



Texas Secretary of State

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Candidacy Filing - Local Political Subdivisions

NOTE: This outline addresses the general requirements for candidacy for local political subdivisions such as cities, school districts, water districts, hospital districts, etc. All sections refer to the Texas Election Code unless otherwise cited.

I. Filing for Public Office in Local Political Subdivision

A. Independent Candidacy Required.

General Rule: A candidate for local office may appear on the ballot only as an independent candidate. [Sec. 143.002]

EXCEPTION: Partisan candidacy for home-rule city office may be authorized by city charter. [Sec. 143.003]

B. Application Required (need not be on official form).

1. General Requirements for Application: [Sec. 141.031]

- a. In writing.
- b. Signed and sworn to by the candidate.

NOTE: The oath must be administered by a person authorized to administer an oath under Texas law. [Sec. 602.002, Government Code]

TIP: The city secretary may administer the oath for applications for a place on the

ballot for city offices. [Sec. 602.002(15)]

- c. Indicates the date that the candidate swore to the application;
- d. Timely filed with the appropriate authority; and
- e. Includes:
 - i. The candidate's name.

NOTE: An affidavit that any nickname provided for the name as it is to appear on the ballot is the nickname by which the candidate has been commonly known in the community for at least 3 years. [Sec. 52.031(c)].

NOTE: Secretary of State candidate forms already have the affidavit included.

NEW LAW: For the name as it is to appear on the ballot, Section 52.031 was amended to provide that a candidate may use any surname acquired by law or marriage. House Bill 2075 (2019). (**NOTE:** this codifies SOS interpretation.)

NOTE: If the name the candidate wishes to use does not conform to the Election Code, this is not fatal to the application as a whole.

- ii. The candidate's occupation.
- iii. The office sought, including any place number or other distinguishing number.
- iv. An indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers.
- v. A statement that the candidate is a United States citizen.
- vi. A statement that the candidate has not been finally determined mentally incapacitated or partially mentally incapacitated without the right to vote by a court with probate jurisdiction.
- vii. A statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities.
- viii. The candidate's date of birth.
- ix. The candidate's residence address, or if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence.
- x. The candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date that the candidate swears to the application.
- xi. A statement swearing to defend the Constitution and laws of the United States and Texas.
- xii. A statement that the candidate is aware of the nepotism law.
- xiii. A public mailing address for campaign correspondence if available, and any available electronic mail address at which the candidate receives correspondence relating to the candidate's campaign. (Sec. 141.031)

NOTE: Section 141.031 only requires the candidate to provide a public mailing address at which the candidate receives correspondence relating to the candidate's campaign, **if available**, and any available electronic mail address at which the candidate receives correspondence relating to the candidate's campaign, **if available**.

2. **Additional Information on Official Application Form.** [Sec. 141.039]

- a. A space for indicating the form in which the candidate's name is to appear on the ballot.
- b. A space for the candidate's mailing address.
- c. Spaces for the candidate's home and office telephone numbers.
- d. A statement informing the candidate that the furnishing of the telephone numbers is optional.
- e. A space for e-mail address (optional).

NOTE: Most offices require voter registration in the territory from which the office is elected by the filing deadline. (See our online Terms, Qualifications, and Vacancies outline for general law cities and school districts.) However, the law does not require the voter registration number to be on the application form. (House Bill 484, effective September 1, 2015.) See our HB 484 FAQ (available online and in this seminar book).

NOTE: The registered voter requirement does **not** apply to a member of the governing body of a district created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution.

3. **Application for Home-Rule City.** [Sec. 143.005]

- a. City charter may prescribe requirements in connection with a candidate's application for a place on the ballot; however, the charter may not prescribe a different filing deadline
- b. If a city charter prescribes application requirements, the general application requirements do not apply, except for the statement that the candidate is aware of the nepotism law.
- c. City charter may prescribe a filing fee for candidates, but must also provide an alternative procedure to payment of the fee, such as a petition. [See Section 143.005]

4. **Applications for other political subdivisions (other than county or city).** [Sec. 144.003] If a law outside the Election Code prescribes exclusive requirements for a candidate's application, the general requirements do not apply, except for the nepotism statement.

