

CHANGES TO ELECTION CALENDAR AS OF
December 16, 2011
APRIL 3, 2012, PRIMARY ELECTION DATE
(Contingent upon the Court entering redistricting plans for
Texas House, Senate and Congress on or before February 1, 2012)

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| First Day of Reopened Filing Period | to be determined at future date |
| Last day to make necessary boundary changes to election precincts | January 31, 2012 |
| Last Day to File for Place on Ballot | February 1, 2012 |
| First Day to Apply for Ballot by Mail (does not apply to FPCA) | February 11, 2012 |
| Last day to issue a voter registration certificate | February 13, 2012 |
| Last Day to Register to Vote | March 5, 2012 (Monday, next business day) |
| 2012 General Primary Runoff Election | June 5, 2012 |
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IMPORTANT NOTES

- Previously submitted applications may be corrected on or before February 1, 2012
- Early voting period begins on the 17th day before election day and continues through the fourth day before election day
- Issues for the election's office are with the **Primary Runoff, June 2, 2012**

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| April 14, 2012 | State Canvass |
| April 16, 2012 | Ballot Drawing for Primary Runoff |
| 45 days before the Primary Runoff is April 21, 2012 (which is a Saturday...) | FPCA Ballot must be mailed by then.....which is ONLY 5 days to program all machines (ballot layouts, coding, etc), print ballots, perform all Logic and Accuracy testing, AND mail out all military and overseas ballots..... |

- Keeping in mind that May 12, 2012 is the cities, schools, and college uniform election day, with **early voting** to take place from **April 30, 2012 through May 8, 2012**)

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TEXAS REDISTRICTING

Updates and News about the 2011 Redistricting Cycle in the Lone Star State. This website's goal is to try to make sure the redistricting process is as transparent and accessible as possible to the public. Hopefully, it will be of some use to a broad range of interested parties, both lawyers and non-lawyers. Have questions, comments, suggestions, additional content, or a redistricting joke (or two)? Feel free to contact me: Michael Li michael.li@mlilaw.com 214.821.8473. You also can follow me on Twitter: [@mcpli](#)

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[Key Texas election dates \(updated to reflect the new schedule\)](#)

Assuming the new election schedule holds, here's a rundown of key dates for the primary cycle, including financial reporting deadlines:

January 15, 2012 - State, county & local candidates must submit finance report for period July 1 - December 31, 2011.

January 27, 2012 - Last day a vacancy can occur and be included on the April 3 primary ballot.

January 31, 2012 - Deadline for county commissions to make any changes needed to precinct boundaries. Also deadline for federal candidates to file their Q4 2011 campaign finance reports.

Late January 2012 - Candidate filing period reopens after legislative and congressional maps are finalized. Candidates may file for any federal, state, county, or local office during this time, switch races, or withdraw earlier applications.

February 1, 2012 - New residency deadline for candidates seeking election to the Texas House and Texas Senate. (There is no residency requirement for Congress).

February 1, 2012 @ 6:00 p.m. - End of filing period for all federal, state, county, or local offices. Also the deadline by which to file for a vacancy in an unexpired term occurring before January 27.

February 2, 2012 - If a candidate withdraws, dies, or is declared ineligible by this date, his or her name will be omitted from the April 3 primary ballot.

February 3, 2012 - New deadline for Democratic and Republican county executive committees to conduct drawing for candidate order on ballot.

February 11, 2012 - First day a voter may submit an application for a vote-by-mail ballot.

February 13, 2012 - Date by which each county must issue new voter registration certificates to voters.

March 4, 2012 - Deadline for opposed state, county, and local candidates to file their '30-day before election' financial reports (covering contributions and expenses through February 23).

March 5, 2012 - Deadline to register to vote or to file a change of address if intending to vote in the April 3 primary.

March 12, 2012 - Deadline for candidates for state office to file personal financial statements.

March 20 - March 30, 2012 - In-person early voting for the primary.

March 22, 2012 - Deadline for congressional candidates to file their pre-primary reports (covering contributions and expenses through March 14).

March 26, 2012 - Deadline for opposed state, county, and local candidates to file their '8-day before election' reports (covering contributions and expenses through March 24).

April 3, 2012 - Primary day.

April 3-8, 2012 - Precinct conventions as set by each county party.

April 6, 2012 - First day a voter may submit a mail ballot application for the primary runoff.

April 10, 2012 @ 5:00 p.m. - Deadline for a candidate to withdraw from the runoff ballot.

