

ELECTION CODE

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 the secretary's office an elections division with an adequate staff to enable the secretary to perform the secretary's 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 the secretary's jurisdiction.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 14, eff. Sept. 1, 1997.

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 other than Title 15. The design and content must enhance the ability of a person to understand the applicable requirements and to physically furnish the required information in the space provided.

(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 or as otherwise provided by this code. Other persons are not required to use an official form unless expressly required to do so by this code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 797, Sec. 34, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1349, Sec. 6, eff. Sept. 1, 1997; Acts 1999,

76th Leg., ch. 62, Sec. 5.08, eff. Sept. 1, 1999.

Sec. 31.0021. CERTAIN OFFICIAL FORMS: INCLUSION OF NEPOTISM INFORMATION. (a) On forms designed and furnished by the secretary of state for an application for a place on the ballot, the secretary shall include a brief summary of:

(1) the nepotism prohibition imposed by Chapter 573, Government Code; and

(2) a list of the specific kinds of relatives that are included within the prohibited degrees of relationship prescribed by Chapter 573, Government Code.

(b) Any other authority that designs and furnishes an application for a place on the ballot shall include on that form the same summary included on forms prescribed by the secretary of state under Subsection (a).

Added by Acts 1987, 70th Leg., ch. 427, Sec. 3, eff. Sept. 1, 1987.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(25), eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 1.09, eff. September 1, 2005.

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.

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

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.

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

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.

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

Sec. 31.0055. VOTING RIGHTS HOTLINE. (a) The secretary of state shall establish a toll-free telephone number to allow a person to report an existing or potential abuse of voting rights.

(b) A notice informing voters of the telephone number and the purpose for the number shall be included in the notice of voters' rights publicized under Section [62.0115](#).

Added by Acts 2001, 77th Leg., ch. 556, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 510 (H.B. [719](#)), Sec. 1, eff. September 1, 2005.

Sec. 31.006. REFERRAL OF COMPLAINT TO ATTORNEY GENERAL. (a) If, after receiving a complaint alleging criminal conduct in connection with an election, the secretary of state determines that there is reasonable cause to suspect that the alleged criminal conduct occurred, the secretary shall promptly refer the complaint to the attorney general. The secretary shall deliver to the

attorney general all pertinent documents in the secretary's possession.

(b) The documents submitted under Subsection (a) are not considered public information until:

(1) the secretary of state makes a determination that the complaint received does not warrant an investigation; or

(2) if referred to the attorney general, the attorney general has completed the investigation or has made a determination that the complaint referred does not warrant an investigation.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 4, eff. Sept. 1, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 7, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 5, eff. September 1, 2013.

Sec. 31.007. SUSPENSION OF PROVISIONS IMPLEMENTING NATIONAL VOTER REGISTRATION ACT. (a) If under federal law, order, regulation, or other official action the National Voter Registration Act of 1993 is not required to be implemented or enforced in whole or in part, an affected state law or rule is suspended to the extent that the law or rule was enacted or adopted to implement that Act, and it is the intent of the legislature that the applicable law in effect immediately before the enactment or adoption be reinstated and continued in effect pending enactment of corrective state legislation.

(b) On a finding by the secretary of state that a suspension of a law or rule has occurred under Subsection (a), the secretary may modify applicable procedures as necessary to give effect to the suspension and to reinstatement of the procedures of the former law.

(c) The secretary of state may adopt rules to implement this section as necessary.

Added by Acts 1995, 74th Leg., ch. 797, Sec. 35, eff. Sept. 1, 1995.

Sec. 31.008. COLLECTION OF INFORMATION: FORUM ON ELECTION COST SAVINGS. (a) The secretary of state shall collect and

maintain information on the number of elections held in this state and the administrative costs associated with the elections.

(b) The secretary of state shall conduct an annual forum to allow election officials from political subdivisions to exchange ideas on the administration of elections, including issues related to cost savings and efficiency in the conduct of elections. The election officials shall be given the opportunity at the forum to make recommendations on proposed changes in the election laws.

