation; or

(2) for an item used in connection with absentee voting by mail, a separate translation of the item is furnished with the item to the voter. (V.T.E.C. Art. 1.08a, Subdivs. 3(a), 4.)

Sec. 272.007. **AUTHORITY PREPARING TRANSLATION.** (a) Except as otherwise provided by this section, the secretary of state shall prepare the Spanish translation for the bilingual election materials required by Sections 272.005 and 272.006.

(b) The secretary of state shall prepare the Spanish translation of the ballot propositions for proposed constitutional amendments and other measures submitted by the legislature if the legislature does not provide a translation.

(c) The authority responsible for having the official ballot prepared for an election other than a primary election or an election ordered by the governor shall prepare the Spanish translation of the contents of the ballot or voting system ballot label. (V.T.E.C. Art. 1.08a, Subdiv. 3(b).)

Sec. 272.008. **OPTIONAL USE OF BILINGUAL MATERIALS.** (a) The governing body of the political subdivision responsible for the expenses of an election may require the use of bilingual election materials in one or more election precincts.

(b) If bilingual materials are required to be used under this section, an authenticated copy of the resolution or other official action showing the governing body's decision shall be filed with the authority responsible for procuring the election supplies for the political subdivision's elections. (V.T.E.C. Art. 1.08a, Subdiv. 5; New.)

Sec. 272.009. **BILINGUAL ELECTION CLERKS.** The presiding judge of an election precinct subject to Section 272.002 shall make reasonable efforts to appoint a sufficient number of election clerks who are fluent in both English and Spanish to serve the needs of the Spanish-speaking voters of the precinct. (V.T.E.C. Art. 1.08b, as added Acts 64th Legis., Ch. 681, 1975.)

Sec. 272.010. **VOTER REGISTRATION APPLICATION FORM.** (a) The secretary of state shall prescribe a voter registration application form that is printed in Spanish or shall include a Spanish translation beneath the text of the English-language registration application form prescribed by the secretary.

(b) The voter registrar for each county containing an election precinct subject to Section 272.002 shall maintain a supply of the form required by Subsection (a) and shall keep a notice in Spanish posted at the place in his office where voter registration is conducted stating that application forms in Spanish are available.

(c) The form required by Subsection (a) may be used in any county in this state. (V.T.E.C. Art. 5.13c.)

**CHAPTER 273. CRIMINAL INVESTIGATION AND OTHER
ENFORCEMENT PROCEEDINGS**

SUBCHAPTER A. CRIMINAL INVESTIGATION

Sec. 273.001. INVESTIGATION OF CRIMINAL CONDUCT

Sec. 273.002. LOCAL ASSISTANCE TO ATTORNEY GENERAL

Sec. 273.003. IMPOUNDING ELECTION RECORDS

Sec. 273.004. EXAMINATION OF IMPOUNDED RECORDS

[Sections 273.005-273.020 reserved for expansion]

SUBCHAPTER B. PROSECUTION BY ATTORNEY GENERAL

Sec. 273.021. PROSECUTION BY ATTORNEY GENERAL AUTHORIZED

Sec. 273.022. COOPERATION WITH LOCAL PROSECUTOR

Sec. 273.023. SUBPOENA

Sec. 273.024. VENUE

[Sections 273.025-273.040 reserved for expansion]

SUBCHAPTER C. EXAMINATION OF BALLOTS BY GRAND JURY

Sec. 273.041. REQUEST TO EXAMINE BALLOTS

Sec. 273.042. ORDER BY DISTRICT JUDGE

Sec. 273.043. CONDUCT OF EXAMINATION

[Sections 273.044-273.060 reserved for expansion]

SUBCHAPTER D. MANDAMUS BY APPELLATE COURT

Sec. 273.061. JURISDICTION

Sec. 273.062. PROCEEDING TO OBTAIN WRIT

Sec. 273.063. VENUE IN COURT OF APPEALS

[Sections 273.064-273.080 reserved for expansion]

SUBCHAPTER E. INJUNCTION

Sec. 273.081. INJUNCTION

**CHAPTER 273. CRIMINAL INVESTIGATION AND OTHER
ENFORCEMENT PROCEEDINGS**

SUBCHAPTER A. CRIMINAL INVESTIGATION

Sec. 273.001. INVESTIGATION OF CRIMINAL CONDUCT. (a) If two or more registered voters of the territory covered by an election present affidavits alleging criminal conduct in connection with the election to the county or district attorney having jurisdiction in that territory, the county or district attorney shall investigate the allegations. If the election covers territory in more than one county, the voters may present the affidavits to the attorney general, and the attorney general shall investigate the allegations.

(b) A district or county attorney having jurisdiction may conduct an investigation on his own initiative to determine if criminal conduct occurred in connection with an election. The attorney general may conduct such an investigation in connection with an election covering territory in more than one county. (V.T.E.C. Arts. 9.02(1), (2); New.)

Sec. 273.002. LOCAL ASSISTANCE TO ATTORNEY GENERAL. For an election in which the attorney general is conducting an investigation, the attorney general may:

(1) direct the county or district attorney serving a county in the territory covered by the election to conduct or assist the attorney general in conducting the investigation; or

(2) direct the Department of Public Safety to assist in conducting the investigation. (V.T.E.C. Arts. 9.02(2), (3).)

Sec. 273.003. **IMPOUNDING ELECTION RECORDS.** (a) In the investigation of an election, a county or district attorney or the attorney general may have impounded for the investigation the election returns, voted ballots, signature roster, and other election records.

(b) To have election records impounded, the investigating officer must apply to a district court for an order placing the election records in the court's custody for examination by the officer.

(c) The application for impoundment must be filed with the district court of the county in which the election was held or an adjoining county. An application for records of a statewide election may be filed in the county in which the election was held, an adjoining county, or Travis County.

(d) On the filing of an application, the district judge shall issue an order impounding the records in a secure place under the terms and conditions the judge considers necessary to keep them under his custody and control during the examination and for any additional time the judge directs. (V.T.E.C. Art. 9.02(1).)

Sec. 273.004. **EXAMINATION OF IMPOUNDED RECORDS.** (a) The examination of impounded election records shall be conducted in the same manner as a court of inquiry.

(b) Impounded election records must be examined in the presence of the district judge ordering the impoundment or a grand jury, as provided by the judge's order. (V.T.E.C. Art. 9.02(1).)

[Sections 273.005-273.020 reserved for expansion]

SUBCHAPTER B. PROSECUTION BY ATTORNEY GENERAL

Sec. 273.021. **PROSECUTION BY ATTORNEY GENERAL AUTHORIZED.** (a) The attorney general may prosecute a criminal offense prescribed by the election laws of this state if the offense occurs in connection with an election covering territory in more than one county.

(b) The attorney general may appear before a grand jury in connection with an offense he is authorized to prosecute under Subsection (a).

(c) The authority to prosecute prescribed by this subchapter does not affect the authority derived from other law to prosecute the same offenses. (V.T.E.C. Art. 9.02(2).)

Sec. 273.022. **COOPERATION WITH LOCAL PROSECUTOR.** The attorney general may direct the county or district attorney serving the county in which the offense is to be prosecuted to prosecute an offense that the attorney general is authorized to prosecute under Section 273.021 or to assist the attorney general in the prosecution. (V.T.E.C. Art. 9.02(2).)

Sec. 273.023. **SUBPOENA.** (a) A subpoena or subpoena duces tecum issued in connection with a prosecution under this subchapter is effective if served anywhere in this state.

(b) A witness may not be punished for failure to comply with a subpoena issued under this subchapter unless the proper fees are tendered to the witness as required by statute or court rule.

(c) The attorney general may direct the Department of Public Safety to serve a subpoena under this subchapter. (V.T.E.C. Art. 9.02(3).)

Sec. 273.024. **VENUE.** An offense under this subchapter may be prosecuted in the county in which the offense was committed or an adjoining county. If the offense is committed in connection with a statewide election, the offense may be prosecuted in the county in which the offense was committed, an adjoining county, or Travis County. (V.T.E.C. Art. 9.02(2).)

[Sections 273.025-273.040 reserved for expansion]

SUBCHAPTER C. EXAMINATION OF BALLOTS BY GRAND JURY

Sec. 273.041. **REQUEST TO EXAMINE BALLOTS.** In the investigation of criminal conduct in connection with an election, a grand jury, on finding probable cause to believe an offense was committed, may request a district judge of the county served by the grand jury to order an examination of the ballots voted in the election. (V.T.E.C. Art. 9.37.)

Sec. 273.042. **ORDER BY DISTRICT JUDGE.** On request of a grand jury for an examination of voted ballots, a district judge may order the custodian of the voted ballots and the custodian of the keys to the ballot boxes to deliver the ballot boxes and the keys to the grand jury. (V.T.E.C. Art. 9.37.)

Sec. 273.043. **CONDUCT OF EXAMINATION.** The examination of ballots under this subchapter shall be conducted in secret before the grand jury. (V.T.E.C. Art. 9.37.)

[Sections 273.044-273.060 reserved for expansion]

SUBCHAPTER D. MANDAMUS BY APPELLATE COURT

Sec. 273.061. **JURISDICTION.** The supreme court or a court of appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election or a political party convention, regardless of whether the person responsible for performing the duty is a public officer. (V.T.C.S. Art. 1735a; New.)

Sec. 273.062. **PROCEEDING TO OBTAIN WRIT.** A proceeding to obtain a writ of mandamus under this subchapter shall be conducted in accordance with the rules pertaining to original proceedings of the court in which the petition is filed. (V.T.C.S. Art. 1735a.)

Sec. 273.063. **VENUE IN COURT OF APPEALS.** (a) A petition to a court of appeals for a writ of mandamus under this subchapter must be filed with the court specified by this section.

(b) A petition pertaining to an election must be filed with the court of the supreme judicial district in which:

(1) the respondent resides, or in which one of them resides if there is more than one respondent, if the election is statewide; or

(2) the territory covered by the election is wholly or partly situated, if the election is not statewide.

(c) A petition pertaining to a political party convention must be filed with the court of the supreme judicial district in which:

(1) the respondent resides, or in which one of them resides if there is more than one respondent, for a state convention;

(2) the territory represented by the convention delegates is wholly or partly situated, for a district convention; or

(3) the precinct or county is situated, for a precinct or county convention. (V.T.C.S. Art. 1735a.)

[Sections 273.064-273.080 reserved for expansion]

SUBCHAPTER E. INJUNCTION

Sec. 273.081. **INJUNCTION.** A person who is being harmed or is in danger of being harmed by a violation or threatened violation of this code is entitled to appropriate injunctive relief to prevent the violation from continuing or occurring. (V.T.E.C. Arts. 1.07, 14.14.)

CHAPTER 274. CONSTITUTIONAL AMENDMENTS

SUBCHAPTER A. AMENDMENT ON BALLOT

Sec. 274.001. **FORM OF AMENDMENT ON BALLOT**

Sec. 274.002. **DRAWING FOR BALLOT ORDER**

Sec. 274.003. **CERTIFYING AMENDMENT FOR PLACEMENT ON BALLOT**

[Sections 274.004-274.020 reserved for expansion]

SUBCHAPTER B. PUBLISHING NOTICE OF PROPOSED AMENDMENT

Sec. 274.021. **NOTICE OF PROPOSED AMENDMENT REQUIRED**

Sec. 274.022. **CONTRACT FOR PUBLICATION**

Sec. 274.023. **TEXT OF NOTICE**

Sec. 274.024. **REPORT ON NOTICE PUBLICATION TO SECRETARY OF STATE**

Sec. 274.025. **ACTION ON REPORT BY SECRETARY OF STATE**

Sec. 274.026. **STATE PAYMENT FOR PUBLICATION**

Sec. 274.027. **AMOUNT OF STATE PAYMENT**

Sec. 274.028. **COMMISSION RETAINED BY ASSOCIATION**

CHAPTER 274. CONSTITUTIONAL AMENDMENTS

SUBCHAPTER A. AMENDMENT ON BALLOT

Sec. 274.001. **FORM OF AMENDMENT ON BALLOT.** (a) If the legislature fails to prescribe the wording of the proposition submitting a proposed constitutional amendment, the secretary of state shall prescribe it.