C. Filing Application – Generally.

1. **Availability of Forms.** [Sec. 1.010]

The authority with whom the Election Code requires an application to be filed must make

printed forms for that purpose, as prescribed by the Secretary of State, readily and timely available. The forms must be furnished without charge.

TIP: Applications for a place on the ballot may be downloaded and printed out from the Secretary of State's website.

2. Filing Authority.

- a. **Municipal Elections:** City secretary. [Sec. 143.006]
EXCEPTION: Home-rule city charter may designate another person.
- b. **School Board Elections:** Secretary of the school board or other person designated by the board. [Sec. 144.004]
- c. **Water Districts:** Secretary of the board or presiding officer of the board, if there is no secretary, or agent appointed by the board if permitted under the Water Code. [Sec. 144.004]
- d. **Hospital Districts:** Secretary of the board, or presiding officer of board if there is no secretary. [Sec. 144.004]
- e. **Junior Colleges under Section 130.082, Education Code:** Secretary of the board. [Sec. 130.082(g), Education Code]. (Junior College districts operating under a school board under Section 130.081 operate under ISD laws.)
- f. **Library Districts:** Secretary of the board or presiding officer of board, if there is no secretary. [Sec. 144.004]
- g. **Emergency Services District Located in More than One County:** County clerk of each county. [Health and Safety Code, Sec. 775.035(d)]

NOTE: Employee Rule - an application filed by personal delivery is considered properly filed if filed with an employee of the authority at the authority's usual place for conducting official business. [Sec. 1.007]

TIP: For jurisdictions where the law says the application is filed with the secretary of the governing body, the duty is usually delegated to an employee of the political subdivision, typically the election records custodian and / or early voting clerk. However, this duty cannot be transferred from the political subdivision to another entity under a joint election agreement; or an election services contract. [Sec. 31.096]

3. Method of Filing Application. [Sec. 1.007(c)]

- a. **An application filed by mail** is considered filed at the time of its receipt by the appropriate authority. The time of receipt is the time at which a post office employee:
 - i. **Places it in the actual possession of the authority or an agent;** or
 - ii. **Deposits it in the authority's mailbox or at the usual place of delivery for the authority's official mail.** [Sec. 1.009]
- b. If the authority cannot determine the time at which a deposit occurred or whether it occurred before a specified deadline, the deposit is considered to have occurred at the time the mailbox or usual place of mail delivery was last inspected for removal of

mail. [Sec. 1.009]

D. Filing Period.

1. Notice of filing period.

- a. The authority with whom an application for a place on the ballot is filed must post a Notice of Deadline to File Applications for Place on the Ballot, listing the filing period dates in a building in which the authority maintains an office. The notice must be posted not later than the 30th day before the first day to file. (Sec. 141.040). If you order a special election to fill a vacancy, the order must include the filing deadline; we recommend posting the notice of the filing period as soon as practicable after a special election is ordered.

NOTE: Water Code Section 49.113 requires the notice required by Section 141.040, Election Code to be posted at the district's administrative office in the district or at the public place established by the district under Section 49.063 of this chapter not later than the 30th day before the deadline for a candidate to file an application for a place on the ballot of a district directors' election. We harmonize these notice requirements as to **timing**, and advise that the notice be posted by the 30th day before the first day to file, the Election Code Section 141.040 requirement. We read this law as primarily adding to the authorized **locations** that the notice may be posted.