Added by Acts 1997, 75th Leg., ch. 1219, Sec. 1, eff. June 20, 1997.

Sec. 31.009. DISTRIBUTION OF CERTAIN FUNDS. (a) If federal funds are made available to assist the state in the administration of elections, including assistance for the phasing out or prohibition of the use of punch-card ballot voting systems in this state, or state funds are made available to reimburse political subdivisions for expenses incurred in conducting a special election that is held statewide, the secretary of state shall administer and distribute the funds as appropriate to most effectively facilitate the purposes for which the funds are made available.

(b) The secretary of state shall prescribe any necessary rules and take any appropriate action to implement this section.

Added by Acts 2001, 77th Leg., ch. 537, Sec. 1, eff. June 11, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1182 (H.B. 556), Sec. 1(a), eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1182 (H.B. 556), Sec. 1(b), eff. June 15, 2007.

Sec. 31.010. IMPLEMENTATION OF FEDERAL HELP AMERICA VOTE ACT. (a) The secretary of state may adopt rules as necessary to implement the federal Help America Vote Act of 2002.

(b) The secretary of state shall adopt rules establishing state-based administrative complaint procedures to remedy grievances that meet the requirements of Section 402(a) of the federal Help America Vote Act of 2002.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 13, eff. Sept. 1, 2003.

Sec. 31.011. ELECTION IMPROVEMENT FUND. (a) The election improvement fund is created as a dedicated account in the general revenue fund and consists of federal funds designated for election improvement, matching funds from the state or a political subdivision, and depository interest earned on the assets of the fund.

(b) Money in the fund may be appropriated only to provide funding for the following purposes:

(1) to improve election administration at the state and local level;

(2) to make grants to local governments for the improvement or replacement of voting systems;

(3) to create a single uniform official centralized interactive voter registration database; and

(4) to comply with other election requirements of the federal government.

(c) The fund is exempt from the application of Section [403.095](#), Government Code.

Added by Acts 2003, 78th Leg., ch. 1315, Sec. 13, eff. Sept. 1, 2003.

Sec. 31.012. VOTER EDUCATION. (a) The secretary of state and the voter registrar of each county that maintains a website shall provide notice of the identification requirements for voting prescribed by Chapter [63](#) and that straight ticket voting has been eliminated pursuant to H.B. 25, Acts of the 85th Legislature, Regular Session, 2017 on each entity's respective website in each language in which voter registration and election materials are available. The secretary of state shall prescribe the wording of the notice to be included on the websites.

(b) The secretary of state shall conduct a statewide effort to educate voters regarding the identification requirements for voting prescribed by Chapter [63](#).

(b-1) As soon as practicable after September 1, 2020, the secretary of state shall distribute electronically to each county election administrator and the county chair of each political party

notice that straight ticket voting has been eliminated pursuant to H.B. 25, Acts of the 85th Legislature, Regular Session, 2017.

(c) The county clerk of each county shall post in a prominent location at the clerk's office a physical copy of the notice prescribed under Subsection (a) in each language in which voter registration materials are available.

(d) The secretary of state shall adopt rules and establish procedures as necessary for the implementation of the elimination of straight-party voting to ensure that voters and county election administrators are not burdened by the implementation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 5, eff. September 1, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 1, eff. September 1, 2020.

Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 2, eff. September 1, 2020.

Sec. 31.013. MOBILE LOCATIONS FOR OBTAINING IDENTIFICATION.

(a) The secretary of state shall establish a program using mobile units to provide election identification certificates to voters for the purpose of satisfying the requirements of Section 63.001(b). A mobile unit may be used at special events or at the request of a constituent group.

(b) In establishing the program, the secretary of state shall consult with the Department of Public Safety on the creation of the program, security relating to the issuance of an election identification certificate, best practices in issuing an election identification certificate, and equipment required to issue an election identification certificate.

(c) The secretary of state may not charge a fee to a group that requests a mobile unit established under this section.