(b) The proposition prescribed by the secretary of state must describe the proposed amendment in terms that clearly express its scope and character.

(c) The governor shall include the proposition in the proclamation ordering the election at which the constitutional amendment will be submitted. (V.T.E.C. Art. 6.07, Subdiv. 1; New.)

Sec. 274.002. **DRAWING FOR BALLOT ORDER.** (a) If more than one proposed constitutional amendment is to be submitted in an election, the order of the propositions submitting the amendments shall be determined by a drawing as provided by this section.

(b) The secretary of state shall conduct the drawing at a time and place designated by the secretary. The drawing is open to the public.

(c) The secretary of state shall post on the bulletin board for posting notice of a meeting of a state governmental body a notice of the date, hour, and place of the drawing. The notice must remain posted continuously for 72 hours immediately preceding the scheduled time of the drawing.

(d) The propositions submitting the proposed amendments are numbered consecutively, beginning with No. 1, in the order drawn.

(e) Each proposition must appear on the official ballot with its assigned number in the serial order of its number. (V.T.E.C. Art. 6.07, Subdiv. 1; New.)

Sec. 274.003. **CERTIFYING AMENDMENT FOR PLACEMENT ON BALLOT.** (a) For each proposed constitutional amendment, the secretary of state shall certify in writing for placement on the ballot:

- (1) the wording of the proposition submitting the amendment; and
- (2) the proposition's number.

(b) Not later than the 50th day before election day, the secretary of state shall deliver the certification to the authority responsible for having the official ballot prepared in each county. (V.T.E.C. Art. 6.07, Subdiv. 1; New.)

[Sections 274.004-274.020 reserved for expansion]

SUBCHAPTER B. PUBLISHING NOTICE OF PROPOSED AMENDMENT

Sec. 274.021. **NOTICE OF PROPOSED AMENDMENT REQUIRED.** Notice of each proposed constitutional amendment shall be published as required by the constitution in accordance with this subchapter. (V.T.E.C. Art. 6.07, Subdiv. 2.)

Sec. 274.022. **CONTRACT FOR PUBLICATION.** (a) The secretary of state shall contract in writing for the publication of notice of a proposed constitutional amendment with:

- (1) each eligible newspaper; or
- (2) a statewide association of daily and weekly newspapers in this state.

(b) A contract with a statewide association must provide for publication in each eligible newspaper in this state.

(c) In this subchapter, "eligible newspaper" means a newspaper that meets the requirements prescribed by law for the publication of official notices of officers and departments of the state government.

(d) In this subchapter, "contractor" means a newspaper or statewide association with which the secretary of state contracts under this section. (V.T.E.C. Art. 6.07, Subdiv. 2; New.)

Sec. 274.023. **TEXT OF NOTICE.** (a) The secretary of state shall prepare the text of the notice of each proposed constitutional amendment in the form specified by the contract.

(b) The secretary of state shall deliver the text to each contractor by the deadline specified in the contract.

(c) If the contractor is a statewide association, the association shall deliver to each eligible newspaper the materials and instructions necessary for a correct and uniform publication of the notice. (V.T.E.C. Art. 6.07, Subdiv. 2; New.)

Sec. 274.024. **REPORT ON NOTICE PUBLICATION TO SECRETARY OF STATE.** (a) A contractor shall file with the secretary of state a report on the publication of the notice of a proposed constitutional amendment.

(b) The report must include:

- (1) duplicate originals of an affidavit of publication executed by:
 - (A) the owner, editor, or publisher, if the contractor is a newspaper; or
 - (B) the general manager of the association, if the contractor is a statewide association;
 and

(2) a tear sheet of the published notice for each publication date or, if the contractor is a statewide association, a tear sheet of the published notice from each newspaper for each publication date.

(c) The affidavit of publication must contain a statement that the publication of the notice was made in accordance with law and any other statement required by the secretary of state relating to the publication. The affidavit must be made on an officially prescribed form.

(d) In addition to the requirements of Subsection (b), a report filed by a newspaper must include:

- (1) the name of the newspaper in which the notice was published;
- (2) the number of column inches used for the notice;
- (3) the newspaper's published national rate for advertising per column inch;
- (4) the cost of publishing the notice; and
- (5) any other information requested by the secretary of state relating to the publication of the notice.

(e) If the contractor is a statewide association, the report must include the information required by Subsection (d) with respect to each newspaper in which the notice was published.

(f) The report must be filed not later than the 30th day after the date of the last publication of the notice. (V.T.E.C. Art. 6.07, Subdiv. 2.)

Sec. 274.025. ACTION ON REPORT BY SECRETARY OF STATE. (a) On receipt of a report filed under Section 274.024, the secretary of state shall review the report to determine if:

- (1) the affidavit is properly executed; and
- (2) the publication of the notice was made in accordance with law.

(b) If the affidavit is properly executed and the publication was made in accordance with law, the secretary of state shall approve the report. Otherwise, the secretary may not approve the report.

(c) If a contractor's report is not approved, the contractor is not entitled to payment by the state for the publication. The secretary of state for good cause may permit a contractor to amend a report as necessary for approval.

(d) If a report is approved, the secretary of state shall deliver one of the affidavits of publication to the comptroller of public accounts and retain the other for two years after the date the report is approved. The secretary shall enter the amount to be paid to the contractor on the affidavit delivered to the comptroller. (V.T.E.C. Art. 6.07, Subdiv. 2; New.)

Sec. 274.026. STATE PAYMENT FOR PUBLICATION. On receipt of an approved affidavit of publication from the secretary of state, the comptroller of public accounts shall issue a warrant payable to the contractor in the amount specified by the secretary. (V.T.E.C. Art. 6.07, Subdiv. 2.)

Sec. 274.027. AMOUNT OF STATE PAYMENT. The amount paid by the state for publication of notice of a proposed constitutional amendment under this subchapter is as follows:

- (1) for a contractor that is a newspaper, the amount is computed:
 - (A) at 85 percent of the newspaper's published national rate for advertising per column inch if the text of the notice furnished to the newspaper by the secretary of state is in the form of a camera-ready paste-up proof, a matrix, or a printing plate; or
 - (B) at the newspaper's published national rate for advertising per column inch if the text of the notice is not in the form prescribed by Paragraph (A); or
- (2) for a contractor that is a statewide association, the amount is equal to the sum of the costs of publication in each newspaper, computed at the newspaper's published national rate for advertising per column inch. (V.T.E.C. Art. 6.07, Subdiv. 2a.)

Sec. 274.028. COMMISSION RETAINED BY ASSOCIATION. If the secretary of state contracts with a statewide association for publication of the notice of a proposed constitutional amendment, the contract must provide that the association retain a commission out of the amount paid by the state under the contract. The commission must be a stipulated percentage of the state payment that is uniformly applied against each newspaper. (V.T.E.C. Art. 6.07, Subdiv. 2a(b).)

CHAPTER 275. ELECTION FOR OFFICERS OF CITY WITH 200,000 POPULATION

Sec. 275.001. APPLICABILITY OF CHAPTER

Sec. 275.002. MAJORITY VOTE REQUIRED

Sec. 275.003. ELECTION BY PLACE REQUIRED

CHAPTER 275. ELECTION FOR OFFICERS OF CITY WITH 200,000 POPULATION

Sec. 275.001. APPLICABILITY OF CHAPTER. This chapter applies only to a city with a population of 200,000 or more. (V.T.E.C. Art. 7.16, Sec. 1.)

Sec. 275.002. **MAJORITY VOTE REQUIRED.** To be elected to a city office, a candidate must receive a majority of the total number of votes received by all candidates for the office. (V.T.E.C. Art. 7.16, Sec. 1(a).)

Sec. 275.003. **ELECTION BY PLACE REQUIRED.** (a) When a city attains a population of 200,000 or more, the city shall establish a system of electing its governing body in accordance with this section if in the city's general elections more than one member of its governing body is elected from the same set of candidates.

(b) Not later than the 60th day before the date of the first general election held in accordance with this section, the city's governing body shall assign a place number to each position on the governing body that is to be elected from the same territory as another position, identifying it by the name of the incumbent at the time the assignment is made.

(c) One person shall be elected to fill each position for which a place number appears on the ballot.

(d) The city shall use the place system required by this section until the city establishes another system of election that is consistent with an election by majority vote. (V.T.E.C. Art. 7.16, Sec. 3; New.)

CHAPTER 276. MISCELLANEOUS OFFENSES AND OTHER PROVISIONS

Sec. 276.001. **RETALIATION AGAINST VOTER**

Sec. 276.002. **UNLAWFULLY TRANSPORTING VOTER TO POLLS**

Sec. 276.003. **UNLAWFUL REMOVAL FROM BALLOT BOX**

Sec. 276.004. **UNLAWFULLY PROHIBITING EMPLOYEE FROM VOTING**

Sec. 276.005. **VOTER'S PRIVILEGE FROM ARREST**

CHAPTER 276. MISCELLANEOUS OFFENSES AND OTHER PROVISIONS

Sec. 276.001. **RETALIATION AGAINST VOTER.** (a) A person commits an offense if, in retaliation against a voter who has voted for or against a candidate or measure or a voter who has refused to reveal how he voted, the person knowingly:

(1) harms or threatens to harm the voter by an unlawful act; or

(2) with respect to a voter over whom the person has authority in the scope of employment, subjects or threatens to subject the voter to a loss or reduction of wages or another benefit of employment.

(b) An offense under this section is a felony of the third degree. (V.T.E.C. Art. 15.73.)

Sec. 276.002. **UNLAWFULLY TRANSPORTING VOTER TO POLLS.** (a) A person commits an offense if the person:

(1) hires a vehicle or another person to operate a vehicle for the purpose of transporting another person to a polling place to vote; or

(2) rewards another person in money or other thing of value for procuring a vehicle or operator for that purpose.

(b) An offense under this section is a Class C misdemeanor. (V.T.E.C. Art. 15.71; New.)

Sec. 276.003. **UNLAWFUL REMOVAL FROM BALLOT BOX.** (a) A person commits an offense if the person removes or attempts to remove voted ballots from a ballot box in a manner not authorized by law.

(b) An offense under this section is a Class A misdemeanor unless the person is convicted of an attempt. In that case, the offense is a Class B misdemeanor. (V.T.E.C. Arts. 8.20, 15.29, 15.61; New.)

Sec. 276.004. **UNLAWFULLY PROHIBITING EMPLOYEE FROM VOTING.** (a) A person commits an offense if, with respect to another person over whom the person has authority in the scope of employment, the person knowingly:

(1) refuses to permit the other person to be absent from work for the purpose of attending the polls to vote; or

(2) subjects or threatens to subject the other person to a penalty for attending the polls to vote.

(b) It is an exception to the application of this section that the person's conduct occurs in connection with an election in which the polls are open for voting for two consecutive hours outside of the voter's working hours.

(c) In this section, "penalty" means a loss or reduction of wages or another benefit of employment.

(d) An offense under this section is a Class C misdemeanor. (V.T.E.C. Art. 15.14; New.)

