

ELECTION CODE

TITLE 16. MISCELLANEOUS PROVISIONS

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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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 secretary of state's Internet website and may post on a 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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1052 (H.B. 933), Sec. 15, eff. September 1, 2019.

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 68th 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.

(c) In conjunction with the certification required under Subsection (a), the secretary of state shall include appropriate ballot translation language, as applicable, for each language certified statewide or for a specific county by the director of the census under 42 U.S.C. Section 1973aa-1a.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1014 (H.B. 2477), Sec. 4, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 30, eff. September 1, 2015.

Sec. 274.004. PROPOSITION BALLOT ORDER. A proposed constitutional amendment must be placed on the ballot before all other propositions.

Added by Acts 2017, 85th Leg., R.S., Ch. 391 (S.B. 957), Sec. 2, eff. June 1, 2017.

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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.