(d) If the secretary of state cannot ensure the required security or other necessary elements of the program, the secretary of state may deny a request for a mobile unit established under this section.

(e) The secretary of state shall adopt rules necessary for

the implementation of this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 410 (S.B. 5), Sec. 1, eff. January 1, 2018.

Sec. 31.014. CERTIFICATION OF ELECTRONIC DEVICES TO ACCEPT VOTERS. (a) The secretary of state shall prescribe specific requirements and standards, consistent with this code, for the certification of an electronic device used to accept voters under Chapter 63 that require the device to:

(1) produce an electronic copy of the list of voters who were accepted to vote for delivery to the election judge after the polls close;

(2) display the voter's original signature in accordance with Section 63.002;

(3) accept a voter for voting even when the device is off-line;

(4) provide the full list of voters registered in the county with an indication of the jurisdictional or distinguishing number for each territorial unit in which each voter resides;

(5) time-stamp when each voter is accepted at a polling place, including the voter's unique identifier;

(6) if the county participates in the countywide polling place program under Section 43.007 or has more than one early voting polling place, transmit a time stamp when each voter is accepted, including the voter's unique identifier, to all polling place locations;

(7) time-stamp the receipt of a transmission under Subdivision (6); and

(8) produce in an electronic format compatible with the statewide voter registration list under Section 18.061 data for retention and transfer that includes:

(A) the polling location in which the device was used;

(B) the dated time stamp under Subdivision (5); and

(C) the dated time stamp under Subdivision (7).

(b) A device described by this section must be certified

annually by the secretary of state.

(c) The secretary of state shall adopt rules that require a device described by this section used during the early voting period or under the countywide polling place program under Section 43.007 to update data in real time. If a county uses a device that does not comply with the rule in two consecutive general elections for state and county officers, the secretary of state shall assess a noncompliance fee. The noncompliance fee shall be set at an amount determined by secretary of state rule.

Added by Acts 2019, 86th Leg., R.S., Ch. 916 (H.B. 4130), Sec. 1, eff. September 1, 2019.

Sec. 31.016. VOTING INFORMATION ON SECRETARY OF STATE'S WEBSITE. (a) The secretary of state shall prescribe procedures requiring the county officer responsible for administering elections to submit contact information of the county election office to the secretary of state for inclusion on the secretary of state's Internet website, including:

- (1) the street address and zip code;
- (2) the mailing address if different from the address provided in Subdivision (1);
- (3) telephone number;
- (4) facsimile number; and
- (5) e-mail address.

(b) The secretary of state shall prescribe procedures requiring each entity designating the location of a polling place, including an early voting polling place, to submit information on the location to the secretary of state for inclusion on the secretary of state's Internet website.

(c) For each polling place the information submitted must include:

- (1) the name of the building in which the polling place is located, if available;
- (2) the street address and zip code of the polling place; and
- (3) the days and hours of voting at each location.

(d) The polling information under Subsection (c) shall be

posted on the secretary of state's Internet website in a downloadable format.

(e) The secretary of state:

(1) may solicit and accept gifts, grants, and donations from any public or private source for the creation and maintenance of the Internet website; and

(2) shall adopt rules as necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1052 (H.B. 933), Sec. 3, eff. September 1, 2019.

#### 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; and

(2) each member of the county election commission.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 338 (S.B. 893), Sec. 3, eff. September 1, 2019.

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 chair;
- (2) the county clerk, as vice chair;
- (3) the county tax assessor-collector, as secretary;

and

(4) the county chair 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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 15, eff. Sept. 1, 1997.

Sec. 31.033. COMMISSION MEETINGS. (a) The county election commission shall meet at the call of the chair. However, the vice chair 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 chair 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.

(d) Meetings of the county election commission are subject

to Chapter 551, Government Code. In addition to posting notice as required by Chapter 551, Government Code, the commission shall provide personal written notice of a commission meeting to the county elections administrator in the time prescribed by Section 551.043, Government Code, for providing public notice.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 16, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 283 (H.B. 1678), Sec. 2, eff. June 17, 2011.