Sec. 276.005. VOTER'S PRIVILEGE FROM ARREST. A voter may not be arrested during the voter's attendance at an election and while going to and returning from a polling place except for treason, a felony, or a breach of peace. (V.T.E.C. Art. 8.26.)

SECTION 2. AMENDMENT. Section 128, Texas Election Code (Article 8.46, Vernon's Texas Election Code), is transferred to the Revised Statutes, to be redesignated as Article 6252-9aa and to read as follows:

"Article 6252-9aa [128]. DEATH OF GOVERNOR-ELECT OR DEATH OR INCAPACITY OF GOVERNOR-ELECT AND LIEUTENANT GOVERNOR-ELECT. (a) Pursuant to the provisions of Article IV, Section 3a, of the Constitution of the State of Texas, the successor to the office of Governor shall be as follows:

"If, at the time the Legislature shall canvass the election returns for the offices of Governor and Lieutenant Governor, the person receiving the highest number of votes for the office of Governor, as declared by the Speaker, has died, then the person having the highest number of votes for the office of Lieutenant Governor shall act as Governor until after the next general election.

"(b) It is further provided that in the event that both the Governor-elect and the Lieutenant Governor-elect die or have become permanently incapacitated to take their oaths of office at the time when the Legislature shall canvass the election returns for the offices of Governor and Lieutenant Governor, and the Legislature finds that neither the Governor-elect nor the Lieutenant Governor-elect are able to take the oath of office and fulfill the duties thereof, then the Speaker of the House of Representatives and the President pro tem of the Senate will call a joint session of the House of Representatives and Senate for the purpose of electing a Governor and Lieutenant Governor.

"(c) The person receiving the highest number of votes cast by the Members of the Legislature for the office of Governor shall become the Governor and hold that office until the next general election, at which time the unexpired two-year remainder of the term shall be filled by election. The person receiving the highest number of votes for the office of Lieutenant Governor cast by the Members of the Legislature, shall become Lieutenant Governor and hold that office until the next general election, at which time the unexpired two-year remainder of the term shall be filled by election."

SECTION 3. AMENDMENT. Section 1, Chapter 549, Acts of the 60th Legislature, Regular Session, 1967 (Article 29e, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. (a) In addition to other required notice and if not otherwise required by law to give notice by publication, any school board, county commissioners court, or governing board of a city shall publish notice not more than 30 days nor less than 10 days before a public hearing relating to fiscal budgets [or a regular or special election]. Except as provided by Subsection (b) of this section, the notice shall be published in at least one newspaper of general circulation in the county in which the board or court is located.

"(b) A school board shall publish notice in a daily, weekly, or biweekly newspaper published within the boundaries of the district. If no daily, weekly, or biweekly newspaper is published within the boundaries of the district, the school board shall publish notice in accordance with Subsection (a) of this section."

SECTION 4. AMENDMENT. Title 1, Revised Statutes, is amended by adding Articles 16a and 16b to read as follows:

"Article 16a. CERTIFICATION OF COUNTY AND PRECINCT OFFICERS-ELECT TO SECRETARY OF STATE. (a) On or immediately after January 1 following a general election for state and county officers, each county clerk shall deliver to the secretary of state a certified statement containing:

"(1) the name of each candidate elected to a county or precinct office;

"(2) the office to which the candidate has been elected; and

"(3) the date of the person's qualification for office.

"(b) The secretary of state shall prescribe the necessary forms and instructions for the transmittal of the statement.

"Article 16b. GOVERNOR TO COMMISSION OFFICERS. (a) The governor shall issue a commission to each elected or appointed officer of the state or county government, except the governor, the lieutenant governor, a state senator, or a state representative, who has qualified for office.

"(b) The secretary of state shall perform the ministerial duties incidental to the administration of this article."

SECTION 5. AMENDMENT. (a) If the proposed Judicial Title of the Government Code is not enacted by the 69th Legislature or does not become law, Section 6, Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 6. It shall be the duty of any district judge of any district within the Administrative District to diligently discharge the administrative responsibilities of office, to rule on a case within three months after that case has been taken under advisement, to extend the regular terms of his court, and to call special terms, when necessary to carry out the purposes of this Act and dispose of pending litigation. It shall also be the duty of a district judge in whose court a ~~an election contest or~~ suit brought for the removal of a local official is filed to request the Presiding Judge of the Administrative Judicial District to assign a judge of the Administrative District who is not a resident of the county to hold a special or regular term of court in that county in order to dispose of such suits. A district judge shall request the Presiding Judge to assign a judge of the Administrative District to hear any motions to recuse such district judge from a case pending in his court. If the term be extended as herein provided no other term of the court in such district shall fail because of said extension, but such other terms may be opened and held as usual. The Presiding Judge of one Administrative District may call upon the Presiding Judge of another Administrative District to furnish judges to aid in the disposition of litigation pending in any judicial district within the Administrative District in which such judge so making the request has been designated as the Presiding Judge. For the trial of cases and the entry of orders and the disposition of other business necessary, the judge of any district in this State, or any District Judge sent to any district in this State by the Presiding Judge of an Administrative District, shall have power, by entering an order on the minutes, to convene a special term of the court for the disposition of the business coming before the district court."

(b) If the proposed Judicial Title of the Government Code is enacted by the 69th Legislature and becomes law, Subsection (c), Section 74.036, Judicial Title, Government Code, is amended to read as follows:

"(c) A district judge shall:

"(1) diligently discharge the administrative responsibilities of the office;

"(2) rule on a case within three months after the case is taken under advisement;

"(3) request the presiding judge to assign another judge of the administrative district to hear a motion relating to the recusal of the district judge from a case pending in his court; and

"(4) if a ~~an election contest or~~ suit for the removal of a local official is filed in his court, request the presiding judge to assign another judge of the administrative district who is not a resident of the county to hold a regular or special term of court in that county to dispose of the suit."

SECTION 6. AMENDMENT. Section 251.55, Alcoholic Beverage Code, is amended to read as follows:

"Section 251.55. ELECTION CONTEST. (a) ~~[A qualified voter of the county, justice precinct, or incorporated city or town where a local option election is held may contest the election any time within 30 days after the result of that election is declared.~~

~~"[(b)] The enforcement of local option laws in the political subdivision in which an [the] election is being contested is not suspended during an [the] election contest.~~

~~"[(c)] The district court of the county in which the election is held has original and exclusive jurisdiction of all suits to contest the election. The district court has jurisdiction to try and determine all matters connected with the election. If it appears from the evidence that such irregularities existed in bringing about or holding the election that the true result of the election is impossible to determine or the result is very doubtful, the court shall hold the election to be void and order the proper officer to order another election to be held by having a certified copy of the judgment and order of the court to be delivered to that officer.~~

~~"[(d)] The election contest is conducted in the same manner as an election contest of a general election.~~

~~"[(e)] Election contests have precedence in the appellate courts.~~

~~"[(b)] [(f)] The result of an election contest finally settles all questions relating to the validity of that election. No person may call the legality of that election in question again in any other suit or proceeding.~~

~~"[(c)] [(g)] If no election contest is timely instituted [within the 30/day time limit], it is conclusively presumed that that election is valid and binding in all respects upon all courts."~~

SECTION 7. AMENDMENT. Section 19.003, Education Code, is amended by adding Subsection (h) to read as follows:

"(h) *The expenses of the election shall be paid by the appropriate school district or districts.*"

SECTION 8. AMENDMENT. If neither H.B. No. 2338 nor S.B. No. 1068, Acts of the 69th Legislature, Regular Session, 1985, revising Chapter 14 of the Texas Election Code, is enacted or becomes law, Chapter 14, Texas Election Code, is transferred to Title 15, Election Code, amended, and renumbered to read as follows:

“TITLE 15. REGULATING POLITICAL

FUNDS AND CAMPAIGNS

“CHAPTER 251. REGULATING POLITICAL FUNDS AND CAMPAIGNS

“[CHAPTER FOURTEEN//LIMITING CAMPAIGN EXPENDITURES]

“Section 251.001 [237]. DEFINITIONS. As used in this chapter--

“(1) [(A)] ‘Candidate’ is defined as any person who has knowingly and willingly taken affirmative action for the purpose of seeking nomination or election to any public office which is required by law to be determined by an election. Some examples of affirmative action are:

“(A) [1-] Filing of application for a position on a ballot.

“(B) [2-] Filing of application for nomination by a convention [under Section 224a of this code].

“(C) [3-] Independent candidate’s declaration of intent [under Section 224a of this code].

“(D) [4-] Public announcement of a definite intent to run for office at a particular election, either with or without designating the specific office to be sought.

“(E) [5-] Statement of definite intent and solicitation of support through letters or other modes of communication, prior to a public announcement.

“(F) [6-] Solicitation of or acceptance of a contribution for use in a future election.

“(G) [7-] Seeking the nomination of an executive committee of a political party to fill a vacancy [pursuant to Section 233 of this code (Article 13.56, Vernon’s Texas Election Code)].

“(H) [8-] Filing of a designation of a campaign treasurer.

“(2) [(B)] ‘Office-holder’ is defined as any person serving in a public office as defined herein and any other constitutionally designated member of the Executive Department.

“(3) [(C)] ‘Corporation’ is defined as every organization organized or operating under authority of the Texas Business Corporation Act or the Texas Non-Profit Corporation Act, any corporation or association organized by authority of any law of Congress or of any other state or nation than Texas, national, state, private or unincorporated banks, trust companies, building and loan associations or companies, insurance companies, reciprocal or interinsurance exchanges, railroad companies, cemetery companies, cooperatives, abstract and title insurance companies, and stock companies. However, any political committee whose only principal purpose is to accept contributions and to make expenditures, as defined in this section, shall not be deemed to be a corporation under the provisions of this chapter if such committee is incorporated for liability purposes only. Incorporation of a political committee shall not relieve any person of any liability, duty, or obligation created pursuant to any provision of this [the Texas Election] Code.

“(4) [(D)] ‘Contribution’ is defined as:

“(A) [(1)] any advance, loan, deposit or transfer of funds, goods, services or any other thing of value, or any contract or obligation, whether enforceable or unenforceable, to transfer any funds, goods, services, or anything of value to any candidate, or political committee, which advance or other such item is involved in an election; providing that an individual or group of persons is involved in an election upon the receipt of a contribution or the making of an expenditure which was given or made and received with the intent that it be used or held for some election and that the receipt of or making of the contribution or expenditure may occur before, during, or after an election; or as

“(B) [(2)] any advance, deposit or transfer of funds, goods, services or anything of value or creation of any contract or obligation, enforceable or unenforceable, to transfer any funds, goods, services, or anything of value knowingly accepted by any office-holder for the purpose of assisting such person in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision. ‘Contribution’ does not include an honorarium to a public servant that is excluded from the application of penal sanction by Section 36.10(3) of the Penal Code.

“(5) [(E)] ‘Expenditures’ is defined as any payments made or obligations incurred:

“(A) [(1)] by a candidate, or political committee, when such payments or obligations are involved in an election; or

“(B) [(2)] by an office-holder, when such payments are made in the performance of duties or activities in connection with the office which are nonreimbursable by the state or the political subdivision. ‘Involved in an election’ has the same meaning as in (4) [(D)] above.

“(6) [(F)] ‘Election’ is defined as any election held to nominate or elect a candidate to any public office. It shall also include any election at which a measure is submitted to the people.

“(7) [(G)] ‘Public office’ is defined as any office created by or under authority of the laws of this state, that is filled by the voters.

“(8) [(H)] ‘State office’ is defined as any public office of the state government which is to be filled by the choice of the voters of the entire state, except presidential electors.

