

# The State of Texas




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Hope Andrade  
Secretary of State

## MEMORANDUM

**TO:** County Clerks/Elections Administrators in Counties Using Only DRE Voting Equipment

**FROM:** Ann McGeehan, Director of Elections 

**DATE:** February 2, 2011

**RE:** Opportunity to Use Countywide Election Precincts Polling Places in Countywide Elections Held on May 14, 2011 and November 8, 2011 Uniform Election Dates

This memorandum is to remind you of the availability of the countywide election precinct polling place program ("countywide program") for the May 14, 2011 and November 8, 2011 election dates. Briefly, the deadline to submit **your proposed plan** (see further details about plans below) to participate in the countywide program for the May 14, 2011 elections is **Monday, February 28, 2011**. If you are interested in participating or if you need more information, please contact Paul Miles at [pmiles@sos.state.tx.us](mailto:pmiles@sos.state.tx.us) or toll-free at 1-800-252-2216.

### Background

House Bill 719, which was passed during the 81<sup>st</sup> Legislative Session, represents a continuation of the countywide programs conducted beginning in 2006. The Secretary of State may select three counties with a population of 100,000 or more and two counties with a population of less than 100,000. Collin, Erath, Lubbock, and Madison Counties conducted elections using countywide precincts on the November 2010 uniform date. Although it is possible the 82<sup>nd</sup> Legislature may amend the current countywide program, it would not likely impact the May 14, 2011 elections.

Eligible counties may apply to use countywide polling places in the following elections: a general election for state and county officers, a countywide election that takes place on the uniform election date in May, a constitutional amendment election, and a joint election when holding any of the aforementioned elections with a local political subdivision (i.e., city, school district, etc.). As noted above, the next available opportunities to participate in a countywide election precinct program are May 14, 2011 and November 8, 2011. Counties must make separate applications for each election date.

### Minimum Requirements

A county must meet the following minimum requirements: (1) exclusive use of direct recording electronic (DRE) voting systems at all polling places; (2) implementation of a computerized voter registration list that allows instantaneous verification that a voter has not already voted at another polling place; and (3) if the county has not participated in one of the previous countywide election precinct programs, it must hold a public hearing to inform and solicit opinions from voters, minority organizations, and other interested parties (e.g., political parties, political subdivisions within the

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county, and organizations representing voters with disabilities). A transcript or electronic recording of the hearing must be submitted to the Secretary of State. Although not required by statute, we encourage counties that have previously participated to conduct a new public hearing.

In addition, counties selected to participate in the program must adopt a methodology to determine the placement of the countywide polling places. For an election held in the first year in which the county holds an election under the program, the total number of countywide polling places may not be less than 65% of the number of precinct polling places that would otherwise have been used in the last equivalent election. For subsequent elections, this number drops to 50%.

### **Communication Plan Required**

A selected county must also develop a plan for providing notice and informing voters of the program and of the changes made to the locations of election day polling places that will occur. The county must solicit input from organizations that represent minority voters and voters with disabilities. At a minimum, an election day notice indicating the location of the nearest countywide polling place must be posted at each precinct polling place that was used in the last general election for state and county officers but will not be used in the election under this program. A county's plan to participate in the program must address how the county will handle the following issues:

First, participation in the program represents a change in voting that must be precleared with the U.S. Department of Justice ("DOJ") under Section 5 of the federal Voting Rights Act. DOJ will review the proposed number and locations of the countywide precinct polling places to determine whether they could have any discriminatory effect on the basis of race or language group.

Second, local political subdivisions may hold a joint election with a participating county. State law requires local political subdivisions using the November uniform election date (excluding municipal utility districts located within Harris County or counties bordering Harris County) to use the regular county polling places in the county election precincts that contain territory from their elections. Political subdivisions in participating counties would need to have a presence at **each** of the countywide polling places at which its voters would be eligible to appear, either through a joint election with the county or establishing its own polling place at each of the locations. Counties that wish to participate in the program will need to demonstrate that the details of local joint elections have been resolved or at least that the governing bodies have agreed that they will resolve such issues.

Third, while House Bill 719 does not explicitly address the question, we believe that the election officials at each of the countywide polling places would need to be appointed according to the same list procedure as Election Day judges and clerks to the extent possible. Again, counties that wish to participate in the countywide program will need to demonstrate that the county commissioners court and the county chairs have resolved how polling place officials will be appointed.

Finally, House Bill 719 requires the Office of the Secretary of State to file a report with the Legislature concerning the countywide program, including a recommendation on the future use of countywide precinct polling places on January 1st of each odd-numbered year. All counties that participate in the countywide program will be expected to contribute their specific findings after each election held with countywide precincts, which will be included in the report. The January 1<sup>st</sup> report pertaining to the November 2009 and 2010 elections has been filed with the Legislature and can be found online.

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Below are the schedules for implementing countywide election precincts for the May 14 and November 8 elections this year.

### **Proposed schedule for implementing HB 719 for May 14, 2011 election:**

- Monday, February 28, 2011—Deadline for counties to submit their proposed plan (detailing the county's ability to comply with items 1-3 above) to Secretary of State. Note that counties that have participated in previous countywide programs are not required to hold a public hearing under Section 43.007(b), though we urge that they do so. Counties that have not previously participated in a countywide program will have to include a public hearing as part of the proposed plan which will necessitate more lead time for the process which may require them to initiate the process earlier than previously participating counties.
- Tuesday, March 8, 2011—Deadline for SOS to approve proposed local plans for the countywide program and provide detailed guidance on the information that will be requested from the Secretary of State and that will be included in the final report after each election held under the countywide program. The counties will be required to submit this information to the Secretary of State no later than 30 days after the election.
- Tuesday, March 15, 2011—Deadline for **approved** counties to submit their local countywide program for preclearance with DOJ if countywide election precincts will be used on May 14, 2011 uniform election date.
- Monday, June 13, 2011—Deadline for county clerk/elections administrator to submit report on local countywide program to Secretary of State.
- Tuesday, January 1, 2013—Deadline for Secretary of State to submit report on countywide program to Legislature.

### **Proposed schedule for implementing HB 719 for November 8, 2011 election:**

- Wednesday, August 3, 2011—Deadline for counties to submit their proposed plan (detailing the county's ability to comply with items 1-3 above) to Secretary of State. Note that counties that have participated in previous countywide programs are not required to hold a public hearing under Section 43.007(b), though we urge that they do so. Counties that have not previously participated in a countywide program will have to include a public hearing as part of the proposed plan which will necessitate more lead time for the process which may require them to initiate the process earlier than previously participating counties.
- Monday, August 15, 2011—Deadline for SOS to approve proposed local plans for the countywide program and provide detailed guidance on the information that will be requested from the Secretary of State and that will be included in the final report after each election held under the countywide program. The counties will be required to submit this information to the Secretary of State no later than 30 days after the election.
- Friday, September 9, 2011—Deadline for **approved** counties to submit their local countywide program for preclearance with DOJ if countywide election precincts will be used at November 8, 2011 general election.
- Tuesday, December 6, 2011—Deadline for county clerk/elections administrator to submit report on local countywide program to Secretary of State.
- Tuesday, January 1, 2013—Deadline for Secretary of State to submit report on countywide program to Legislature.