Sec. 31.034. ELIGIBILITY. To be eligible for appointment as county elections administrator, a person must be a qualified voter of the state.

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

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, the administrator 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.

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

Acts 1997, 75th Leg., ch. 864, Sec. 17, eff. Sept. 1, 1997.

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.

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

Sec. 31.037. SUSPENSION OR TERMINATION OF EMPLOYMENT. The employment of the county elections administrator may be suspended, with or without pay, or 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.

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. [1233](#)), Sec. 9, eff. June 17, 2011.

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.

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

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) Repealed by Acts 2005, 79th Leg., Ch. 1272, Sec. 1, eff. June 18, 2005.

(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.

(f) Except as provided by Subsection (g), a person employed on a full-time basis by the administrator's office is subject to Section 31.035 in the same manner as the administrator.

(g) Section 31.035(b) does not apply to a person employed on a full-time basis by the administrator's office in a county with a population of one million or less that has an election administrator.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1999, 76th Leg., ch. 536, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1272 (H.B. 2199), Sec. 1, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. 448 (H.B. 2401), Sec. 1, eff. September 1, 2009.

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.

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

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.

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

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.

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

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.

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

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 the clerk's 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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 18, eff. Sept. 1, 1997.

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 Chapter 2001, Government Code. 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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

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.

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

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.

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

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.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 338 (S.B. [893](#)), Sec. 4, eff. September 1, 2019.

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 the administrator's deputies or employees as appropriate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 19, eff. Sept. 1, 1997.

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.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 338 (S.B. [893](#)), Sec. 5, eff. September 1, 2019.

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.

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

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.

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

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.

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

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.

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

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.

(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.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 338 (S.B. [893](#)), Sec. 6, eff.

September 1, 2019.

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

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) Expired.

(c) An election services contract need not be submitted to the commissioners court for approval.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1076 (H.B. [1614](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1091 (H.B. [2069](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1107 (H.B. [2309](#)), Sec. 1.10, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(20), eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 8, eff.

September 1, 2011.

Sec. 31.0925. REQUEST FOR SERVICES REQUIRED. (a) This section applies only to a political subdivision:

(1) that is located entirely in a county:

(A) with a population of more than 500,000 that is served by a county elections administrator; and

(B) that does not contain a municipality with a population of more than 150,000; and

(2) that is not an irrigation district created under the authority of Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution.

(b) The governing body of a political subdivision shall request an election services contract with the county elections administrator to perform all duties and functions of the political subdivision in relation to an election that may be transferred under this subchapter if the political subdivision receives a petition requesting the contract signed by a number of registered voters residing in the political subdivision that is equal to or exceeds one percent of all votes cast in the most recent general election held by the political subdivision.

(c) A petition under this section must be submitted to the clerk of the political subdivision before January 1 of the year in which the election to be administered under the requested election services contract will be held.

Added by Acts 2009, 81st Leg., R.S., Ch. 802 (S.B. 1402), Sec. 1, eff. June 19, 2009.

Sec. 31.093. DUTY TO CONTRACT. (a) If requested to do so by a political subdivision, 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.

(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.

(c) On request of the county chair of a political party

holding a primary election in the county, the county election officer shall contract with the county executive committee of the party to perform election services, as provided by this subchapter, in the party's general primary election and runoff primary election in accordance with a cost schedule agreed on by the contracting parties.

(d) In a contract required by Subsection (c), the county election officer may not prevent the county chair or the chair's designee from supervising the conduct of the primary election, including the tabulation of results, as required by Chapter 172. A county election officer who violates this subsection commits an offense. An offense under this subsection is a Class B misdemeanor.

(e) A county election officer must offer to contract on the same terms with the county executive committee of each political party holding a primary election in the county.

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 9, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. 1735), Sec. 2, eff. September 1, 2017.

Transferred, redesignated and amended by Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. 1735), Sec. 2, eff. September 1, 2017.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. 1735), Sec. 3, eff. September 1, 2017.

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.