“(9) [(I)] ‘District office’ is defined as any public office of the state government, less than state-wide, which is to be filled by the choice of the voters residing in more than one county, and the offices of State Senator, State Representative, and State Board of Education.

“(10) [(J)] ‘County office’ is defined as any public office of the state or county government which is to be filled by the choice of the voters residing in only one county or less than one county, except for those offices specifically enumerated as district offices above.

“(11) [(K)] ‘Municipal office’ is defined as any public office of any incorporated city, town, or village which is to be filled by the choice of the voters.

“(12) [(L)] ‘Office of a political subdivision’ is defined as any public office of any political subdivision of this state which is organized as a body politic and has a governing board or body, except counties, cities, towns and villages, which is to be filled by the choice of the voters residing in that subdivision.

“(13) [(M)] ‘Measure’ is defined as any proposal submitted to the people for their approval or rejection at an election, including any proposed law, Act or part of an Act of the legislature, revision of or amendment to the constitution, local, special, or municipal legislation or proposition or ballot question.

“(14) [(N)] ‘Person’ is defined as an individual, corporation, partnership, labor union or labor organization, or any unincorporated association, firm, committee, club, or other organization or group of persons including any group of persons associated with a political party or element thereof.

“(15) [(O)] ‘Political committee’ is defined as any group of persons:

“(A) [(1)] formed to collect contributions or make expenditures in support for or in opposition to a candidate or candidates, whether presently identifiable or not, or a measure or measures, whether presently identifiable or not, on a ballot in a public election; or

“(B) [(2)] formed to collect contributions or make expenditures for office holders whether presently identifiable or not.

“(16) [(P)] ‘Specific purpose political committee’ is defined as:

“(A) [(1)] any political committee which accepts only contributions and/or makes only expenditures in support for or in opposition to candidates who are identifiable and for whom the office(s) to be sought are known and any political committee only accepting contributions and/or making expenditures in support for or in opposition to measures which are identifiable; or

“(B) [(2)] any political committee which accepts only contributions and/or makes only expenditures in assisting identifiable office-holders.

“(17) [(Q)] ‘General purpose political committee’ is defined as:

“(A) [(1)] any political committee which accepts contributions and/or makes expenditures in support for or in opposition to candidates who are indefinite in identity or for whom the office(s) to be sought are unknown and any political committee which accepts contributions and/or makes expenditures in support for or in opposition to measures which are indefinite in identity; or

“(B) [(2)] any political committee which accepts contributions and/or makes expenditures in assisting office-holders, who are not identified.

“(18) [(R)] ‘Political advertising’ is defined as anything in favor of or in opposition to any candidate for public office or office of a political party, or in favor of or in opposition to any political party, or in favor of or in opposition to the success of any public officer, or in favor of or in opposition to any measure submitted to a vote of the people, which is communicated in any of the following forms:

“(A) [(1)] anything published in a newspaper, magazine, or journal or broadcast over a radio or television station in consideration of money or other thing of value; or

“(B) [(2)] any handbill, pamphlet, circular, flier, commercial billboard sign, bumper sticker, or similar printed material.

"The term does not include nonpolitical letterheads, ordinary printed invitations to and tickets for fund-raising events or other affairs, campaign pins, buttons, fingernail files, matchbooks, emblems, hats, pencils, and similar materials.

"Section 251.002 [238]. APPOINTMENT OF CAMPAIGN TREASURER. (a) [(A)] Notwithstanding the following subsections of this section, no designation of a campaign treasurer shall be required in order that an office-holder accept contributions or make expenditures as defined in Sections 251.001(4)(B) and (5)(B) [Section 237(D)(2), Texas Election Code, as amended (Article 14.01(D)(2), Vernon's Texas Election Code) and Section 237(E)(2), Texas Election Code, as amended (Article 14.01(E)(2), Vernon's Texas Election Code)]. Unexpended campaign contributions, as defined in Section 251.001(4)(A) [Subsection (D)(1) of Section 237], which are lawfully accepted, may be used by an office-holder for expenditures in connection with the office pursuant to Section 251.001(5)(B) [subsection (E)(2) of Section 237]. Notwithstanding the requirement set forth in Subsection (f) [subsection (F)(1) of this section, any contribution as defined in Section 251.001(4)(B) [Section 237(D)(2), Texas Election Code, as amended (Article 14.01(D)(2), Vernon's Texas Election Code)] that has been lawfully accepted prior to the designation of a campaign treasurer may be utilized as campaign contributions after such designation.

"(b) [(B)] (1) Every candidate for nomination to or election to a state or district office and every specific purpose political committee in any such election or in an election involving a statewide or district measure and every general purpose political committee shall designate a campaign treasurer by written appointment filed with the Secretary of State, and may also designate assistant campaign treasurers for each county by written appointment to be filed either with the county clerk of said county, or the Secretary of State.

"(2) Each specific purpose political committee in an election involving a state or district office or a statewide or district measure and each general purpose political committee may also designate an assistant campaign treasurer to act in the absence of the political committee's campaign treasurer. The written appointment of the assistant campaign treasurer must be filed with the Secretary of State.

"(c) [(C)] Every candidate for nomination to or election to a county office and every specific purpose political committee in any such election or in an election involving a county measure shall designate a campaign treasurer by written appointment to be filed with the county clerk of such county.

"(d) [(D)] Every candidate for nomination to or election to a municipal office or an office of a political subdivision and every specific purpose political committee in any such election or in an election involving a measure of a municipality or political subdivision shall designate a campaign treasurer by written appointment to be filed with the clerk or secretary of the municipality or political subdivision and, if the political subdivision extends beyond the boundaries of one county, may also designate assistant campaign treasurers for each county affected by such candidacy.

"(e) [(E)] Any campaign treasurer or assistant campaign treasurer designated as provided in this Section may be removed by the candidate or political committee at any time by the written appointment of a successor filed in the manner provided for the original designations.

"(f) [(F)] (1) Except as expressly permitted in this chapter, no contribution as defined in Section 251.001(4)(A) [Section 237(D)(1)] shall be accepted nor any expenditure, as defined in Section 251.001(5)(A) [Section 237(E)(1)], including the paying of any filing fee, made by an individual until he has filed the name of his campaign treasurer with the appropriate authority. No contribution shall be accepted nor any expenditure made by a political committee until it has filed the name of its campaign treasurer with the appropriate authority. If it is not otherwise possible for a candidate or specific purpose political committee to determine which authority is appropriate for the filing of campaign treasurer designation, then a filing with the Secretary of State shall be sufficient, but only until such time as the appropriate authority may be determined in accordance with Subsections (b) [(B)], (c) [(C)], and (d) [(D)] of this Section.

"[(2) It is unlawful for a political committee to make a contribution or an expenditure in support of or in opposition to a candidate for a state or district office in a primary or general election unless the committee's designation of campaign treasurer has been filed before the 30th day preceding the appropriate election day.]

"(2) It is unlawful for a political committee to make a contribution or an expenditure in support for or in opposition to a candidate for a state or district office in a primary or general election unless the committee's designation of campaign treasurer has been filed before the 30th day preceding the appropriate election day.

"(g) [(G)] It shall be unlawful for any candidate, political committee, campaign treasurer, assistant campaign treasurer, or any other person to expend funds from any unlawful contributions.

“(h) [(H)] Nothing in this Act shall be construed to prohibit a candidate from appointing himself or herself as the campaign treasurer.

“(i) [(I)] An individual intending to become a candidate for public office may file a designation of campaign treasurer before taking any affirmative action for the purpose of seeking nomination or election.

“(j) [(J)] A designation of a campaign treasurer or an assistant campaign treasurer shall be deemed to be timely filed if it is placed in the United States Post Office properly addressed to the appropriate authority within the time limits applicable to such designation. The postmark will be prima facie evidence of the date that such statement was deposited with the post office. The person filing the designation may show by competent evidence that the actual date of posting was to the contrary. No charge shall be made for filing designations of campaign treasurer or assistant campaign treasurer with any authority.

“Section 251.003 [239]. CAMPAIGN CONTRIBUTIONS. (a) [(A)] It shall be lawful for an individual not acting in concert with any other person to expend a sum in a campaign which shall not in the aggregate exceed \$100 per election for any lawful purpose out of his own funds to aid or defeat any candidate or measure, where the sum is not to be repaid to him. Such a sum will not be reportable to any authority unless it constitutes a contribution. If an individual not acting in concert with any person wishes to expend more than \$100 for any lawful purpose out of his own funds to aid or defeat any candidate or candidates or measures, he may do so either by making a contribution or by complying with all of the provisions of this chapter as if he were a campaign treasurer of a political committee.

“(b) [(B)] It shall be lawful for any individual to donate his own personal services and personal traveling expenses to aid or defeat any candidate or measure and such a donation shall not constitute a contribution or expenditure, as defined in Section 251.001 [Section 237 of this code] only so long as he either is not compensated or reimbursed for same.

“(c) [(C)] It shall be unlawful for any person to make any contribution or expenditure in the name of another or on behalf of another without revealing that fact in order that the proper disclosure may be made.

“(d) [(D)] Except as expressly permitted by Subsections (a) [Paragraphs (A)], (b) [(B)], and (e) [(E)] of this Section it shall be unlawful for any person, other than a candidate, his campaign treasurer, or assistant campaign treasurer, or the campaign treasurer of a political committee, to make or authorize any campaign expenditure. Except as provided in Subsections (a) [Paragraphs (A)], (b), [(B)] and (e) [(E)] of this Section, campaign expenditures must be made by the candidate, campaign treasurer, or assistant campaign treasurer, or the campaign treasurer of a political committee.

“(e) [(E)](1) It shall be lawful for a corporation or a labor organization to expend its own funds for the purpose of aiding or defeating a measure by making a contribution to a political committee that supports or opposes measures exclusively.

“(2) It shall be lawful for a corporation or labor organization, not acting in concert with any other person, to make direct expenditures from its own funds for the purpose of aiding or defeating a measure by complying with this Section as if the corporation or labor organization were an individual.

“Section 251.004 [239a]. FORM OF CONTRIBUTION. It is unlawful for a person except a general purpose political committee to accept a single contribution from a person in the form of cash that exceeds \$100.

“Section 251.005 [239b]. RESTRICTION ON CONTRIBUTIONS TO CERTAIN OFFICE-HOLDERS DURING REGULAR SESSION. (a) It is unlawful for a person to make a contribution to a person who holds a state office or to a member of the legislature, or to a specific-purpose political committee that supports or assists a person who holds a state office or a member of the legislature, during a period beginning on the 30th day before the day a regular session of the legislature is convened and continuing through the day of final adjournment.

“(b) It is unlawful for a person who holds a state office, a member of the legislature, or a specific-purpose political committee that supports or assists either a person who holds a state office or a member of the legislature to accept a contribution during the period prescribed in Subsection (a) of this section.

“(c) This section does not apply to a contribution that was made and accepted with the intent that it be used in an election held or called during the period prescribed in Subsection (a) of this section in which the person accepting the contribution is a candidate if the contribution was made after the person has designated a campaign treasurer for the office sought and before the person was sworn in to that office.

“Section 251.006 [239c]. STATE OFFICER-ELECT AND LEGISLATOR-ELECT CONSIDERED OFFICE-HOLDER. (a) For purposes of this chapter, a state officer-elect or a member-elect of the legislature is considered an office-holder beginning on the day after the day of the general or special election in which the officer-elect or member-elect was elected.

“(b) This section does not relieve the state officer-elect or the member-elect of any reporting responsibilities he may have as a candidate under *Section 251.011* [~~Section 243 of this code (Article 14.07, Vernon's Texas Election Code)~~].