2. First Day to File.

- a. First day to file an application for a place on the ballot in the general election of a city, I.S.D. school board, or junior college district election is the 30th day before the filing deadline. [**See** Sec. 143.007, Election Code; and Education Code, Sec. 11.055; Education Code, Sec. 130.082(g)]

NOTE: Election Code Sec. 144.005 provides for a “first day” to file of the 30th day before the date of the filing deadline, unless otherwise provided by the Election Code. Under prior law, there was no requirement as to the first day applications could be accepted for hospital, water, library, or emergency services districts under general laws; however, special laws sometimes provided a first day. [Sec. 144.005]

3. Deadline.

- a. **Municipal General Election:** An application for a place on the general election ballot must be filed not later than 5 p.m. of the 78th day before election day. [Sec. 143.007] A city charter may prescribe requirements in connection with a candidate's application for a place on the ballot for an office of a home-rule city. [Sec. 143.005] This section does not authorize a city charter provision that changes the filing deadline.

NEW LAW: House Bill 2323 (2017) amended Section 201.054 (special election to fill vacancy) to for a write-in deadline on the same day as the filing deadline. Also, Subsection (f) was amended to provide a deadline at 6:00 p.m. for November of

even-numbered years. [Sec. 201.054]

- b. **School Board General Election:** an application for a place on the general election ballot must be filed not later than 5 p.m. of the 78th day before election day. [Education Code, Sec. 11.055]

NOTE: Section 201.054 (special election to fill vacancy) provides that the deadline to file for a write-in is on the same day as the filing deadline for all other candidates. Subsection (f) provides a deadline at 6:00 p.m. on the same date for November of even-numbered years. [Sec. 201.054]

- c. **Water District Election:** an application for a place on the ballot must be filed not later than 5 p.m. of the 78th day before election day. [Sec. 144.005]
- d. **Hospital District Election:** unless otherwise provided by law, an application for a place on the ballot must be filed not later than 5 p.m. of the 78th day before election day. [Sec. 144.005]
- e. **Junior College Districts under Education Code, Section 130.082:** an application for a place on the ballot must be filed not later than 5 p.m. of the 78th day before election day. [Education Code, Sec. 130.082(g)] [Election Code, Sec. 144.005(c)] (Junior College districts operating under a school board under Section 130.081 of the Education Code operate under ISD laws; see above.)
- f. **Library District Election:** an application for a place on the ballot must be filed not later than 5 p.m. of the 78th day before election day. [Local Government Code Sec. 326.043, Election Code, Sec. 144.005.]
- g. **Emergency Services District Located in More than One County:** an application for a place on the ballot must be filed not later than 5 p.m. of the 78th day before election day. [Sec. 144.005]
- h. **Other Entities not in outline:** Generally, Election Code Section 144.005 prevails over outside law. Check the outside law (or court order, if any) and contact our office by phone or email if you have questions about another entity.

II. Candidate's Applications with Petition.

NOTE: Most local political subdivisions DO NOT require petitions for an application for a place on the ballot. This material is included for those entities whose law provides for a petition.

A. Validity of Petition.

1. Requirements. [Sec. 141.062]

1. Petition must be timely filed with appropriate authority;
2. Petition must contain the requisite number of valid signatures; and
3. Petition must comply with any other applicable requirements for validity prescribed by the Election Code.

2. Affidavit of Circulator. [Sec. 141.065]

A petition may consist of multiple parts (e.g. – multiple pages with multiple circulators). The affidavit at the bottom of the page must accompany each part but is not required for each page of signatures. Among other things, this means an affidavit of circulator need only be sworn on one page to serve for multiple pages from **the same circulator**. (The SOS form has spaces for the initials or name of circulator on each page so the pages can be identified.) See also *Cohen v. Strake*, 743 S.W.2d 366 (Tex.App—Houston [14th Dist.] 1988, *orig proceeding*).

NOTE: New Section 141.065 (c) provides that a single notarized affidavit by any person who obtained signatures is valid for all signatures gathered by the person **if the date of notarization is on or after the date of the last signature obtained by the person**.