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

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.

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

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.

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

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

(b) If the county election officer is to serve as the early voting clerk or is to provide deputies to serve as deputy early voting clerks, the officer's written order appointing a permanent or temporary deputy of the officer as a deputy early 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 early 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 the appointee from serving in an election in which an officer of the political subdivision is a candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.36; Acts 1991, 72nd Leg., ch. 554, Sec. 7, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 20, eff. Sept. 1, 1997.

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.

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

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.

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

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 make expenditures 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) Only actual expenses directly attributable to an election services contract may be paid from the election services contract fund, and the county election officer may not charge for performing any duties that the officer is required by law to perform.

(c) An election services contract must include an itemized list of estimated election expenses. If the estimated expenses, not including the fee charged under Subsection (d), exceed the actual expenses, the amount of the difference shall be refunded to the contracting authority.

(d) The county election officer may not be personally compensated for election services performed under an election services contract. A fee charged by the officer for general supervision of the election may not exceed 10 percent of the total amount of the contract, but may not be less than \$75.

(e) Salaries of personnel regularly employed by the county election officer shall be paid from funds regularly budgeted and appropriated for that purpose, except that those employees may be paid from the election services contract fund for contractual duties performed outside of normal business hours. Salaries and wages paid to persons temporarily employed to perform duties under an election services contract shall be paid out of the election services contract fund. The amount paid from the fund may not exceed the normal rate of pay in that locality for the same or similar

services.

(f) A surplus in the election services contract fund may be used only to defray expenses of the county election officer's office in connection with election-related duties or functions. The secretary of state shall prescribe regulations for the use of any surplus in a fund.

(g) The commissioners court may not consider the availability of the election services contract fund in adopting the county budget for the office of the county election officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 622, Sec. 1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1349, Sec. 7, eff. Sept. 1, 1997.

#### 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.

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

Sec. 31.122. OFFICE HOURS OF ELECTION AUTHORITY DURING ELECTION PERIOD. (a) 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 that officer's 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 50th 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.

(b) If the political subdivision is an independent school district, a regular business day means a day on which the school district's main business office is regularly open for business.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 5, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1219, Sec. 2, eff. June 20, 1997.

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 the secretary's or authority's 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 the agent's 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 the agent's office, the agent's office hours, and duration of the agent's appointment. The notice shall remain continuously posted during the minimum period for maintaining the agent's office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 21, eff. Sept. 1, 1997.

Sec. 31.124. PROVISION OF NOTICE TO COUNTY CHAIRS BY ELECTION AUTHORITY. (a) A county election officer of each county shall hold a meeting with the county chair of each political party to discuss, as appropriate, the following for each primary election or general election for state and county officers:

(1) the lists provided by each political party under Section 85.009;

(2) the lists provided by each political party under Section 87.002(c); and

(3) the implementation of Subchapters A, B, C, and D, Chapter 87.

(b) A county election officer of each county shall deliver written notice of the time and place of the meeting required by Subsection (a) not later than 72 hours before the meeting date to the county chair of each political party that made nominations by primary election for the general election for state and county officers preceding the date of the meeting.

(c) The notice required by Subsection (b) may be delivered by United States mail, electronic mail, or other method of written communication, as determined by the county election officer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 255 (H.B. 1136), Sec. 1, eff. June 17, 2011.

Sec. 31.125. COUNTY WEBSITE. (a) The county officer responsible for administering elections shall post on the county's Internet website contact information for the county election office including:

- (1) the street address and zip code;
- (2) the mailing address if different from the address provided in Subdivision (1);
- (3) telephone number;
- (4) facsimile number; and
- (5) e-mail address.

(b) For each polling place located in the county, the county shall post on the county's Internet website:

- (1) the name of the building in which the polling place is located, if available;
- (2) the street address and zip code of the polling place; and
- (3) the days and hours of voting at each location.

(c) This section applies only to a county that maintains an Internet website.

Added by Acts 2019, 86th Leg., R.S., Ch. 1052 (H.B. 933), Sec. 4, eff. September 1, 2019.