“~~Section 251.007 [230d]~~. PROHIBITION OF PERSONAL USE OF CONTRIBUTIONS. (a) A person who accepts a contribution as a candidate or office-holder shall not convert such contributions to personal use except as authorized by the State Ethics Advisory Commission.

“(b) In this section, ‘personal use’ means a use which primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. The term does not include any payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a holder of public office including payment of rent, interest, utility, and other reasonable housing or household expenses incurred in maintaining a residence in Travis County by members of the legislature who do not ordinarily reside in Travis County.

“(c) This section applies only to contributions accepted *on or after September 1, 1983* [~~the effective date of this Act~~].

“(d) A person who converts a contribution to his personal use in violation of this section is civilly liable to the State of Texas for an amount equal to the amount of the converted contribution plus reasonable court costs.

“~~Section 251.008 [240]~~. CIVIL REMEDY. (a) [~~(A)~~] Any person who knowingly makes or knowingly accepts an unlawful campaign contribution or who knowingly makes an unlawful expenditure in support of a candidate shall be civilly liable to each opposing candidate whose name appeared on the ballot in the election in which the unlawful contribution or expenditure was involved for double the amount or value of such unlawful campaign contribution or expenditure and reasonable attorneys fees for collecting same.

“(b) [~~(B)~~] Any person who knowingly makes or knowingly accepts an unlawful campaign contribution or expenditure not expressly supporting any candidate but opposing a particular candidate or candidates shall be civilly liable to each of such opposed candidates for double the amount or value of such unlawful campaign contribution or expenditure and reasonable attorneys fees for collecting same.

“(c) [~~(C)~~] Any person who knowingly makes or knowingly accepts an unlawful contribution or expenditure shall, in addition to any other penalties, be civilly liable to the State of Texas for an amount equal to triple the amount or value of such unlawful contribution or expenditure.

“~~Section 251.009 [241]~~. CRIMINAL PENALTY. Any person who knowingly makes or knowingly accepts an unlawful contribution or who knowingly makes an expenditure in violation of this Chapter shall be guilty of a Class A misdemeanor unless otherwise provided by law.

“~~Section 251.010 [242]~~. CORPORATIONS AND LABOR ORGANIZATIONS NOT TO CONTRIBUTE. (a) [~~(A)~~] It is unlawful for any corporation, as defined in *Section 251.001* [~~this Act~~], to make a contribution or expenditure, as defined in *Section 251.001* [~~Section 237 of this code (Article 14.01, Vernon's Texas Election Code)~~], or any labor organization to make a contribution or expenditure, or for any candidate, office-holder, political committee, or other person to knowingly accept any contribution prohibited by this section [~~Article~~] except that a corporation or labor organization may make a contribution or expenditure for the purpose of aiding or defeating a measure in accordance with *Section 251.003* [~~Section 239 of this code (Article 14.03, Vernon's Texas Election Code)~~].

“(b) [~~(B)~~] For the purpose of this section, ‘labor organization’ means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

“(c) [~~(C)~~] As used in this section, the phrase ‘contribution or expenditure’ shall also include giving, lending, or paying any money or other thing of value, directly or indirectly, to any candidate, or political committee, campaign treasurer, assistant campaign treasurer, or any other person, for the purpose of aiding or defeating the nomination or election of any candidate; provided, however, that nothing in this section shall prevent the making of a loan or loans to any candidate, office-holder, or political committee, for campaign or other lawful purposes by any corporation which is legally engaged in the business of lending money and which has conducted such business continuously for more than one year prior to the making of such loan, provided the loan is made in the due course of business and is not directly or indirectly a contribution. As used in this chapter, the phrase ‘contribution or expenditure’ shall not include expenditures for the following purposes: communications, on any subject, by a corporation to its stockholders and their families or, if the corporation is an association, to its members and their families, or by

a labor organization to its members and their families; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or, if the corporation is an association, at its members and their families, or by a labor organization aimed at its members and their families; or the establishment, administration and solicitation of contributions from the members and their families of one or more labor organizations, or from the stockholders, employees and their families of one or more corporations, or from the members and their families of one or more associations to a separate segregated fund or other general purpose political committee to be utilized for political purposes by one or more corporations or one or more labor organizations. It is provided that it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, or financial reprisals, or by threats thereof, or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in a commercial transaction.

“(d) ~~(D)~~ Any corporation or labor organization making or promising a gift, loan, or payment to any candidate, political committee, campaign treasurer, assistant campaign treasurer, or other person in violation of this section shall be civilly liable for double the amount or value of such loan or gift, promised or made, to each opponent of the candidate, or political committee, opposed by such gift, loan, or payment. An opponent of the candidate is an opposing candidate whose name appeared on the ballot in the election in which the unlawful gift, loan, or payment was involved. The corporation or labor organization shall be civilly liable to the State of Texas for an amount equal to triple the amount or value of any unlawful gift, loan, or payment to any candidate, office-holder, political committee, campaign treasurer, or assistant campaign treasurer.

“(e) ~~(E)~~ Any corporation or labor organization that violates Subsection (a) ~~(A)~~, (b) ~~(B)~~, or (c) ~~(C)~~ of this section shall be guilty of a felony of the third degree.

“(f) ~~(F)~~ Every officer or director of any corporation or labor organization who shall consent to any such unlawful gift, loan, or payment or such unlawful promise to give, lend, or pay by the corporation or labor organization shall be guilty of a felony of the third degree.

“(g) ~~(G)~~ Any candidate, office-holder, political committee, campaign treasurer, or assistant campaign treasurer who knowingly accepts such unlawful gift, loan, or payment from a corporation or labor organization shall be guilty of a felony of the third degree.

“Section 251.011 ~~(213)~~. RECORDS AND SWORN STATEMENT. (a) ~~(A)~~ Each candidate, office-holder, and political committee, or a campaign treasurer representing the same, is hereby required to keep an accurate record of contributions received, and of all expenditures made. Such record shall contain all information hereinafter required to be reported by such candidate, office-holder, or political committee.

“(b) ~~(B)~~ Each candidate whose name is printed on the ballot, each person who, after having become a candidate, has withdrawn as a candidate, each write-in candidate taking affirmative action in an election and each political committee involved in an election concerning a candidate or measure shall file sworn statements as required herein. Each office-holder and political committee as defined in Section 251.001(15)(B), (16)(B), or (17)(B) ~~[Subsections (O)(2), (P)(2), or (Q)(2) in Section 237 of this Code.]~~ shall file sworn statements as required herein.

“(c) ~~(C)~~ (1) Each statement filed by a candidate, office-holder, political committee, or the political committee's campaign treasurer must list all contributions received and all expenditures made during the period covered by the statement as described in Subsection (i) ~~(H)~~ of this section. Each statement must include, for the period covered, the following information:

“(A) ~~(a)~~ the full name and complete address of each person from whom contributions in an aggregate amount of more than \$50 were received, and the date and amount of the contributions;

“(B) ~~(b)~~ the full name and complete address of each person to whom any expenditures aggregating more than \$50 were made, and the date, amount, and purpose of the expenditures;

“(C) ~~(c)~~ the full name and complete address of each person to whom a payment that is not an expenditure was made, if the payment was made from a contribution, and the date, amount, and purpose of the payment;

“(D) ~~(d)~~ the full name and complete address of each person who assisted in obtaining credit or a loan of money for or on behalf of the candidate, office-holder, or political committee, or who guaranteed or otherwise agreed to assume any financial obligation for or on behalf of the candidate, office-holder, or political committee, if the benefit of the credit, the proceeds of the loan, or the guarantee or assumption of the obligation was to be involved, directly or indirectly, in an election, and the date and total value of the credit, loan, or guarantee or assumption;

“(E) [~~(e)~~] a total of all contributions of \$50 and less received and a total of all expenditures of \$50 and less made;

“(F) [~~(f)~~] a total of all contributions received and all expenditures made; and

“(G) [~~(g)~~] the total of unexpended contributions received or the outstanding indebtedness from expenditures made as of the end of the period covered by the previous statement required to be filed under this section.

“(2) Each statement filed by a candidate or a political committee must include the campaign treasurer’s name, business or residence street address, and telephone number.

“(3) Each statement filed by a general-purpose political committee or its campaign treasurer must include the principal occupation of each person from whom contributions in an aggregate amount of more than \$50 were received in the period covered by the statement.

“(4) Each statement filed by a political committee or its campaign treasurer must include the amount of each expenditure in the form of a contribution made to a candidate, office-holder, or another political committee that was returned to the political committee during the period covered by the statement, the name of the person to whom the expenditure was originally made, and the date it was returned.

“(5) A contribution received but not accepted is not required to be reported pursuant to this section. A determination of whether to accept a contribution that is received by a candidate, office-holder, campaign treasurer, or assistant campaign treasurer shall be made before the end of the reporting period during which the contribution was received. If the determination on accepting the contribution is not made before that time, it is considered accepted on the last day of the reporting period for purposes of reporting pursuant to this section. The candidate, office-holder, campaign treasurer, or assistant campaign treasurer who received a contribution that was not accepted shall return it to the contributor not later than the 30th day after the deadline for filing a statement for the reporting period during which the contribution was received. A candidate, office-holder, campaign treasurer, or assistant campaign treasurer commits a Class A misdemeanor if he knowingly fails to return a contribution as required by this subdivision.

“(6) For purposes of the time and manner of reporting, an expenditure need not be considered to have been made until the amount is readily determinable or, if the character of the expenditure is such that normal business practice is not to disclose the amount until the next periodic bill is received, then the expenditure need not be considered to have been made until the date of receipt of the bill.

“(d) [~~(G1)~~] In addition to the filing of a sworn statement under this section, the information required to be reported on the statement regarding contributions from a person that in the aggregate exceed \$1,000 to a candidate for the office of state senator or to a specific purpose political committee organized in support of or in opposition to such candidate or \$200 to a candidate for the office of state representative or to a specific purpose political committee organized in support of or in opposition to such candidate and that are knowingly accepted during the period beginning on the ninth day before election and ending at 12:00 noon on the second day before election day shall be reported by such candidate or specific purpose political committee by telegram or delivered by hand to the secretary of state within 48 hours of acceptance.

“(e) [~~(D)~~] (1) A general-purpose political committee must file a statement of organization with the secretary of state at the time it files the name of its campaign treasurer. The name of a general-purpose political committee may not be the same as, or deceptively similar to, the name of any other general-purpose political committee whose statement of organization is filed with the secretary of state. If there is a change in the information required to be included in the statement of organization, the political committee shall file an amended statement of organization with the secretary of state not later than the 30th day after the change occurs. The statement of organization must include the political committee’s campaign treasurer’s name, business or residence street address, and telephone number, and the following information:

“(A) [~~(a)~~] the name of each corporation, labor organization, or other association or legal entity that directly establishes, administers, or controls the political committee, if applicable; or

“(B) [~~(b)~~] the name of each person that determines to whom the political committee makes contributions or for what purposes the political committee makes expenditures.

“(2) Each political committee receiving contributions or making expenditures on behalf of a candidate, or office-holder, shall notify the candidate, or office-holder, as to the name and address of the political committee and its campaign treasurer, if one is required. The candidate, or office-holder, shall include within each statement required by this code a list identifying the name and address of each such political committee and its campaign treasurer, if one is required. ‘On behalf of’ means the knowing acceptance of a contribution for a

candidate(s), or office-holder(s), or the making of an expenditure for a candidate(s), or office-holder(s). Any campaign treasurer, candidate, office-holder, or other person managing a political committee, who violates the provisions of this subdivision shall be guilty of a Class A misdemeanor.