B. Validity of Petition Signatures.

1. For a signature to be valid, signer must be a registered voter of the territory from which the office sought is to be elected or have been issued a registration certificate that will be effective in that territory on election day.
2. Signature Requirements:
 - a. The signer's residence address;
 - b. The date of birth OR the signer's voter registration number;
 - c. if the territory from which signatures must be obtained is situated in more than one county, the county of registration;
 - d. The date of signing; and
 - e. The signer's printed name.
 - f. Section 141.063 has similar requirements as in current Chapter 277 language (petitions for measure elections):
 - i. The signature is the only information that is required to appear on the petition in the signer's own handwriting.
 - ii. The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.
 - iii. The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. The omission of the zip code from the address does not invalidate a signature.
3. Affidavit of Circulator. [Sec. 141.065]
 - a. Each part of a petition must include an affidavit of the person who circulated it, stating that the person:
 - i. indicated and read to each signer, before the petition was signed, each statement pertaining to the signer that appears on the petition;
 - ii. witnessed each signature;
 - iii. verified each signer's registration status; and
 - iv. believes each signature to be genuine and the corresponding information to be correct.
 - b. If a petition contains an affidavit that complies with subsection (a) above, for the purpose of verifying the petition, the authority with whom the candidate's application

is filed may treat as valid each signature to which the affidavit applies, without further verification, unless it is proven otherwise. [Sec. 141.065(b)]

4. Signing more than one petition prohibited. [Sec. 141.066]

- a. A person may not sign the petition of more than one candidate for the same office in the same election.
- b. A signature on a candidate's petition is invalid if the signer signed the petition after signing a petition of another candidate for the same office in the same election.
- c. The words "Signing the petition of more than one candidate for the same office in the same election is prohibited" must appear at the top of each page of the petition.

5. Home-rule city petition. [Sec. 143.005(d)]

For any petition required or authorized to be filed in connection with a candidate's application for a place on the ballot for an office of a home-rule city, the minimum number of signatures that must appear on the petition is the **greater of**:

1. 25; or
2. one-half of one percent (1/2%) of the total votes received in the territory from which the office is elected by all candidates for mayor in the most recent mayoral election.

6. Withdrawal of signature on candidate's petition. [Sec. 141.067]

- a. The **signer** must request that the signature be withdrawn.
- b. To be effective, a withdrawal request must:
 - i. be in writing and be signed and acknowledged by the signer of the petition;
 - ii. be **received** by the authority with whom the petition is to be filed not later than the date the petition is received by the authority OR the seventh day before the petition filing deadline, whichever is earlier;
 - iii. the signer must deliver a copy of the withdrawal request to the candidate when the request is filed; and
 - iv. an effective withdrawal request operates as if the signer never signed the petition.
- c. If the withdrawal of a signature reduces the number of signatures on the petition below the prescribed minimum for the petition to be valid, the authority with whom the request is filed shall notify the candidate immediately by telephone, telegram, or an equally or more expeditious method of the number of withdrawn signatures. Within three days of the candidate receiving notice, the candidate may supplement the petition with signatures equal in number to the number of signatures withdrawn.

III. **Running as a Write-In Candidate in Local Political Subdivisions.**

A. "Open" Write-In Votes Are Permitted Except as Provided by Law.

1. Except as otherwise provided by law, if the name of the person for whom a voter desires to vote does not appear on the ballot, the voter may write-in the name of that person. [Sec. 146.001]
2. A candidate does not have to file a "Declaration of Write-In Candidacy" to run as a write-in candidate if open write-in votes are permitted. Any write-in vote **must** be counted.

3. Most political subdivisions do not have open write-ins.

NOTE: a common exception is the creation election for a water district, which often has a slate of temporary directors' names followed by write-in spaces; consult the source law for your water district.

