

Early Voting Ballot Board & Signature Verification Committee



35th Annual Election Law Seminar
for Cities, Schools and Other Political Subdivisions



Purpose of EVBB

- To serve as the authority that processes early voting ballots and provisional ballots.
- The Early Voting Ballot Board (the “Board”) generally meets:
 - To qualify ballots by mail on election day
 - After election day to review any provisional ballots and to qualify mail-in ballots received by the NBD/5th/6th day after the election from voters casting a ballot from outside the country.



Composition of EVBB

- Presiding judge, an alternate presiding judge, and at least 1 other member
 - Sec. 87.002 requires an alternate presiding judge to be appointed to the EVBB in the same manner as presiding judge.
- Presiding Judge appoints clerks
- How many members are appointed?
 - General Election for State and County officers (if joint ballot board):
 - The same number of members must be appointed from each list provided by political parties.
 - Local elections:
 - Authority ordering election sets number of members.



Who appoints Presiding Judge and Clerks?

| Type of Election | Presiding Judge | EVBB Clerks |
|--|--|--|
| General Election for State and County Officers | County Election Board -- from list provided by political party whose nominee for Gov received the most votes in the county | County Election Board -- from lists provided by political parties (same number from each list) |
| Primary Elections | County Chair of Political Party with approval of County Executive Committee | Presiding Judge of EVBB |
| All Other County ordered elections | Commissioners Court | Presiding Judge of EVBB |
| All other Elections | Authority ordering election | Presiding Judge of EVBB |



Eligibility to Serve on Board

- Same qualifications for Election Judges/Clerks
 - Qualified voter of the political subdivision served by the **early voting clerk.** Sec. 32.051
- Ineligible if:
 - Hold public elective office
 - Opposed candidate in election on the same day
 - Related to an opposed candidate within 2nd degree by blood or marriage
 - Serving as campaign treasurer/campaign manager for candidate in election



Compensation

- Same hourly compensation as election judges
EXCEPT: (Sec. 32.091)
 - If work is less than 10 hours – payable for up to 10 hours.
 - Board members serving as election judges/clerks cannot be compensated for performing both tasks at the same time.
 - Presiding Judge of EVBB may be compensated at a higher rate at the discretion of the appropriate authority.



Signature Verification Committee (SVC)



Purpose of SVC

- Compares signatures on applications and corresponding carrier envelopes to determine that the signatures on these documents are of the same person. Sec. 87.027(i)
- SVC is optional; these functions may be left with the EVBB.



Signature Verification Committee

| Type of Election | Chair | SVC Clerks |
|--|---|---|
| General Election for State and County Officers | County Election Board appoints who is the chair, in an election for which the board is established -- from list provided by the county chairs | County Election Board appoints, in an election for which the board is established --from list provided by the county chairs |
| Primary Elections | County Chair of Political Party with approval of County Executive Committee | County Chair of Political Party with approval of County Executive Committee |
| All Other County ordered elections | Commissioners Court | Commissioners Court |
| All other Elections | Authority ordering election | Authority ordering election |



Convening the Early Voting Ballot Board



Convening the EVBB

- The board **must** convene to complete the following tasks:
 - Qualify and Process Regular Ballots by Mail
 - Qualify and Process Various Late Ballots
 - Qualify and Process Provisional Ballots
- The EVBB usually meets a minimum of **two** times.
- At first meeting, take oath.



Convening the EVBB

- **New Law - Senate Bill 1599**
 - Amended Sec. 87.0222 to require early voting ballot boards to have their first meeting not later than 9 days before election day, if they have not already met before that day. Notice must be posted at least 24 hours before each delivery of ballots to the ballot board.



Who may be present during EVBB operation?

- a presiding judge or member of the board;
- a watcher;
- a state inspector;
- a voting system technician, as authorized by Section 125.010;
- the county election officer, as defined by Section 31.091, as necessary to perform tasks related to the administration of the election; or
- a person whose presence has been authorized by the presiding judge in accordance with the Election Code.



When is the last day the EVBB can complete their duties?

- Review of all late-qualified ballots must be completed by:
 - The 9th day after date of the election, (General Rule); OR
 - The 13th day after the date of the election (elections held on the date of the general election for state and county officers – November of even-numbered years)

Sec. 87.125



WARNING

If the EVBB does not complete their duties by the last day allowed under Texas law, they MUST get a court order to continue their review of ballots.



Convening the SVC

- The early voting clerk may determine whether or not the committee will need to reconvene after election day to verify signatures or leave that authority with the early voting ballot board.
- Recommendations:
 - This decision should be made prior to election day.
 - If the authority is left with the committee, the committee should coordinate with the board and the early voting clerk for delivery of the jacket envelope ballots by mail.
- If there is an SVC, the SVC must verify the signatures before the EVBB meets. The SVC would follow the same procedures used when first convening.