April 11, 2012 - Deadline for Democratic and Republican county parties to canvass election returns.

April 12, 2012 @ noon - Deadline for county parties to submit canvassed returns their respective state party.

April 14, 2012 @ 5:00 p.m. - Deadline for each state party to canvass returns.

April 14 or April 21, 2012 - Date of county and senate district conventions, as determined by the state chair of each political party.

April 15, 2012 - Deadline for federal candidates to file their Q1 2012 campaign finance reports.

April 16, 2012 @ 9:00 a.m. - Deadline for county parties to conduct ballot order draw for the primary runoff.

May 6, 2012 - Deadline for runoff candidates to file their '30-day before election' reports (covering contributions and expenses through April 26).

May 7, 2012 - Deadline for new voter registrations or for a voter to change his or her address in order to be effective for the primary runoff.

May 22 - June 1, 2012 - In-person early voting for the primary runoff.

May 24, 2012 - Deadline for congressional candidates to file their pre-primary runoff reports (covering contributions and expenses through May 16).

May 28, 2012 - Deadline for runoff candidates to file their '8-day before election' reports (covering contributions and expenses through May 26).

June 5, 2012 - Primary runoff.

June 8-10, 2012 - Republican state convention in Fort Worth.

June 9-10, 2012 - Democratic state convention in Houston.

June 25, 2012 - New Democratic and Republican precinct chairs take office.



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[Speaking of Section 5](#)

Michael Pitts has these thoughts about how the Supreme Court might use the Texas interim map case to weaken section 5 of the Voting Rights Act without actually invalidating it.

<http://tinyurl.com/c33jnnl>

Thanks to Rick Hasen at www.electionlawblog.org for the pointer.



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[Backgrounder: Other challenges to the constitutionality of section 5 of the Voting Rights Act](#)

While some have speculated about the possibility that the Supreme Court might use the appeal on the Texas interim maps to strike down section 5 of the Voting Rights Act, many legal observers regard another case quickly percolating through the system as a much more likely vehicle for the high court to revisit the issue.

That case, *Shelby County, Alabama v. Holder*, is set for oral argument before the D.C. Circuit Court of Appeals on January 19 - right in the middle of the Texas preclearance case (and, in fact, one of the judges in the preclearance case, Circuit Judge Thomas Griffith, also is one of the judges hearing the Shelby County appeal).

Back in late September, the trial court in Shelby County upheld the constitutionality of section 5 in a 120-page opinion that is required reading for anyone wanting to understand the issues (even if you disagree with Judge Bates' outcome).

Since then, the case has since been fast tracked for argument, and it's been reported that Shelby County's litigation costs are being pick up by the Project for Fair Representation, a conservative non-profit that according to its website "supports litigation that challenges racial and ethnic classifications and preferences."

The case has drawn attention from other states, too, with Arizona, Alabama, and Georgia jumping in to file briefs supporting Shelby County. Mississippi, New York, California, on the other hand, have filed briefs urging the court to uphold the continued constitutionality of section 5.

If the Supreme Court doesn't take up the issue before the Shelby County case gets to it, Shelby County well could be the case that puts the issue of the Voting Rights Act squarely before the Justices again, though it may not be until next term.

In addition to the Shelby County case, another section 5 challenge is being brought by voters in Kingston, North Carolina (funded through the Center for Individual Rights). The State of Arizona also has filed suit challenging section 5, and Florida has raised the issue in connection with preclearance litigation.

Here are the background documents for the Shelby County case:

Judge Bates' opinion:

<http://tinyurl.com/7nqb8bz>

Opening brief of Shelby County on appeal:

<http://tinyurl.com/79mspcy>

Response brief of DOJ:

<http://tinyurl.com/7kxx85x>

Response brief of NAACP:

<http://tinyurl.com/6s33a9d>



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[Answers to a few questions about the new election schedule](#)

Answers to a few questions received by tweet and email:

How likely is this schedule to hold?

That's going to depend on the Supreme Court, and the San Antonio cautioned in the signed version of its order that "[t]his Court has no control over the timing of decisions by other courts that are involved in the process."

The Supreme Court has fast-tracked the case (by Supreme Court standards at least), but it's hard to predict when a decision will come down. And the timing is tight.

The Supreme Court will need to rule and then the San Antonio may need time to redraw or tweak maps in order to implement direction it receives from the Supreme Court.