#### SUBCHAPTER F. JOINT ELECTIONS ADMINISTRATOR

Sec. 31.151. DEFINITION. In this subchapter, "participating entity" means a political subdivision for whom the joint elections administrator conducts elections under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.152. CREATION OF POSITION. (a) A political subdivision seeking to create the position of joint elections administrator shall send notice requesting creation of that

position to:

(1) if the political subdivision seeking creation is a county:

(A) at least one political subdivision located wholly or partly in the county; or

(B) at least one adjacent county; or

(2) if the political subdivision seeking creation is not a county, the commissioners court of a county in which the political subdivision is wholly or partly located.

(b) Notice under Subsection (a)(2) may also be sent to any other political subdivision wholly or partly located in the same county.

(c) A county receiving notice under Subsection (a)(1)(B) may provide a copy of the notice to any political subdivision wholly or partly located in that county.

(d) The position of joint elections administrator is created for a single county if the commissioners court of a county and the governing body of one or more political subdivisions located in that county separately adopt a written order creating the position in the manner in which that body approves orders.

(e) The position of joint elections administrator is created for multiple counties if the commissioners courts of two or more adjacent counties and, if applicable, the governing body of one or more political subdivisions located in either county separately adopt a written order creating the position in the manner in which that body approves orders. A political subdivision may not adopt a written order creating the position of joint elections administrator unless a county in which the political subdivision is wholly or partly located adopts a written order creating the position.

(f) An order adopted under Subsection (d) or (e) must state the date the creation of the position of joint elections administrator is effective. The effective date may not be later than 12 months after the date the required orders are adopted.

(g) To facilitate the orderly transfer of duties on the effective date, the order may authorize the employment of the joint elections 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 county clerk of the most populous county sharing the joint elections administrator.

(h) Not later than the third day after the date the order is adopted, the chair of the joint elections commission shall deliver a certified copy of the order to:

- (1) the secretary of state;
- (2) each member of the county election commission, if any; and
- (3) a representative from each participating entity.

(i) A political subdivision located in more than one county may not create a joint elections administrator with more than one county if the counties do not share a joint elections administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 338 (S.B. 893), Sec. 7, eff. September 1, 2019.

Sec. 31.153. JOINT ELECTIONS COMMISSION. (a) The joint elections commission consists of:

(1) from each county that has adopted an order to have its elections conducted by the joint elections administrator, the county judge, county clerk, and county tax assessor-collector;

(2) from each county described in Subdivision (1), the county chair 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; and

(3) a representative from each participating entity other than a county.

(b) The members of the joint elections commission shall annually designate:

- (1) a chair, who must be a county judge;
- (2) a vice chair, who must be a county clerk; and
- (3) a secretary, who must be a county tax

assessor-collector.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.154. APPOINTMENT OF JOINT ELECTIONS ADMINISTRATOR.

(a) The position of joint elections administrator is filled by appointment of the joint elections commission.

(b) To be appointed, a joint elections administrator must receive the affirmative vote of a majority of the joint elections commission's membership. Each member voting in favor of the appointment must sign the resolution or order appointing the administrator.

(c) Not later than the third day after the date a joint elections administrator is appointed, the officer who presided at the meeting shall file a signed copy of the resolution or order with the secretary of the joint elections commission. Not later than the third day after the date the copy is filed, the secretary of the commission 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.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.155. COMMISSION MEETINGS. (a) The joint elections commission shall meet at the call of the chair. However, the vice chair 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 chair 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 joint elections 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.

(d) Meetings of the joint elections commission are subject

to Chapter 551, Government Code. In addition to posting notice as required by Chapter 551, Government Code, the commission shall provide personal written notice of a commission meeting to the joint elections administrator in the time prescribed by Section 551.043, Government Code, for providing public notice.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 283 (H.B. 1678), Sec. 3, eff. June 17, 2011.