B. Declarations of Write-In Candidacy Required if Express Requirement.

1. A write-in vote may not be counted for a person, unless the person has filed a declaration of write-in candidacy:
 - a. In an independent school district general election or special election to fill a vacancy. [Education Code, Sec. 11.056(c)]
 - b. In a common school district. [Education Code, Sec. 11.304]
 - c. In a municipal election for officers. [Secs. 146.051, 146.052]
 - d. In a water district general election for board members held pursuant to Chapters 36, 49, or 63 of the Water Code, unless otherwise provided by law. (See deadline discussion below regarding possible effect of the Water Code's procedures for a creation election or a special law.)
 - e. In a junior college district election. (The deadlines will differ depending on the type of district; see deadline discussion below.)
 - f. In most hospital districts, unless otherwise provided by special law, if any. (See deadline discussion below.)
 - g. In library district elections. [Local Government Code, Sec. 326.0431]
 - h. In emergency service district elections for districts located in more than one county. [Health and Safety Code, Sec. 775.035]
2. Authority with whom declaration is filed.
 - a. Same as regular application for a place on the ballot – See I. C. 2., above.
 - b. The general rules for filing an application (method of transmission, authorized agents, etc.) apply to filing a declaration. See I. C. 3, above.
3. Form
 - a. A declaration of write in candidacy must satisfy the same requirements as an application for a place on the ballot. [Sec. 146.023(b)]
 - b. Secretary of State has prescribed the "Declaration of Write-In Candidacy Form." [Sec. 146.032]
4. Filing deadline for declaration:

NOTE (if entity has special election): Section 201.054 (special election to fill vacancy) provides for a write-in deadline on the same day as the filing deadline. [Sec. 201.054]

The following are the general election deadlines:

- a. **City:** The declaration must be filed by 5:00 p.m. of the 74th day before election day. [Sec. 146.054]
- b. **School District, including common school districts:** The declaration must be filed by 5:00 p.m. of the 74th day before election day. [Education Code 11.056]

- c. **Water Districts: For water districts controlled by Water Code, Secs. 36.059 (groundwater conservation districts), 49.101 or 63.0945 (self-liquidating navigation districts)**, the declaration must be filed by 5:00 p.m. of the 74th day before election day. [Water Code Secs. 36.059, 49.101, 63.0945]

NOTE: Water Code, Chapters 36 and 49 apply to general or special law districts as defined in Water Code Sections 36.001 and 49.001, respectively. Therefore, if your district is a special law district, the write-in rule applies to the special law districts unless there is a conflict with the language of your act. The interpretation will depend on the specific language. Generally, if the special law is silent, the Water Code requirements for a write-in candidate will apply. If the special law has conflicting language, for example, “any name written in is counted” then the special law would prevail. Confirmation elections are also frequently governed by different rules. See Water Code Section 49.102(c) (applicable to many, but not all, water districts).

- d. **Junior College Districts (including junior colleges governed by ISD board):** Under Education Code, Sec. 130.0825, the declaration must be filed by 5:00 p.m. of the 74th day before election day.
- e. **Hospital Districts (general or special law):** The declaration must be filed by 5:00 p.m. of the 74th day before election day. [Health & Safety Code, Sec. 285.131]

NOTE: Health and Safety Code, Section 285.131 applies to all hospital districts, whether created by general or special law. It is possible that some special districts could be drafted to overcome this rule, but in general, where the special law is silent, this rule will prevail.

- f. **Library Districts:** The write-in candidate procedures are the same as those for cities, and therefore, the declaration must be filed by 5:00 p.m. of the 74th day before election day. [Local Government Code, Sec. 326.0431; Election Code, Sec. 146.054]
- g. **Emergency Services Districts Located in More than One County:** The write-in candidate procedures are the same as those for cities, and therefore, the declaration must be filed by 5:00 p.m. of the 74th day before election day. [Health and Safety Code, Sec. 775.035; Election Code, Sec. 146.054]
5. Certification of candidate for placement on list of write in candidates.
- a. The authority with whom a declaration of write-in candidacy is required to be filed must certify in writing for placement on the list of write-in candidates the name of each candidate who files with the authority a declaration which complies with the general requirements for an application for a place on the ballot. [Sec. 146.029(a)]

NOTE: If no name is to be certified, the authority must certify that fact in writing.