After that, precinct boundaries may need to be redrawn - though the court in its interim maps did a good job of not splitting many precincts.

And then the filing period has to be reopened. The ballot order draw has to take place, and ballots have to be printed in time to meet federal deadlines for sending out ballots to military personnel.

As a practical matter, to stick with the schedule completely, the maps would need to be in place at least a few days before the end of January.

What happens if that doesn't happen?

If there is a hold up, the court would have to revisit the schedule.

There is probably some flexibility in the schedule with respect to the early dates, but if the delay is beyond early February, we may be back to the one primary or two debate. Or maybe by that time the issue will be moot because the GOP presidential nomination will have effectively been settled. If, as Harold Wilson said, "a week is long time in politics," then a month and a half is an eternity.

The challenges with adjusting the schedule are going to be at the back end with municipal elections on May 12 in much of Texas (and early voting April 30-May 8) and with both the Democratic and Republican state conventions scheduled for early June.

But even a short move of the primary date could create issues this year because early voting would run smack into Easter week observances, possibly creating the need to find new

polling places for those locations at churches.

Is there any possibility the presidential primary still could be on March 6 if there is a hold up?

No, because by February 1 the deadline will have passed for sending out military ballots. If there is a split primary because of a hold up, the first part would take place on April 3 and the second part at some later date.

Doesn't there have to be a ruling in the preclearance case before maps can be drawn?

No. Some folks are saying that, but it confuses interim maps and remedial maps.

If the D.C. court rules before interim maps were in place, it would moot the need for interim maps. The San Antonio court would then just draw permanent remedial maps, fixing any section 5 violations found by the D.C. court as well as any section 2 or other constitutional issues found by it in the case tried in San Antonio.

But with closing arguments in the preclearance case scheduled for February 3, that's not likely to happen- meaning that there still would be a need for interim maps in order to keep to the schedule agreed to by the parties.

Now, it's true that if the Supreme Court is slow in getting out its ruling, it's possible the D.C. case could end up 'jumping' the interim map appeal.

But there's no reason the D.C. case has to be decided before interim maps are put in place.

How does the new filing deadline affect the residency requirement for people running for county office (or other non-legislative and non-congressional offices)?

The Texas Election Code requires that candidates for partisan office have lived in their district for six months before the filing deadline. Tex. Election Code § 141.001(a)(5)(A).

Since the filing deadline has changed, the residency requirement also shifts. This doesn't affect candidates who haven't moved, but it does mean that some people who weren't eligible to run before - since they hadn't lived in the county or district long enough - now are eligible to run.

At least that was the position of the Texas Secretary of State with the earlier extension of the filing deadline.

One additional potentially interesting impact:

Section 141.002 of the Texas Election Code provides that if a county changes commissioner district, JP, or constable boundaries - and those changes were adopted less than seven months before the filing deadline-then a candidate only has to live in the district as of the filing deadline.

When the filing deadline was December 12 that meant that rule would apply to any county that completed redistricting after May 12. But with the shift of the deadline, it now would seem that the rule would apply only to counties that completed redistricting after July 1.

That would mean a candidate in a county that completed redistricting in June, who moved into his commissioner district on November intending to run, would no longer be eligible to run.



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[Party chairs' comments on the new election schedule](#)

Texas Democratic Party Chair, Boyd Richie:

We're glad to have worked out an agreement which we feel works best for Texans. Given the less than ideal circumstances, we think that this election schedule is a workable solution that will create the least confusion for the voters. We're pleased that the agreement maintains a unified primary which will save taxpayers money.

Republican Party of Texas Chair, Steve Munisteri:

I am pleased that we could come to an agreement and I hope that most Republican elected officials and Texas voters will be satisfied with this proposal. We are hopeful that with both a timely ruling from the U.S. Supreme Court and subsequent finalized maps, that this agreement not only preserves the original structure of a unified primary, but provides us enough time to accomplish it in a fair and orderly fashion. Furthermore, this agreement addresses the concern of both the TDP and RPT by providing a timeline which still allows us to hold our respective state conventions and national delegate selection in June.



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[Court approves deal on election schedule](#)

Here's the signed order:

<http://www.txdemocrats.org/2012/Proposed-Election-Schedule-Order-Final.pdf>



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[Deal on primary date](#)

There's a deal on the primary date. Here are the details:

February 1, 2012 - New residency deadline for candidates seeking election to the Texas House and Texas Senate. (There is no residency requirement for Congress).