“(3) In reporting a contribution received from a political committee not in this state, the information for the contributing committee that is required by Subdivision (1) of this subsection shall be included unless a copy of the committee’s statement of organization filed with the Federal Election Commission is filed under Subsection (h) ~~(g)~~ of this section.

“(f) ~~(e)~~ Such statements shall be accompanied by the following affidavit verified by the person filing the statement:

“I do solemnly swear that the foregoing statement, filed herewith, is in all things true and correct, and fully shows all information required to be reported by me pursuant to the Political Funds Reporting and Disclosure Act of 1975.”

“(g) ~~(f)~~ The statement and oath shall be filed as follows: for a county office, or a measure submitted at an election called by a county, with the county clerk of the county; for a district office or a state office, or statewide measure, or other constitutionally designated members of the Executive Department, with the secretary of state; for a municipal office, or a measure submitted at an election called by a municipality, with the city secretary or city clerk of the municipality; and for an office of a political subdivision, or a measure submitted at an election called by a political subdivision other than a county or municipality, with the secretary of the governing body of the political subdivision. General purpose political committees shall file the required sworn statements and oaths with the Secretary of State. The deadline for filing any statement required under this section is 5 p.m. of the last day designated in the pertinent subsection for filing the statement. When the last day of filing falls on a Saturday or Sunday or an official state holiday enumerated in Article 4591, Revised ~~(Civil)~~ Statutes ~~[of Texas, 1925, as amended]~~, the deadline for filing is extended to 5 p.m. of the next day which is not a Saturday or Sunday or enumerated holiday. A statement shall be deemed to be timely filed if it is placed in the United States Post Office or in the hands of a common or contract carrier properly addressed to the appropriate authority within the time limits applicable to the statement. The postmark or receipt mark (if received by a common or contract carrier) will be prima facie evidence of the date that such statement was deposited with the post office or carrier. The person making the report may show by competent evidence that the actual date of posting was to the contrary.

“(h) ~~(g)~~ In the event a political committee has elected to comply with the provisions applicable to political committees within this state, the requirements of this paragraph shall not be applicable. A candidate, office-holder, or political committee shall not accept a contribution aggregating more than \$500 in a reporting period from a political committee not in this state unless the contribution is accompanied by either: (1) a written statement which sets forth the full name and complete address of each person who contributed more than \$100 to such committee during the preceding twelve months and which is certified by an officer of the contributing political committee; or (2) a certified copy of the contributing political committee’s statement of organization filed as required by law with the Federal Election Commission. A correct copy of any such statement shall be included with the statement filed on which the contribution is reported. For the purpose of reporting, ‘political committee not in this state’ shall mean any political committee expending 80 percent or more of its expenditures in any combination of elections outside of this state and federal offices not voted on in this state within the immediately preceding twelve-month period.

“(i) ~~(H)~~ (1)(A) ~~(a)~~ Candidates and the campaign treasurers of specific purpose political committees as defined in Section 251.001(16)(A) ~~[subsection (P)(1) of Section 237]~~, shall file sworn statements at the times required in Subdivision ~~[paragraph]~~ (4) of this subsection.

“(B) ~~(b)~~ (i) Office-holders and specific purpose political committees assisting office-holder(s) as defined in Section 251.001(16)(B) ~~[subsection (P)(2) of Section 237 of this Code]~~ shall file sworn statements on or before July 15 and on or before January 15 of each year of all contributions received and all expenditures made during the six calendar months preceding the statements in accordance with the provisions of Subsection (c) ~~[subsection (C)]~~ of this section but reporting only such contributions accepted and expenditures made that have not been previously reported.

“(ii) In addition to the statements required in Subsection (i) ~~[subsection (H)]~~ (1)(B) ~~(b)~~ (i) above, any such office-holder shall file additional statements to cover all contributions received and expenditures made by such office-holder for that period of time prior to the designation of a campaign treasurer by such office-holder, and after such designation all contributions and expenditures are to be reported pursuant to Subsection (i) ~~[subsection (H)]~~ (1)(A) ~~(a)~~. The statements required by this subsection shall be filed not later than the 15th day following the designation of a campaign treasurer.

“(2) Campaign treasurers of general purpose political committees shall file sworn statements at times required in *Subdivision [paragraph] (5)* of this subsection.

“(3) If the operations of a political committee necessitate a change in the applicability of *Subdivision [paragraph] (1)* or (2) of this subsection, the campaign treasurer of such political committee shall make such change and declare the identity of the authorities with whom future filings are expected to be made by filing (a) notification(s) with the authority(ies) with whom such committee has previously been required to file sworn statements. Failure to file such notice(s), when such change has been properly made, before the next applicable deadline for filing sworn statements under the formerly applicable sections, shall constitute a Class B misdemeanor.

“(4)(A) ~~(a)~~ Every candidate and every specific purpose political committee shall file two sworn statements for each year in which the candidate or the specific purpose political committee is not involved in an election. The two sworn statements shall be filed on or before July 15 of each nonelection year and on or before January 15 following a nonelection year. The period reported in the first such statement begins on January 1 or the day of campaign treasurer designation, as applicable, and ends on and includes June 30. The period reported in the second such statement begins on July 1 and ends on and includes December 31.

“(B) ~~(b)~~ (i) Every opposed candidate and every specific purpose political committee shall file three sworn statements relating to the election in which such person is involved in addition to any statement as provided in *Subdivision [paragraph] (4)(B) [del](b)] (iii)* of this subsection. The three sworn statements shall be filed not later than the 30th day prior to the election, not later than the 7th day prior to the election, and not later than the 30th day after the election, respectively. The period reported in the first such statement shall begin on the day of campaign treasurer designation or on the day after the end of the period covered by the last required statement, as applicable, and end on and include the 40th day prior to the election. The period reported in the second such statement shall begin on the 39th day before the election and end on and include the 10th day before the election. The period reported in the third such statement shall begin on the 9th day before the election and end on and include the 25th day after the election. In the event an opposed candidate or a specific purpose political committee becomes involved in an election after the end of any period covered by the regular reports otherwise required herein, the first applicable sworn statement shall be filed at the next regularly required deadline and its reporting period shall begin on the date of designation of campaign treasurer or on the day after the end of the period covered by the last required statement, as applicable.

“(ii) In lieu of any third statement required by *Subdivision [paragraph] (4)(B) [del](b)] (i)* of this subsection, which falls on the 30th day after any general, primary, or special election, whenever a candidate or specific purpose political committee is involved in a run-off election, not later than the 7th day before the run-off election, the candidate or specific purpose political committee shall file a statement of all previously unreported contributions and expenditures through the 10th day before the run-off election. The next statement required shall be filed not later than the 30th day after the run-off election and shall report all contributions received and all expenditures made during a period beginning on the 9th day before the run-off election and ending on the 25th day after the run-off election.

“(iii) Each year after the last deadline for filing a statement of contributions and expenditures under *Subdivision [paragraph] (4)(B) [del](b)] (i)* of this subsection, an additional statement shall be filed, provided, however, if there have been no expenditures made or contributions knowingly accepted since the last required reporting period, or if any contributions knowingly accepted and any expenditures made have all been reported under Subsection (i) ~~(1)(B) [del](b)]~~ of this section, there shall be no filing required. The annual statement shall be filed on or before January 15 (following the last filing) and the period shall cover all previously unreported contributions and expenditures through and including the 31st day of December.

“(C) ~~(c)~~ Every unopposed candidate shall file two sworn statements during the year in which an election occurs in which the unopposed candidate is involved. The statements shall be filed on or before July 15 of the year in which the election occurs and on or before January 15 of the year following the election. The period reported in the first such statement begins on January 1 or the day of campaign treasurer designation, as applicable, and ends on and includes June 30. The period reported in the second such statement begins on July 1 and ends on and includes December 31.

“(5) All general purpose political committees shall file sworn statements as designated either in this *subdivision [paragraph]* or in *Subdivision [Paragraph] (6)* of this subsection:

“(A) [(a)] On January 15th of each year, a statement of all contributions received and all expenditures made during the previous calendar year which have not been previously reported;

“(B) [(b)] Not earlier than the 40th day and not later than the 30th day before the date of an election in which the general purpose committee is involved, a statement of all contributions received and all expenditures made during the period from the date on which the general purpose political committee filed a designation of a campaign treasurer through the 40th day before the date of the election which have not been previously reported;

“(C) [(c)] Not earlier than the 10th day and not later than the 7th day before the date of an election in which the general purpose political committee is involved, a statement of all contributions received and all expenditures made through the 10th day before the date of the election which have not been previously reported;

“(D) [(d)] Not earlier than the 25th day and not later than the 30th day after the date of an election in which the general purpose political committee is involved, a statement of all contributions received and all expenditures made since the date covered by the last report filed under this subsection;

“(E) [(e)] Whenever a general purpose political committee is involved in a run-off election, in lieu of the statement to be filed by not later than the 30th day after the first election, the committee shall file a statement on the 7th day before the date of the run-off election showing all contributions received and all expenditures made since the date of the last report filed under this subsection;

“(F) [(f)] In the event a general purpose political committee becomes involved in an election after the end of any periods covered by the regular reports otherwise required herein, the first applicable sworn statement shall be filed at the next regularly required deadline and its reporting period shall begin on the date of designation of campaign treasurer.

“(6) In lieu of the sworn statements required under *Subdivision [Paragraph] (5)* of this subsection, a general purpose political committee may elect to file sworn monthly statements of all contributions received and all expenditures made which have not been previously reported by filing the sworn statements designated herein:

“(A) [(a)] A notice of intent to file monthly statements shall be filed between January 1 and January 15 of the first year in which the committee intends to file monthly statements. However, a general purpose political committee formed after January 15 of any particular year may upon designation of its campaign treasurer file at the same time a notice of intent to file monthly statements pursuant to this paragraph. The filing remains effective until notice of intent to revert to the regular filing schedule is filed pursuant to *Paragraph (C) [Subparagraph (c)]* of this *subdivision [paragraph]*.

“(B) [(b)] On the first day of each calendar month, even if there has been no activity, a statement of all previously unreported contributions received and all previously unreported expenditures made through the 25th day of the preceding month. Any general purpose political committee filing under the procedures of this *subdivision [paragraph]* shall include in each statement the dates and amounts and the full name and complete address of each person from whom contributions in an aggregate amount of more than \$10 has been received or borrowed during the reporting period. Each statement shall also include the dates and amounts and the full names and complete addresses of all persons to whom any expenditures aggregating more than \$10 were made during the appropriate reporting period and the purpose of such expenditures.

“(C) [(c)] If a general purpose political committee electing to file sworn monthly statements wishes to revert to filing the sworn statements required under *Subdivision [Paragraph] (5)* of this subsection, such committee must file its intent to do so between January 1 and January 15 in addition to a statement of all contributions received and expenditures made which have not previously been reported.

“(7) Candidates for offices created under laws of the United States are specifically exempted from the requirements of this section. It is provided, however, that they shall file copies of any reports required by federal laws with the secretary of state on the same date they file such reports with the appropriate federal authorities.

“(8) Final Statement. A candidate or political committee may cease filing sworn statements regarding a campaign after a final statement has been filed and designated as such. Any of the required sworn statements may constitute a final statement if its filing results in the completion of the reporting of all contributions and expenditures involved in an election, together with the appropriate related information, required to be reported.