Sec. 31.156. ELIGIBILITY. To be eligible for appointment as joint elections administrator, a person must be a qualified voter of this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.157. RESIGNATION. The joint elections commission is the proper authority to receive and act on a resignation from the position of joint elections administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.158. TERMINATION OF EMPLOYMENT. The employment of the joint elections administrator may be terminated at any time for good and sufficient cause on:

(1) the vote of not less than four-fifths of the members of the joint elections commission; and

(2) the approval of that action by a majority vote of the governing bodies of a majority of the participating entities.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.159. FILLING VACANCY. (a) A vacancy in the position of joint elections administrator is filled by appointment of the joint elections 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.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.160. SALARY; STAFF; OPERATING EXPENSES. (a) The joint elections commission shall set the number of deputies and other persons that the joint elections administrator may employ.

(b) The joint elections commission may allow the automobile expense that it considers necessary to the joint elections administrator and to any of the administrator's employees in the performance of their official duties.

(c) The joint elections commission shall provide the joint elections administrator with suitable office space and with the equipment and operating expenses needed for the proper conduct of the office.

(d) The participating entities shall share the cost of the operating expenses of the joint elections administrator's office, as determined by the participating entities. The total amount initially appropriated by the governing bodies of the participating entities for the operating expenses of the administrator's office may not be less than the total amount last appropriated to the least populous participating county's county clerk and county tax assessor-collector for the functions assigned to the administrator.

(e) The joint elections administrator for a county with a population of one million or more that has an elections administrator is subject to Section 31.035 in the same manner as a county elections administrator. A person employed on a full-time basis by the joint elections administrator's office for that county is subject to Section 31.035 in the same manner as the joint elections administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.161. BOND. (a) Before assuming the duties of a joint elections administrator, the person appointed to the position

must give a bond that is in an amount set by the joint elections commission, not to exceed \$20,000, payable to the commission chair, approved by the commission, and conditioned on the faithful performance of the duties of the position.

(b) The joint elections commission or the joint elections 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.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.162. SEAL. The joint elections administrator shall have an official seal, on which shall be inscribed a star with five points surrounded by the words "Joint Elections Administrator, \_\_\_\_\_ County, Texas", for use in certifying documents required to be impressed with the seal of the certifying officer. The seal must include the name of each participating county.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.163. TRANSFER OF RECORDS. As soon as practicable after the effective date of the creation of the position of joint elections administrator, the officer formerly serving as the voter registrar shall transfer to the administrator all records pertaining to voter registration, and the officers of the participating entities 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 joint elections commission shall determine which records of prior elections are to be transferred to the administrator and which are to remain with the officer.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.164. DUTIES OF ADMINISTRATOR GENERALLY. (a) The joint elections administrator shall perform:

(1) the duties and functions of the voter registrar, except as provided by Subsection (b);

(2) the duties and functions relating to elections placed by this code on an officer of a participating entity formerly required to conduct elections;

(3) the duties and functions relating to elections placed by statutes outside this code on an officer of a participating entity formerly required to conduct elections, subject to Section 31.165; and

(4) the duties and functions placed on the administrator under Sections 31.165 and 31.166.

(b) The joint elections administrator may serve as the voter registrar only in the county or counties that created the administrator's position. For territory of a participating entity located in another county, the officer designated under Section 12.001 as the voter registrar for that county retains the duties of the voter registrar.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.165. DIVISION OF CERTAIN DUTIES BETWEEN OFFICER AND ADMINISTRATOR. (a) With respect to meetings of the governing body of a participating entity, including meetings at which the only business conducted pertains to elections, the officer of the participating entity formerly required to conduct elections shall perform the officer's 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 governing body, and filing and preserving copies of the governing body's orders, except as provided by Subsection (b). The joint elections administrator shall cooperate with the officer in supplying information on election matters that are to be brought before the governing body and shall attend or be represented at the meetings of the governing body at which election matters are considered. The officer shall

furnish the administrator with a copy of each order of the governing body that pertains to or affects an election, and the administrator shall maintain the copies on file.