February 1, 2012, 6:00 p.m. - New deadline of court-ordered reopened filing period, in which candidates for **all offices** have the opportunity to amend, withdraw or file a new application for the ballot.

February 3, 2012 - New deadline for Democratic and Republican county executive committees to conduct drawing for candidate order on ballot.

April 3, 2012 - Date of the 2012 General Primary Election.

April 14 or April 21, 2012 - Date of County and Senatorial District Conventions, as determined by the State Chair of each political party.

June 5, 2012 - Date of the 2012 General Primary Runoff Election.

Although there was discussion yesterday about a conditional trigger that would move legislative and congressional primaries to a later date if maps could not be finished in time, the deal announced today does not contain any such provision (although the court presumably could revisit the issue as and if needed).

Here's the proposed order submitted this morning to the San Antonio court:

<http://tinyurl.com/ceuwupy>

UPDATE: To answer questions, the filing period is open until 6 p.m. on December 19. It then closes but will be reopened once legislative and congressional maps are settled. It then will re-close on February 1 @ 6 p.m.



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[The outlines of a deal and internal GOP dissention](#)

Nolan Hicks of the San Antonio Express-News reports on a possible deal to have a conditional early

order to provide the Court time to enter necessary orders, the following relief is hereby granted. The following schedule is contingent upon the Court entering redistricting plans for Texas House, Senate and Congress on or before February 1, 2012:

Residency

Therefore, it is ORDERED that for the 2012 elections to the Texas House of Representatives and Texas Senate a person must be a resident of the district the person seeks to represent from February 1, 2012 until the date of the General Election, and,

It is further ORDERED that an incorrect precinct, district or place designation on an application for a place on the ballot shall not render the application invalid if the designation is corrected on or before February 1, 2012 at 6 p.m. If a previously filed application indicated a district, precinct or place designation specifying a particular map to which that designation applied, or if the application did not specify a district, precinct, or place designation, and one is required for the office sought, the application shall be rejected if not amended to correct such designation prior to 6 p.m. February 1, 2012. Any petition submitted in lieu of filing fee must contain valid signatures of registered voters of the territory from which the office sought is elected in the number required by the Texas Election Code, and must be submitted to the appropriate filing authority no later than 6:00 p.m., February 1, 2012.

An application for a place on the ballot for the office of precinct chair shall not be invalid if filed more than 90 days before the end of the filing period.

Schedule for Reopened Filing Period and General Primary

The Court hereby adopts and orders this procedure with respect to the 2012 Primary Election for federal, state, county and local offices. All those dates, deadlines or requirements not specifically adjusted by this order remain as required under state or federal law:

- a. Subsections (c)-(m) of this Court's Order of November 7, 2011 (Docs. 57 and 489) are vacated. Ballot drawings and delivery of candidate lists as provided for in that order are not required until after the close of the reopened filing period as set forth below.
- b. The first day to file an application for a place on the Primary Ballot during the reopened filing period as described in Texas Election Code § 172.023(b) shall be at a future date to be determined by this Court.
- c. An application for a place on the general primary election ballot during the reopened filing period must be filed not later than 6 p.m. on February 1, 2012 as described in Texas Election Code § 172.023(a). All amendments to previously filed applications with respect to office, precinct, place or any other material detail must be completed by this time. Candidates, and not filing authority election staff, may amend their applications by replacing the whole page of such application that requires changes. Each submitted page must contain the signature of the candidate and the date it was signed. Political parties who make their nominations by convention and do not hold a primary election may accept applications until 6:00 p.m., February 1, 2012.

Applications filed with the incorrect authority are deemed to have been timely received by the correct authority if the authority who received the application was the correct authority at the time the application was originally filed. Applications filed with the incorrect authority shall be forwarded to the correct authority without delay.

- d. The last day a vacancy for an unexpired term in an office of the state or county government may occur and appear on the primary ballot, as described in Texas Election Code § 202.004(a), is January 27, 2012.
- e. The deadline for the county chair (or secretary of the county executive committee) to post a notice on the bulletin board used for posting notices of the commissioners court's meetings, containing the address at which the county chair and secretary of the county executive committee will be available to receive applications on the last day for filing an application, as described in Texas Election Code § 172.022, is January 31, 2012.
- f. If a candidate withdraws, dies or is declared ineligible by February 2, 2012, the name is omitted from the primary ballot as described Texas Election Code §§ 172.057 & 172.058.
- g. The deadline for state chair to deliver certified list of statewide and multi-county district candidates to each county chair, as described in Texas Election Code § 172.028(b), is February 2, 2012.
- h. Deadline for a write-in candidate for the office of county or precinct chair to file a declaration of write-in, as described in Texas Election Code § 171.0231(d), is February 1, 2012.