- b. In an election in November of an even-numbered year, not later than the 68th day before election day, the certifying authority must deliver the certification to the authority responsible for having the official ballot prepared in each county in which the office sought by the candidate is to be voted on. [Sec. 146.029(c)]
- c. A write-in candidate may not be certified for placement on the list of write-in candidates if:
 - i. The information on the candidate's declaration of write in candidacy indicates that the candidate is ineligible for the office;
 - ii. Facts indicating that the candidate is ineligible are conclusively established by another public record; or Note: No public record conclusively proves residence. Only a court of law may make a ruling on a person's residence.
 - iii. The candidate is determined to be ineligible by a final judgment of a court. [Sec. 146.030 and Water Code Sec. 49.101]
 - iv. The candidate timely withdraws. See withdrawal section in IV. B. 4., below.

NOTE: Many local entities have laws that use the city write-in rules at Subchapter C of Chapter 146. The city write-in rules in turn incorporate by reference some of the rules for a November general election for state and county officers at Subchapter B. Sec. 146.055.

IV. After Filing.

A. Review of Application (and Petition, if applicable) and Notice to Candidates. [Sec. 141.032]

1. On the filing of an application for a place on the ballot, the authority with whom the application is filed must review the application to determine whether it complies with the requirements as to **form, content, and procedure** only. That is, the authority checks to be sure it was filed correctly and in a timely manner and that all required information is completed and attested to. [Sec. 141.032(a)]
2. Unless accompanied by a petition, the review must be completed not later than the **fifth** day after the date the application is received by the authority. [Sec. 141.032(b)]
3. If an application is accompanied by a petition, the petition is considered part of the application, and the review must be completed as soon as practicable after the date the application is received by the authority. [Sec. 141.032(c)] The petition is NOT considered part of the application for purposes of determining compliance with the requirements applicable to each document; that is, a **deficiency in the requirements of one document may not be remedied by the contents of the other document.** [Sec. 141.032(c)]
4. An initial determination that an application complies with the requirements as to form, content, and procedure does NOT preclude a later determination that the application does not comply, subject to Section 141.034. (Section 141.034 sets a deadline for challenges to form, content, or procedure. See IV. A. 6., below.) [Sec. 141.032(d)]

NOTE: The Election Code provides no process for a candidate to supplement a defective

application. The application and petition must stand or fall as originally filed. Some case law seems to suggest that in certain cases, a candidate may have a right to supplement a defective petition. The Texas Supreme Court has held that candidates, who made timely filings and whose petitions were accepted, could not be rejected later for minor clerical errors that could have been fixed had the candidate been notified of the defect. **See In Re Francis**, 186 SW 3rd 534 (Tex 2006) and **In re Holcomb**, 186 SW 3rd 553 (Tex 2006). However, in 2011 Sections 141.032 and 141.062 were amended to clarify that after the filing deadline, a candidate may not amend an application for a place on the ballot (Section 141.032) or any accompanying petition in lieu of filing fee (Section 141.062), nor can the filing authority accept an amendment to their application for a place on the ballot or any accompanying petition in lieu of filing fee. Our office recommends that the filing authority promptly review applications in order to avoid litigation; however, the law has been amended to emphasize that the filing authority cannot accept amendments after the filing deadline.

5. If an application does not comply with applicable requirements, the authority must reject the application and immediately deliver to the candidate written notice of the reason for the rejection. [Sec. 141.032(e)]

Section 141.032, which governs the review of a candidate's application for a place on the ballot for form, content, and procedure, does not apply to a determination of a candidate's eligibility. For information on a challenge to a candidate's eligibility, see "Administrative Declaration of Ineligibility" at IV. C., below.

RECENT LAW: An application for a place on the ballot may not be challenged for compliance with the applicable requirements as to form, content, and procedure after the day before **any ballot to be voted early by mail is mailed for the election for which the application is made**. This deadline does not apply to a determination of a candidate's eligibility. A challenge must state with specificity how the application does not comply with the applicable requirements as to form, content, and procedure. The authority's review of the challenge is limited to the specific items challenged and any response filed with the authority by the challenged candidate. Sec. 141.034, Senate Bill 44 (2017).