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

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

(d) If a statute provides for the ordering of an election on a measure by the governing body, the presiding officer of that body, or another authority of the entity on submission of a petition requesting the election, the joint elections administrator shall perform the duties that the statute places on the participating entity's officer 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 participating entity as a step in the creation process, the joint elections administrator shall perform the duties that the statute places on an officer of that entity 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 participating entity is not one of the steps in the creation process, the entity's

officer 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 participating entity is to be recorded in the minutes of the governing body of the entity, the return shall be filed in the office of the joint elections administrator.

(g) The county clerk is the proper officer to receive and post copies of proposed constitutional amendments under Section 1, Article XVII, Texas Constitution. However, the secretary of state shall also send a copy of each proposed amendment to the joint elections administrator for the administrator's information.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.166. CLASSIFICATION OF DUTIES BY SECRETARY OF STATE. (a) The secretary of state shall adopt rules consistent with Sections 31.164 and 31.165 that classify the duties and functions placed on the officers of the participating entities by statutes outside this code according to whether they are to be performed by the joint elections administrator or by the officer.

(b) If the joint elections administrator or officer of a participating entity is uncertain as to which person should perform a duty or function that the secretary of state 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 of state shall deliver a copy of each rule proposed under this section to the joint elections administrator and to the officer of each participating entity in this state 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

joint elections administrator for a county, the secretary of state 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 of state 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 Chapter 2001, Government Code. 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.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.167. MISDIRECTION OF DOCUMENT. (a) If a document that should be filed with or submitted to the joint elections administrator is mailed to an officer of a participating entity 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 elections administrator of a political subdivision 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 joint elections administrator is delivered in person to an officer of a participating entity 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 an officer without specifying that the filing or submission is to be made with the elections administrator of a

political subdivision having that position and the office to accept the filing or submission is changed to the joint elections administrator under this subchapter, a filing or submission made with the officer has the same legal effect as if made with the administrator if the officer accepts and files the document.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.168. ACTION BY WRONG OFFICER. If a statute specifies that an action is to be taken by an officer without specifying that it is to be taken by the elections administrator of a political subdivision having that position, an action taken by the officer without objection from the administrator has the same legal effect as if taken by the administrator.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.169. ADDITION OR WITHDRAWAL OF POLITICAL SUBDIVISIONS. (a) A political subdivision that has not created the position of joint elections administrator and that has territory in or is a county adjacent to a county using a joint elections administrator may use the joint elections administrator to conduct the elections of the political subdivision as provided by this subchapter, if approved by the governing body of the political subdivision and the joint elections commission. Following approval by both entities under this subsection, the political subdivision is entitled to representation on the joint elections commission, as provided by Section 31.153(a)(3).

(b) A political subdivision, other than the county that sent notice seeking creation under Section 31.152(a)(1) or to which the notice was sent under Section 31.152(a)(2), may cease using the joint elections administrator to conduct the elections of the political subdivision under this subchapter, if approved by the governing body of the political subdivision. Following approval by the governing body under this subsection, the political subdivision is not entitled to representation on the joint elections commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Sec. 31.170. ABOLISHING POSITION. (a) The joint elections commission or the commissioners court of each participating county by written order may abolish the position of joint elections administrator at any time.

(b) After the effective date of an order abolishing the position of joint elections administrator, the county tax assessor-collector is the voter registrar of the county, and the duties and functions of the officer of a participating entity that were performed by the administrator revert to the officer, 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 joint elections administrator is adopted, the county clerk of the most populous participating county shall deliver a certified copy of the order to the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 338 (S.B. 893), Sec. 8, eff. September 1, 2019.

Sec. 31.171. CRIMINAL PENALTIES. A statute prescribing a criminal penalty against an officer of a participating entity or the officer's deputies or other employees for conduct relating to duties or functions transferred to the joint elections administrator applies to the administrator or to the administrator's deputies or employees as appropriate.

Added by Acts 2007, 80th Leg., R.S., Ch. 148 (S.B. 493), Sec. 1, eff. September 1, 2007.