- i. The deadline for the state or county chair, as applicable, to receive applications for a place on the general primary election ballot for an unexpired term for a vacancy in an office of the state or county government that occurs on or before January 27, 2012, as described in Texas Election Code § 202.004(b) is February 1, 2012.
- j. The deadline for county executive committee to conduct drawing for candidate order on ballot at the county seat (unless committee provides by resolution that primary committee is to conduct drawing), as described in Texas Election Code § 172.082(c), is February 3, 2012.
- k. The deadline the state chair shall deliver the chair's list to the secretary of state, and each county chair shall deliver a copy of the chair's list to the county clerk, the state chair, and the secretary of state as described in Texas Election Code § 172.029(c), is February 2, 2012.
- l. 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 on or before January 31, 2012, as described in Texas Election Code § 42.032. The requirements of Texas Election Code § 42.036 are suspended for an order of a commissioner's court adopted to comply with this section of this Court's Order.
- m. The first day of the period for voter to submit an application for an early ballot by mail for the general primary, or for both the general primary and the runoff election, as described in Texas Election Code §§ 84.001(d), (e) & 84.007, shall be February 11, 2011.

- n. On or before February 13, 2012, the registrar shall issue a voter registration certificate to each voter in the county whose registration is effective on the preceding November 14 and whose name does not appear on the suspense list, as described in Texas Election Code § 14.001.
- o. **The 2012 General Primary Election shall be held on April 3, 2012.** All deadlines and dates specified as changed in this Order, or in previously issued orders in this action shall be observed as provided for in the Texas Election Code.
- p. The deadline for runoff primary candidates to withdraw from the runoff ballot, as described in Section 172.059, Election Code is 5 p.m. April 10, 2012.
- q. The local canvass of the general primary for county and precinct offices by the county executive committee, as described in Texas Election Code §§ 172.116(b) and 172.084(b) shall occur on or before April 11, 2012.
- r. The deadline for county chairs to submit canvassed returns for statewide and district offices to the state party chair as described in Texas Election Code §§ 67.007(d) and 172.119(b) is Noon, April 12, 2012.
- s. The deadline for the state executive committees to conduct the canvass of statewide and district offices with potential runoffs, and certify these candidates to county chairs as described in Texas Election Code §§ 172.120 and 172.121, is 5 p.m., April 14, 2012.
- t. The ballot drawing conducted by county executive committee for all offices on the primary runoff ballot, as described in Texas Election Code §§ 172.084(b) and (c) shall occur no later than 9 a.m., April 16, 2012.

- u. The first day of the period for a voter to submit an application for an early ballot by mail for the runoff primary, as described in Texas Election Code §§ 84.001(d), (e) & 84.007, shall be April 6, 2011.
- v. County and Senatorial District Conventions, as described in Texas Election Code § 174.063, shall be held on either April 14 or April 21, 2012 as determined by the State Chair of each political party.
- w. **The 2012 General Primary Runoff Election shall be held on June 5, 2012.**

Therefore, it is ORDERED that for the 2012 elections for federal, state, county and local officers shall proceed as required under state and federal law except as provided for above. The State of Texas through the Secretary of State shall deliver an exact duplicate of this order to all election officials and county chairs, to the extent possible, within three days. The order shall also be posted by the Secretary of State on its website and the official election calendar as posted on the Secretary of State's website shall be updated to reflect the terms of this order.

Nothing in this order shall be construed by the Court or the parties as a waiver of the positions of each party with respect to the schedule or conduct of the upcoming election. The parties' positions as stated at the December 13, 2011 hearing are expressly reserved. Additionally, the Republican and Democratic parties have agreed that is necessary to have a primary early enough in April to allow them to conduct their statutorily required conventions as previously planned.

SIGNED this _____ day of _____, 2011.

ORLANDO GARCIA
UNITED STATES DISTRICT JUDGE

And on behalf of:

JERRY E. SMITH
UNITED STATES CIRCUIT JUDGE
U.S. COURT OF APPEALS, FIFTH CIRCUIT

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE
WESTERN DISTRICT OF TEXAS