NEW LAW: HB 831 adds subsections (a-1), (a-2), and (a-3) to Section 141.001. Subsections (a-1) and (a-2) add a definition of residency for purposes of candidacy under that section. Subsection (a-3) also provides that the authority with whom an application for a place on the ballot is filed for a general primary election ballot shall use that definition of residency in determining whether the candidate meets the residency requirement. This review of a candidate's residence is authorized **"to the extent permitted by law."** However, Texas law does not allow a filing authority to make a conclusive determination about the location of a person's residence, and requires that any such determination be made by a court of law. Accordingly, HB 831 does not grant the filing authority additional authority to make a determination based on residence, but rather establishes the

elements that must be proven in court in a residency challenge. Under HB 831, the filing authority's review of candidate applications **does not change**. The filing authority must accept the applicant's sworn affirmation regarding the location of the applicant's residence, and can only challenge the location of the applicant's residence in a court of law. Sec. 141.001, House Bill 831 (2019).

6. Application and any accompanying petition is public information as soon as it is filed. [Sec. 141.035] Therefore, any person may request a viewing or a copy.

B. Withdrawal of Candidate.

1. To be effective, a withdrawal request must:
 - a. Be in writing, signed, and acknowledged (sworn to) by the candidate; and
 - b. Be timely filed with the authority with whom the application was filed. [Secs. 145.001(b), 145.093]

NEW LAW: Exception: If a candidate files a withdrawal request after the deadline prescribed by Section 145.092, and the candidate complies with each requirement under Section 145.001 except that the candidate's withdrawal request is untimely filed, the authority responsible for preparing the ballots may choose to omit the candidate from the ballot if the ballots have not been prepared the ballots have not been prepared, and if using a voting system, public notice of the logic and accuracy test has not been published. Sec. 145.098, as amended by **House Bill 4129 (2019)**.

2. A withdrawal request filed by mail is considered to be filed at the time of its **receipt** by the appropriate authority or an employee of that authority. [Sec. 145.001(c)]
3. Deadline for withdrawal for candidates **other** than write-in candidates:
 - a. **General Rule:** a candidate in an election for which the filing deadline is a date not specifically addressed by Section 145.092 may not withdraw after 5 p.m. of the fifth day after the candidate's deadline for filing application for a place on the ballot. [Sec. 145.092(a)]

NOTE: Technically, subsection (a) is the "general rule." However, for a city, school district or other local entity using the **filing deadline of the 78th day** before election day, the **withdrawal deadline will be the 71st day before election day**.

- b. A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 78th day before election day may not withdraw from the election after 5 p.m. of the 71st day before election day. [Sec. 145.092(f)]
- c. A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 62nd day before election day may not withdraw from the election after 5 p.m. of the **57th** day before election day. [Secs. 1.007, 145.092(b)]

4. Deadline for withdrawal of declared write-in candidates is the **71st** day before election day. [Sec. 146.0301(a)]
5. Deadline for withdrawal of candidate in **runoff** election (i.e., when election requires majority vote and no candidate receives more than 50% of the vote) is 5 p.m. of the 3rd day after the final canvass of the main election.
6. A candidate's name is omitted from the ballot if the candidate withdraws before the appropriate deadline for withdrawal. [Sec. 145.094] See general rule and **new law** discussed at IV.B.3.a above.

NOTE: If a candidate does not file the withdrawal before the deadline, the withdrawal is **ineffective**; the candidate's name will remain on the ballot, and any votes cast for that candidate must be counted in the regular manner. If the candidate wins, he or she may take office, if still in compliance with eligibility requirements. If a runoff is required, the candidate may be placed on the runoff ballot unless he or she withdraws in a timely manner from the runoff election. [Sec. 145.001].