“(9) In the event a general purpose political committee makes a contribution to either another general purpose political committee or an out of state political committee, and cannot thereby make the determination of the appropriate times to make filings of sworn statements, such contributing general purpose political committee shall be deemed to have complied with the requirements of this Section by filing a sworn statement with the Secretary of State fully reporting such contribution (as an expenditure) no later than the next succeeding filing deadline for the January 15th annual statement.

“(10) In the event a campaign treasurer of a political committee is terminated, either voluntarily or by action of the political committee, he shall file a sworn statement no later than the 10th day after such termination, reporting all appropriate matters for the period from the end of the period reported in the preceding sworn statement through the day of his termination. Any subsequent sworn statement which is to be filed by a successor campaign treasurer need not report those matters included in the previous campaign treasurer’s termination statement.

“(j) [(H)] (1) If any candidate, office-holder, or campaign treasurer of a political committee fails to file a sworn statement containing all information required by this chapter, such person shall be guilty of a Class C misdemeanor.

“(2) Any candidate, office-holder, campaign treasurer, assistant campaign treasurer, or other person managing a political committee who swears falsely in a filed statement is subject to the provisions of Section 37.02 of the [Texas] Penal Code.

“(k) [(F)] Any candidate or campaign treasurer or assistant campaign treasurer of a political committee who fails to report in whole or in part any contribution or expenditure as provided in the foregoing provisions of this Section shall be liable for double the amount or value of such unreported contribution or expenditure or unreported portion thereof, to each opposing candidate in the election in which same should have been reported. Each of such opposing candidates shall also recover reasonable attorneys’ fees for collecting the above liquidated damages.

“(l) [(K)] Any candidate, office-holder, or campaign treasurer or assistant campaign treasurer of a political committee who fails to report in whole or in part any contribution or expenditure as provided in this Section, shall be civilly liable to the State of Texas for an amount equal to triple the amount or value of such unreported contribution or unreported expenditure.

“(m) [(L)] Statements filed under this Section shall be open to public inspection. They shall be preserved for a period of two years, after which they may be destroyed unless a court of competent jurisdiction has ordered their further preservation.

“(n) [(M)] No charge shall be levied for the filing of any report required by this section.

“(o) [(N)] No charge greater than that authorized by the State *Purchasing and General Services Commission* [Board of Control] for copies of similar documents filed with state agencies shall be charged for copies of any reports required to be filed by this section.

“(p) [(O)] A statement filed under this section shall be written in black ink or typed with black typewriter ribbon, on a form prescribed by the secretary of state, unless the statement is a computer printout.

“(P) An assistant campaign treasurer designated by a political committee under Section 238(B)(2) of this Code (Article 14.02, Vernon’s Texas Election Code) may perform any duties imposed on the political committee’s campaign treasurer by this Section in the absence of the campaign treasurer.]

“(q) [(P)] An assistant campaign treasurer designated by a political committee under Section 251.002(b)(2) [Subdivision (2) of Subsection (B) of Section 238 of this Code (Article 14.02, Vernon’s Texas Election Code)] may perform any duties imposed on the political committee’s campaign treasurer by this Section in the absence of the campaign treasurer.

“Section 251.012 [243a]. ANNUAL REPORT OF UNEXPENDED CONTRIBUTIONS. (a) Each of the following persons shall file a sworn statement each year, even if there is no additional activity, for as long as the person retains unexpended contributions:

“(1) a former office-holder who has unexpended contributions after the filing of the last sworn statement required to be filed by Section 251.011 [Section 243 of this code (Article 14.07, Vernon’s Texas Election Code)]; or

“(2) an unsuccessful candidate for public office who:

“(A) was opposed and has unexpended contributions after the filing of the last sworn statement required to be filed by Section 251.011 [Section 243 of this code]; or

“(B) was unopposed and has unexpended contributions.

“(b) An annual statement filed pursuant to this section shall be filed between January 1 and January 15 of each year. The statement shall include the full name and complete address of each person to whom a payment is made from unexpended contributions and the date, amount, and purpose of the payment. The statement shall include the total amount of unexpended

contributions at the end of the year and the amount of interest earned on the contributions during the calendar year. The statement shall be filed with the same authority with whom the person was required to file sworn statements pursuant to *Section 251.011* [~~Section 243 of this code~~]. An unsuccessful unopposed candidate shall file the statement with the authority with whom an opposed candidate for that office is required to file.

“(c) The provisions of *Section 251.011* [~~Section 243 of this code~~] pertaining to penalties, inspection, and charges apply to an annual statement filed pursuant to this section.

“(d) A person may retain contributions accepted under this chapter for six years after the person is no longer an office-holder or candidate, pending any future candidacy. If the person does not become a candidate within the six-year period, the person must dispose of any unexpended contributions in accordance with Subsection (e) of this section and must report the disposition by filing a sworn statement in accordance with this section not later than the 30th day after the end of the six-year period.

“(e) A person required to dispose of unexpended contributions under this section must transfer the funds as follows:

“(1) to the political party with which the person was affiliated when his name last appeared on the ballot;

“(2) to a candidate or a political committee;

“(3) to the general revenue fund;

“(4) to any person from whom contributions were received; or

“(5) to a recognized tax-exempt, charitable organization formed for educational, religious, or scientific purposes; or

“(6) to a public or private postsecondary educational institution or an institution of higher education as defined in Section 61.003(7), [~~Texas~~] Education Code, solely for the purpose of assisting or creating a scholarship program.

“(f) A person who disposes of unexpended contributions under Subsection (e)(2) of this section must report each contribution as if he were a specific purpose political committee.

“(g) Contributions disposed of under Subsection (e)(3) of this section may be appropriated only for the financing of political party primary elections.

“(h) The amount of contributions disposed of under Subsection (e)(4) of this section may not exceed the aggregate amount received from the person who made the contribution during the last two years that the candidate or officeholder accepted contributions pursuant to this chapter.

“*Section 251.013* [~~243b~~]. MODIFIED REPORTING PROCEDURE. (a) A candidate or political committee required by *Section 251.011* [~~Section 243 of this code~~ (~~Article 14.07, Vernon's Texas Election Code~~)] to file sworn statements may file a sworn statement as provided by this section instead, if the candidate or political committee does not intend to accept contributions exceeding \$500 or to make expenditures exceeding \$500 in the election.

“(b) When designating a campaign treasurer, the candidate or political committee shall file a declaration of intent not to exceed \$500 in contributions or expenditures with the authority with whom the candidate or political committee is required to file a designation of campaign treasurer. The declaration of intent must contain a statement that the candidate or political committee understands that if the \$500 maximum for contributions or expenditures is exceeded, sworn statements must be filed in accordance with *Section 251.011* [~~Section 243 of this code~~].

“(c) The candidate or political committee shall file a sworn statement not later than the 30th day after election day. The reporting period covered by the statement begins on the day of the campaign treasurer designation and ends on the 25th day after election day.

“(d) A candidate or political committee that exceeds the \$500 maximum shall file sworn statements as required by *Section 251.011* [~~Section 243 of this code~~]. If a candidate or political committee exceeds the maximum after the filing deadline prescribed by *Section 251.011* [~~Section 243~~] for the first sworn statement required to be filed under that section, the candidate or political committee shall file a sworn statement not later than 48 hours after the maximum is exceeded. The reporting period covered by the statement begins on the day of the campaign treasurer designation and ends on the day the maximum is exceeded. The reporting period for the next sworn statement filed by the candidate or political committee begins on the day following the last day of the period covered by the first sworn statement.

“(e) The amount of a filing fee paid by a candidate is excluded from the \$500 maximum expenditure permitted under this section.

“(f) *Section 251.011* [~~Section 243 of this code~~] applies to a candidate or political committee filing in accordance with this section to the extent that *Section 251.011* [~~Section 243~~] does not conflict with this section.

“*Section 251.014* [~~243e~~]. CIVIL PENALTY FOR LATE STATEMENT FILED WITH SECRETARY OF STATE. (a) The secretary of state shall determine from any available

evidence whether a sworn statement required to be filed with him under *Section 251.011* [~~Section 243 of this code (Article 14.07, Vernon's Texas Election Code)~~] is late. On making that determination, the secretary shall immediately mail a notice of the determination to the person responsible for filing the statement and to the appropriate attorney for the state.

“(b) If a statement is determined to be late, the person responsible for filing the statement is civilly liable to the state for \$100. The appropriate attorney for the state may not initiate suit for the penalty until the 10th day after the date the notice is mailed under Subsection (a) of this section. If the penalty is paid before the 10th day after the mailing, the secretary of state shall notify the appropriate attorney for the state, and the civil suit under this section may not be initiated.

“(c) A penalty paid voluntarily under this section shall be deposited to the credit of the general revenue fund.

“(d) This section is cumulative of any other available sanctions for late filings of sworn statements.

“(e) The prohibitions prescribed by *Section 251.017(d)* [~~Section 240(D) of this code (Article 14.13, Vernon's Texas Election Code)~~] on the reporting by the secretary of state of alleged violations of this chapter while a candidate is engaged in campaign activities do not apply to the procedures for collecting a penalty under this section.

“*Section 251.015* [~~245~~]. **POLITICAL ADVERTISING.** (a) [~~(A)~~] It is unlawful for any person knowingly to enter into a contract or transaction to print, publish, or broadcast any political advertising which does not disclose thereon that it is political advertising and which does not state thereon the name of the person who personally entered into the contract or transaction with the printer, publisher, or broadcaster, or the person represented by such agent and, in the case of advertising that is printed or published, the address of the agent or the person represented by the agent. A violation of this provision shall constitute a Class A misdemeanor. However, in the event the political advertisement conveys the impression that it emanates from a source other than its true source for the purpose of injuring any candidate or influencing the vote in any election, the candidate, campaign treasurer, assistant campaign treasurer or any other person purchasing or contracting for the furnishing of such political advertisement in support of or in opposition to any candidate or measure, who knowingly violates this subsection shall be guilty of a felony of the third degree.

“(b) [~~(B)~~] Any advertising medium or any officer or agent thereof who willfully demands or receives for any political advertising any money or other thing of value in excess of the sum due for such service, or any person who pays or offers to pay for such service any money or other thing of value in excess of the sum due, or any person who pays or offers to pay any money or other thing of value for the publication or broadcasting of political advertising except as advertising or production matter, shall be fined not more than \$100. No advertising medium may charge a rate for political advertising in excess of the following:

“(1) For advertising broadcast over a radio or television station, including a community antenna or cable television system, the rate charged shall not exceed the lowest unit charge of the station for the same class, condition and amount of time for the same period;

“(2) For advertising printed or published by any other medium, the rate charged shall not exceed the lowest charge made for comparable use of such space for other purposes. The rate shall take into account the amount of space used, the number of times used, the frequency of use, and the kind of space used, as well as the type of advertising copy submitted by or on behalf of a candidate, or political committee. All discount privileges otherwise offered by a newspaper or magazine to advertisers shall be available upon equal terms to all candidates, or political committees.

“(c) [~~(C)~~] It is unlawful for an officer or employee of any political subdivision of this state to expend or authorize the expenditure of the funds of such political subdivision for the purpose of political advertising. The provisions of this subsection shall not apply to any advertising which describes the factual reasons for a measure and which does not advocate the passage or defeat of such measure.

“(d) [~~(D)~~] It is the legislative intent to impose both civil and criminal responsibility on persons, corporations, partnerships, labor unions, or labor organizations, or any unincorporated associations, firms, committees, clubs, or other organizations, or groups of persons, including any groups of persons associated with a political party or element thereof, for violations of this section.

