

Requirements for filing for Public Office in a Local Political Subdivision

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]

NEW LAW: This has been emphasized by House Bill 2157 (2017).

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.

- 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)

NEW LAW: Section 141.031 was amended to request 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**. House Bill 1735 (2017). (NOTE: this codifies SOS interpretation.) Updated forms reflect this.

- 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 new law 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 now 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. Senate Bill 910 (2013). 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.

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]

- 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.