7. If a candidate in a run-off timely withdraws, the remaining candidate is considered to be elected and no runoff election is held. [Sec. 145.095]
8. If the authority with whom the withdrawal request is filed is not responsible for having the official ballot prepared, the authority must certify the candidate's name in writing as a withdrawn candidate and promptly deliver the certification to the authority responsible for having the official ballot prepared. [145.093(b)]

C. Administrative Declaration of Ineligibility. [Sec. 145.003]

1. A candidate may be administratively declared ineligible if:
 1. The information on the candidate's application for a place on the ballot indicates that the candidate is ineligible for the office; or
 2. Facts indicating that the candidate is ineligible are conclusively established by another public record. [Sec. 145.003(f)]

NOTE: No public record conclusively establishes residency. Only a court of law may make a ruling on a person's residency.

2. When presented with an application for a place on the ballot or another public record containing information pertinent to the candidate's eligibility, the appropriate authority must promptly review the record. If the authority determines that the record establishes ineligibility, the authority **shall** declare the candidate ineligible. [Sec. 145.003(g)]
3. A candidate **may** be administratively declared ineligible:
 - a. By the authority with whom the application was filed before early voting by personal appearance begins. [Sec. 145.003(c)]
 - b. By the presiding officer of the final canvassing authority after the polls close on election day and before the certificate of election is issued. [Sec. 145.003 (d)]
4. If a candidate is declared ineligible, the authority making the declaration must promptly give written notice of the declaration of ineligibility to the candidate. [Sec. 145.003(i)]

5. If a candidate is declared ineligible on or before the deadline to withdraw, the candidate's name is omitted from the ballot. [Sec. 145.096]. See IV. B. 3. & 4. above, for deadlines to withdraw. See IV. E., below for effect of candidate being declared ineligible after the deadline.

NOTE: Similar to the withdrawal deadline discussed above, technically, subsection (a) is the “general rule.” However, for a city, school district or other local entity using the **filing deadline of the 78th day** before election day (Senate Bill 1703, effective September 1, 2015), the deadline to declare a candidate ineligible in time to omit the name from the ballot (like the withdrawal deadline) **is the 71st day before election day.**

6. If a run-off candidate is declared ineligible, the candidate's name remains on the ballot. [Sec. 145.096(b)]

D. **Candidate's Death.** [Sec. 145.096]

1. If the death occurs before the 2nd day before the filing deadline, the name is omitted from the ballot.
2. If the death occurs after the 2nd day before the filing deadline, the name remains on the ballot. See. IV. E., below for effect of deceased candidate’s name remaining on the ballot.
3. If a run-off candidate dies, the name remains on the ballot. [Sec. 145.096(b)]

E. **Effect of Votes Cast for Deceased or Ineligible Candidate After the Deadline for Omitting Name on Ballot.** [Sec. 145.005]

1. **In an election where there is no runoff requirement** (i.e., election is by plurality): If a candidate dies or is declared ineligible after the deadline, the candidate's name will remain on the ballot, and any votes cast for that candidate must be counted in the regular manner. If the candidate receives the vote required for the election, a vacancy results and is filled in the regular manner of filling vacancies in the political subdivision.
2. **In an election where there is a runoff requirement** (i.e., election is by majority): Again, if a candidate dies or is declared ineligible after the deadline, the candidate's name will remain on the ballot, and any votes cast for that candidate must be counted in the regular manner. If the deceased or ineligible candidate received the vote that would entitle the candidate to a place on the runoff ballot, the candidates on the runoff ballot will be determined **without regard** to the votes cast for the deceased or ineligible candidate. That is, the votes for the deceased or ineligible candidate will be disregarded.

V. **Canceling Elections (for further detail, consult the “Cancellation” outline in this publication or the Secretary of State website). [Sec. 2.051**

VI. **Miscellaneous**

NEW LAW: Section 52.094 now provides that except as otherwise provided by law, the order of candidates’ names on the ballot for a runoff election or a second election to resolve a tie shall be in the same order as they appeared on the ballot for the original election. This change now conforms the

procedures for these elections to what was already occurring with primary elections and special elections to fill a vacancy in the legislature. House Bill 88 (2019).

Example: A home-rule city charter might provide otherwise for a second drawing.

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