“*Section 251.016* [~~246~~]. **CAMPAIGN COMMUNICATIONS.** (a) [~~(A)~~] (1) It is unlawful for an individual to misrepresent his identity or, if acting or purporting to act as an agent for any person, to misrepresent the identity of that person in any written or oral communication relating to the campaign of a candidate for nomination or election to a public office or election to the office of a political party or relating to the success or defeat of any ballot measure with the intent to injure any candidate or to influence the vote on the measure.

“(2) It is unlawful for any person to issue any communication relating to the candidacy of a person for nomination or election to a public office or election to the office of a political party or relating to the success or defeat of any ballot measure, which purports to emanate from any source other than its true source.

“(b) ~~(B)~~(1) It is unlawful for any candidate for nomination or election to a public office to use the title of an office in his political advertising when the use of such title could reasonably be construed to lead the voters to believe that the candidate is the holder of an office, unless the candidate is the holder of the office at the time the representation is made.

“(2) It is unlawful for any person to print, publish, or broadcast any political advertising, or to make any written or oral commercial communication, relating to the campaign of a candidate for nomination or election to a public office which states, implies, or otherwise represents that the candidate is the holder of an office, unless the candidate is the holder of the office at the time the representation is made.

“(c) ~~(C)~~ A violation of this section is a Class A misdemeanor.

~~“[217. REPEAL OF CONFLICTING LAWS. All laws and parts of laws in conflict herewith are repealed in so far as such laws are in actual conflict with the provisions of this code, and in case of such conflict the provisions of this code shall control and be effective. However, nothing in this Act shall be construed to nullify or repeal any Act of the Legislature passed at the Regular Session of the Fifty/second Legislature.]~~

~~“[218. PARTIAL UNCONSTITUTIONALITY AND REPEALS. If any part of this code is held unconstitutional, it shall not void or affect the application of any part of this code which can operate independently of the unconstitutional provision.]~~

~~“[Nothing in this Act shall in anywise alter, amend or repeal House Bill No. 13, Acts, Regular Session, Fifty/second Legislature.]~~

~~“Section 251.017 [219]. REGULATION OF ILLEGAL ACTS; PROVIDING DUTIES FOR SECRETARY OF STATE. (a) ~~(A)~~ Filing complaint with Secretary of State. Any citizen of this state may file with the Secretary of State a complaint alleging that a person has committed one or more of the following violations of this chapter:~~

“(1) Failure to file a statement of contributions and expenditures that is required to be filed with the Secretary of State, or late filing of a statement with the Secretary of State.

“(2) Filing of a statement of contributions and expenditures with the Secretary of State that does not conform to law.

“(3) Accepting a contribution or making an expenditure before the filing of a designation of a campaign treasurer in an election in which the designation is required to be filed with the Secretary of State.

“(4) Making or accepting an unlawful contribution or making an unlawful expenditure.

“(b) ~~(B)~~ Form and contents of complaint. A complaint must:

“(1) be signed and sworn to by the complainant as containing allegations that are true and correct and made on personal knowledge; and

“(2) state the name of the person accused, the election involved, if any, and the alleged violation; and

“(3) allege facts indicating that the person accused has committed a violation.

“(c) ~~(C)~~ Notice to the accused. Upon receipt of a complaint meeting the requirements of ~~Subsections (a) [Paragraphs (A)] and (b) ~~(B)~~~~ of this section, the Secretary of State shall give notice by registered or certified mail, restricted delivery, return receipt requested, to the person who is the subject of the complaint:

“(1) informing the person that the complaint has been filed;

“(2) attaching a copy of the complaint;

“(3) requesting the person to make a written response within 15 days after the date shown on the notice (the date of mailing); and

“(4) attaching a copy of this section.

“(d) ~~(D)~~ Referral to prosecuting attorney and Attorney General.

“(1) If the accused is a candidate or the campaign treasurer of a candidate or of a political committee supporting a candidate, the Secretary of State shall not report any alleged violations to the prosecuting attorney or to the Attorney General while the candidate is still engaged in the campaign in the specific election in which the alleged violation is said to have occurred or in a subsequent runoff or general election for the same term of office.

“(2) After a lapse of 25 days from the date of a notice pursuant to ~~Subsection (c) [Paragraph (C)]~~ or after a lapse of 25 days from an election described in ~~(d) ~~(D)~~~~(1) above of this section, if it appears that the person accused in the complaint may have failed to comply with the relevant provisions of law, the Secretary of State shall forward to the appropriate prosecuting attorney the original complaint and the accused's response (if any) to the notice.

together with certified copies of all pertinent records filed with the Secretary of State, in order that appropriate action may be taken.

“(3) If the alleged violation is one for which a civil penalty accrues in favor of the state, the Secretary of State shall also forward to the Attorney General certified copies of the original complaint, the accused’s response, and all pertinent records filed with the Secretary of State, in order that appropriate action be taken.

“(e) ~~[(E)]~~ Malicious complaints. A civil action for damages exists against the complainant in favor of any person against whom a complaint is filed maliciously and without probable cause, after the termination of any resulting prosecution. In addition, a person who makes a false allegation in a complaint is subject to the provisions of the ~~[Texas]~~ Penal Code relating to the offense of perjury.

“(f) ~~[(F)]~~ The procedures outlined in this section are cumulative of other available procedures for investigation and enforcement of violations of this chapter. Nothing in this section shall be taken as precluding the filing of a complaint directly with a prosecuting attorney or as precluding investigations and prosecutions by a prosecuting attorney and actions by the Attorney General for recovery of civil penalties without a referral from the Secretary of State.

“(g) ~~[(G)]~~ Duties of Secretary of State.

“(1) It shall be the duty of the Secretary of State to prescribe forms for any instruments required to be filed by this code, regardless of whether the instruments are to be filed with the Secretary of State or with some other authority, and to make such forms available to persons required to file such statements and information with the Secretary of State, or any other authority.

“(2) It shall be the duty of the Secretary of State to furnish such forms to the following: the State Executive Committee of any political party, the clerk of each county, the duly elected chairman of each county political subdivision or authority holding an election under this code.

“(3) The State Executive Committee, county clerk, county chairman, and secretary or clerk shall make available to all candidates, office-holders, or political committees the forms provided by the Secretary of State.

“(4) It shall be the duty of the Secretary of State to interpret and administer the provisions of this Act in the exercise of his authority stated in *Section 31.003* ~~[Section 3, Texas Election Code (Article 1.03, Vernon’s Texas Election Code)]~~ and to make such interpretations and administrative rulings available to any person upon request.

~~“(5) After January 1 of each year, the secretary of state shall submit to the governor and members of the legislature a report with respect to the preceding calendar year containing:~~

~~“(A) each interpretation, ruling, or opinion issued under Subdivision (4) of this subsection;~~

~~“(B) a statement of each violation of this chapter that has been reported to the secretary of state and referred to the appropriate official for prosecution;~~

~~“(C) a statement of any difficulties encountered in the administration of this chapter; and~~

~~“(D) any suggested legislation to conform this chapter to pertinent court decisions or interpretations, rulings, or opinions issued by the secretary of state.”~~

“(5) Not later than the fifth day before each applicable deadline, the Secretary of State shall notify each person responsible for filing sworn statements with the Secretary under *Section 251.011* ~~[Section 243 of this code (Article 14.07, Vernon’s Texas Election Code)]~~ of the deadline for filing a statement.

“(6) After January 1 of each year, the Secretary of State shall submit to the Governor and members of the legislature a report with respect to the preceding calendar year containing:

“(A) each interpretation, ruling, or opinion issued under Subdivision (4) of this subsection;

“(B) a statement of each violation of this chapter that has been reported to the Secretary of State and referred to the appropriate official for prosecution;

“(C) a statement of any difficulties encountered in the administration of this chapter; and

“(D) any suggested legislation to conform this chapter to pertinent court decisions or interpretations, rulings, or opinions issued by the Secretary of State.

“(h) ~~[(H)]~~ Review of sworn statements.

“(1) Periodically, the Secretary of State shall review the sworn statements filed with the Secretary under this chapter.

“(2) If the Secretary of State determines that a person has failed to comply with this chapter, the Secretary shall notify the person by certified mail of the determination of noncompliance.

“(3) The notice required by Subdivision (2) of this *subsection* [paragraph] shall include a statement that the person notified must take the action necessary to comply with this chapter not later than the 30th day after the date the notice was mailed.

“(4) The Secretary of State shall maintain a listing of those persons who fail to comply with Subdivision (3) of this *subsection* [paragraph]. The listing is open to public inspection.

“*Section 251.018* [250]. INJUNCTIONS. The district courts of this state shall have jurisdiction to issue injunctions to enforce the provisions of this code upon application by any citizen of this state.

“*Section 251.019* [251]. VENUE FOR OFFENSES. Venue for any offense resulting from a violation of this chapter shall lie exclusively in the county of residence of the accused, except when the accused is a nonresident of Texas, in which case venue shall lie in Travis County.”

SECTION 9. REPEALER. (a) Subject to Subsection (b) of Section 12 of this Act, the following laws are repealed:

(1) The Texas Election Code and all laws compiled in Vernon's Texas Election Code, except Chapter 14, Texas Election Code, and laws compiled in Chapter 14, Vernon's Texas Election Code;

(2) Sections 251.511 and 251.512, Alcoholic Beverage Code;

(3) Subchapter K, Chapter 21, Education Code;

(4) Articles 978b and 3882, Revised Statutes;

(5) Chapter 4, General Laws, Acts of the 41st Legislature, 4th Called Session, 1930 (Article 1735a, Vernon's Texas Civil Statutes);

(6) Article 1.22, Code of Criminal Procedure, 1965; and

(7) all other general, local, and special laws in conflict with this Act, to the extent of the conflict.

(b) Failure to expressly repeal or amend any law in conflict with this Act is not evidence of legislative intent that the law not be repealed.

SECTION 10. EFFECT ON OTHER ACTS OF 69TH LEGISLATURE. (a) If this Act conflicts with another Act of the 69th Legislature, Regular Session, 1985, unless this Act or the conflicting Act expressly provides otherwise:

(1) the change in law made in the other Act prevails, and the substance of the change is given effect as part of the Election Code adopted by this Act; and

(2) the text of a law that is reenacted in the other Act only because of the constitutional requirement that the amended law be reenacted at length is superseded by this Act.

(b) If this Act and another Act of the 69th Legislature, Regular Session, 1985, make the same substantive change from current law but differ in text, this Act prevails regardless of the relative dates of enactment.

SECTION 11. CONSTITUTIONAL PROVISION APPLICABLE. This Act is enacted pursuant to Article III, Section 43, of the Texas Constitution.

SECTION 12. EFFECT OF VOTING RIGHTS ACT. (a) An objection to any provision of this Act interposed by the United States Department of Justice under the federal Voting Rights Act (42 U.S.C. Secs. 1971, 1973 et seq.) does not affect the validity of the remainder of this Act.

(b) If the United States Department of Justice interposes an objection to any provision of this Act, the secretary of state shall identify any corresponding provision of prior law as codified in the Texas Election Code, and that provision is not repealed (notwithstanding any other provision of this Act), but is continued in effect.

(c) The secretary of state shall publish in the Texas Register a list of laws continued in effect under this section, with a description of the corresponding provision of this Act and the extent to which the prior law is continued in effect. The secretary of state may adopt rules as necessary to implement this section.

SECTION 13. EFFECTIVE DATE. This Act takes effect January 1, 1986.

SECTION 14. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 24, 1985, by a viva-voce vote; Senate concurred in House amendments on May 13, 1985, by the following vote: Yeas 29, Nays 0; passed the

House, with amendments, on May 9, 1985, by the following vote: Yeas 141, Nays 1,
one present not voting.

Approved: May 24, 1985

Effective: January 1, 1986