Meeting Requirements for EVBB/SVC

| | First Day Mail Ballots can be Reviewed | Texas Election Code Section |
|---|---|---|
| Signature Verification Committee (All counties and local political subdivisions) | 20th day before election day | Sec. 87.027(f) |
| Early Voting Ballot Board (All counties and local political subdivisions) | <p>May meet anytime after ballots have been returned.</p> <p>If the EVBB has not met by the 9th day before election day, they must have their first meeting by the 9th day.</p> | <p>Sec. 87.0222 (NEW LAW – SB 1599)</p> |



Notice Requirements



Notice of Delivery of Ballots

- Early Voting Clerk must post Notice of Delivery of Ballots to the EVBB 24 hours before each delivery that is made prior to the time the polls open on election day.
- SOS has prescribed forms for this notice: 10-3 (Mail ballots only) & 10-4 (Mail and paper balloting materials).
- Recommendation: Notices should be posted on website if possible.



SVC Notices

- The following notices must be posted on an entity's website if available:
 - Copy of order calling for the appointment
 - EV Clerk's notice of names and addresses of members
 - Notice of delivery of ballots



Delivery of Provisional Ballots

- Presiding Judge must post notice of the EVBB meeting on provisional ballots on the same bulletin board used for posting notices of meetings of the governing body ordering election.
- Notice must be posted no later than 24 hours before EVBB meets.
- Recommendation: Notices should be posted on website if possible.



Security of Ballots



Security of Ballots

- Presiding judge must inspect box, seals, numbers on seals and indicate on receipt any discrepancies.
- Presiding Judge cannot refuse delivery of ballot boxes.
- Custodian of second ballot box key must deliver key when requested.



Security of Ballots

AW5-39
Prescribed by Secretary of State
Sections 85.032(b), 127.038, 127.066, Texas Election Code
3/07

RECEIPT OF SEALED EARLY VOTING BALLOT BOX

I, the Presiding Judge of the Early Voting Ballot Board for the _____
Election, do hereby certify that the early voting ballot box was delivered to me in a locked and
sealed condition.

I further certify that the serial number of the seal used to seal the ballot box to prevent
unauthorized opening of the box was _____.

I also certify that the serial number of the paper seal used to prevent unauthorized deposit of
ballots in the box was _____.

Signature of Early Voting Ballot Board Judge

Signature of Clerk of Early Voting Ballot Board

Signature of Poll Watcher (if present)

Signature of Poll Watcher (if present)

Attach a copy of this receipt to the Record of Early Voting Ballot Seals and return to the general
custodian of the records.

- PJ must lock and seal each ballot box before delivering to the custodian of records
- PJ must complete Ballot Security Form
- Form must be signed by another member of EVBB that witnessed the procedure.
- Counties with populations of 100,000 or more must implement a video surveillance system (via live stream) that retains a record of all areas containing voted ballots from delivery to EVBB/SVC/CCS until canvass of the election
 - See 2022-10 Ballot Security Requirements for more info.



Ballot By Mail Procedures



Ballot by Mail Procedures

- Review of ABBM/FPCA & Carrier Envelope
 - Reasons for voting by mail
 - Verify PII provided on ABBM and Carrier is associated with voter's registration record
 - Voter registration status
 - Procedures for submitting ballot properly followed
 - If ABBM marked disability, must contain the statement, "I have a sickness or physical condition that prevents me from appearing at the polling place on election day without a likelihood of needing personal assistance or injuring my health."
- Signature Verification
- Return materials to General Custodian



Ballot by Mail Procedures

- **ID Comparison Requirements**

- The EVBB shall only accept a ballot if the personal identification information (ex: SSN or TXDL) matches the voter registration record.
- The SVC/EVBB is matching the information on the carrier envelope to the **VR record**.
- The number on the carrier envelope does not have to be the same number on the ABBM – it must only match the VR record.



Ballot by Mail Procedures

- **Rebuttable Presumption**

- If the personal identification information provided matches the VR record, the signatures on the ABBM and the carrier envelope are rebuttably presumed to be those of the voter.
- The presumption may be rebutted by presenting other past signatures on file with the EVC or VR that would support a finding that the signatures on the carrier envelope and ABBM are not those of the voter.
- **The EVBB/SVC shall compare signatures regardless of whether the rebuttable presumption exists.**



Ballot by Mail Procedures

- **Poll Watchers**

- A poll watcher has no authority to challenge the acceptance of a signature or any actions taken by the EVBB or SVC during the course of their regular meetings. The poll watcher can point out an election irregularity to the EVBB presiding judge or the SVC chair, after which the poll watcher has no further authority to take any actions with the EVBB or SVC relating to their observations.



Qualifying Ballots By Mail

- Signature Verification
 - Authorized to use electronic copies of balloting materials
 - Board may also compare signatures with **ANY** known signature of the voter on file with the VR or county clerk.
 - “ID” Voters
 - Must provide copy of one of the 7 valid forms of photo identification OR RID plus supporting form of ID
- Witnessing v. Assisting a voter
 - NO limit on number of carrier envelopes that a person may witness or assist.
 - A Witness may only witness 1 ABBM unless certain exceptions apply.



Signature Verification Committee

Corrective Action Process

- The following defects are eligible for correction when identified by the signature verification committee (Sec. 87.0271(a)):
 - The voter did not sign the carrier envelope certificate.
 - The SVC cannot determine whether the signature on the carrier envelope is that of the voter.
 - The personal identification information required under Section 84.002(a)(1-a) (ABBM) or Section 86.002 (carrier envelope) was missing or contained incorrect information.
 - If a voter used a witness for completion of the carrier envelope, the witness information was incomplete.
 - **NOTE:** Incomplete information about an assistant cannot be corrected and will result in a rejected mail ballot, but the voter may still vote in person if otherwise eligible.



Early Voting Ballot Board Corrective Action Process

- The following defects are eligible for correction when identified by the early voting ballot board (Sec. 87.0411(a)):
 - The voter did not sign the carrier envelope certificate.
 - The EVBB cannot determine whether the signature on the carrier envelope is that of the voter.
 - **The voter did not include the required Statement of Residence.**
 - The personal identification information required under Section 84.002(a)(1-a) (ABBM) or Section 86.002 (carrier envelope) was missing or contained incorrect information.
 - If a voter used a witness for completion of the carrier envelope, the witness information was incomplete.
 - **NOTE:** Incomplete information about an assistant cannot be corrected by EVBB/SVC and will result in a rejected mail ballot, but the voter may still vote in person if otherwise eligible.
- **Only the EVBB has the authority to open the sealed part of carrier envelope to determine if a Statement of Residence (SOR) has been submitted.**
 - The only exception is for FPCA voters. An SVC must open the sealed envelope to obtain the Signature Sheet for FPCA Voter, as this is necessary for the signature verification process.



Corrective Action Process

- **New Law - Senate Bill 1599**
 - The early voting ballot board or signature verification committee can no longer send the defective carrier envelope to the voter for correction.
 - Allows voters to correct defects in their carrier envelope by returning a corrective action form, appearing in person at the early voting clerk's office, canceling their application to vote by mail and voting in person, or making the correction through the ballot by mail tracker, if possible.
 - Voters have until the sixth day after election day to complete the corrective action process.
 - Please see Advisory No. 2023-13 for additional guidance, as well as the EVBB Handbook and SVC Handbook.



Provisional Ballot Procedures



Reviewing Provisional Ballots

- Authority appointing EVBB may determine which members of the board will review the provisional ballots.
- Entire board does not need to be present.
- Minimum of three EVBB members must be present.



Administrative Duties



Return of Materials to Custodian

- Delivered to General Custodian of Election Records.
 - Re-locked ballot boxes containing ballots
 - Key to ballot box returned to general custodian
 - List of Provisional Voters
- General custodian prepares amended unofficial return
- Ballots and Envelopes retained for preservation period
- Public Records
 - Carrier Envelopes
 - Application for Ballot By Mail (Annual ABBMs available after earliest occurring election for which the application was submitted)
 - Provisional Ballot Affidavit Envelope
 - List of Provisional Voters
- Rejected Ballots may only be opened by court order



Notice to Voters

- Ballots by Mail
 - ***Notice of Rejected Ballot*** (Form 10-22)
 - Within 10 days of election
- Provisional Ballots
 - ***Notice of Outcome to Provisional Voters*** (Form 9-9)
 - No later than 10th day after the local canvass
 - Use mailing address provided on Provisional Ballot Affidavit.



Notice of Rejected Ballot

The EV clerk shall, not later than the 30th day after election day, deliver notice to the Attorney General, including certified copies of the carrier envelope and corresponding ballot application, of any ballot rejected because:

- 1) the voter was deceased;
- 2) the voter already voted in person in the same election;
- 3) the signatures on the carrier envelope and ballot application were not executed by the same person;
- 4) the carrier envelope certificate lacked a witness signature;
- 5) the carrier envelope certificate was improperly executed by an assistant; or
- 6) the EVBB or SVC determined that another violation of the Election Code occurred [Sec. 87.0431]

For questions, you may contact: mailinballotreporting@oag.texas.gov.



Additional EVBB Provisions

- Section 87.126 provides that electronic records made under this section shall record both sides of any application, envelope, or ballot recorded, and all such records shall be provided to the early voting ballot board, signature verification committee, or both.
- Section 87.128 permits the early voting ballot board and signature verification committee to take any notes reasonably necessary to perform the members' duties.
 - Notes taken by these individuals may not contain personally identifiable information. Each member who takes notes shall sign the notes and deliver them to the presiding judge or committee chair, as applicable, for delivery to the custodian of election records.
 - Notes collected under Section 87.128 shall be preserved in the same manner as precinct election records under Section 66.058.



Counting Procedures

- In elections in which the early voting ballot board will be hand-counting the early voting in person ballots and/or the early voting by mail ballots, the procedures described in Chapters 65 and 81 of the Code will apply.
 - There is no legal authority for the early voting ballot board to hand-count election day ballots.
- If ballots will be counted at the central counting station, then pursuant to Section 87.101 of the Code, on the direction of the presiding judge, the early voting ballot board shall deliver to the central counting station the container for the early voting electronic system ballots that are to be counted by automatic tabulating equipment at a central counting station.



Thank you for your time.

Questions?

Elections@sos.texas.gov

