

Checks and Balances in Texas: The Post-Election Day Process

American elections are run by local and state officials alongside tens of thousands of our friends and neighbors from both political parties. These bipartisan teams count, canvass, and audit every ballot — whether in person or by mail — verifying identities, inspecting ballots, and ensuring each is counted as intended. This rigorous process leads to the final step: certification. This is the straightforward phase of the process, in which election officials declare the winners.

This memo outlines the checks and balances in Texas that ensure all state and local rules are followed. Importantly, this is nonpartisan educational research intended for 501(c)(3)-compliant purposes only. It is not to be used for any partisan, political, or electioneering activities by any organization.

Counting: Technology and Bipartisan Oversight Work to Triple-Check Results for Accuracy

Texas law mandates specific processes for counting votes manually or with the use of automatic tabulation equipment. Each process requires participation by a team of bipartisan election officers and includes equipment testing and periodic reconciliation of results.

Quality-tested Technology Leads to Trustworthy Results

Ballots can be counted using automatic tabulation equipment at each polling location or at a central counting location. In either case, Texas law requires the tabulation equipment to be tested three times: 1) 48 hours before Election Day; 2) immediately before counting begins; and 3) immediately after counting is complete.¹ Counts obtained using automatic tabulation equipment may not be used for certification unless all three tests are successful.

Automatic tabulation at a polling location is performed once polls close. Voters insert their own ballots into the tabulation equipment at the polling location. The equipment must be programmed to return any irregularly marked ballot to the voter.²

¹ Tex. Elec. Code §§ 127.091; 127.093

² Tex. Elec. Code § 127.151

Once polls close, the tabulation equipment totals the results and provides a results tape that must be signed by the presiding judge.³ Additionally, precinct officials hand count the number of ballots accepted for counting at the polling location for comparison to the number of ballots counted by the equipment. These numbers are noted on a form created by the secretary of state. If the two counts vary by more than three votes, the ballots must be retabulated at a central counting location.⁴

Both Parties Participate Throughout a Transparent Process

Polling places and central count locations must have a presiding election judge and alternate presiding election judge affiliated with different political parties.⁵ Political parties may appoint poll watchers who are allowed to observe counting at both polling locations and central count locations.⁶

If ballots are to be counted at a central counting location, they are transported in ballot boxes that are sealed by election officials once polls close (under observation by poll watchers).⁷ At central counting locations, ballots are handled by counting station clerks according to a written plan that must be available for public inspection no later than five days before Election Day.⁸ Ballots must be tabulated by precinct. Once tabulation is completed, the presiding judge prepares precinct returns in the same manner as if counting has occurred at the polling location.⁹

In the small number of jurisdictions that count their ballots manually, ballots are counted by teams of two or more counting officers.¹⁰ Counting team members keep three tally lists that are periodically compared during counting to make sure they match. Upon completion of the count, the tally lists are verified for agreement once again, and each list is signed by the counting officer who kept it.¹¹ The polling place's presiding judge then prepares the precinct returns for transmission to county election officials.¹² Texas law requires all precinct returns to be transmitted to county officials within 24 hours after polls close.¹³

Audits Verify the Accuracy of Automatically Tabulated Results

To further ensure the accuracy of automatically tabulated results, election officials conduct a manual count of all races in at least 1% of election precincts (or at least three precincts,

³ Tex. Elec. Code § 127.155

⁴ Tex. Elec. Code § 127.156

⁵ Tex. Elec. Code §§ 32.002; 127.005

⁶ Tex. Elec. Code §§ 61.001; 127.008

⁷ Tex. Elec. Code § 127.066

⁸ Tex. Elec. Code §§ 127.006; 127.007

⁹ Tex. Elec. Code §§ 127.128

¹⁰ Tex. Elec. Code § 65.001

¹¹ Tex. Elec. Code §§ 65.004; 65.005

¹² Tex. Elec. Code § 65.014

¹³ Tex. Elec. Code § 66.053

whichever is greater) in which automatic tabulation equipment was used. In statewide elections, the secretary of state selects the precincts to be confirmed with a manual count. This partial count must begin no later than 72 hours after polls close and must be complete no later than 21 days after Election Day.¹⁴

Canvassing: A “Mandatory, Ministerial Duty”

Canvassing is the process of compiling vote totals reported in returns from throughout a jurisdiction. In Texas, canvassing occurs at the county and state level. At both stages, it is a [mandatory, ministerial duty](#) for the canvassing authority.

County Canvass: Public Meeting of the County Commissioners Court

For biennial statewide elections in Texas (as well as any other election ordered by the governor or a county authority), the county commissioners court has the duty to conduct the county canvass.¹⁵ Generally, the county canvass must occur between three and 11 days after Election Day. But, counties have until 14 days after Election Day to canvass the biennial general election.¹⁶

The county canvass must be conducted at a meeting open to the public. At the meeting, the commissioners court opens the sealed precinct returns and prepares a countywide tabulation of the votes received by each candidate, as well as those for or against each ballot measure.¹⁷ Upon completion of the county canvass, the county clerk accepts delivery of the results and assumes responsibility for their retention as required by law. The county clerk prepares county returns for president; statewide, district, and precinct offices; and for statewide ballot measures and delivers them to the secretary of state within 24 hours of completion of the county canvass.¹⁸

State Canvass: Governor and Secretary of State Compile County Results

The governor conducts the state canvass for all statewide elections and ballot measures other than the offices of governor and lieutenant governor.¹⁹ The state legislature canvasses the elections for governor and lieutenant governor when they are on the ballot.²⁰

For a biennial general election, the governor must conduct the state canvass between 18 and 33 days after Election Day. The secretary of state posts notice of the date, time, and

¹⁴ Tex. Elec. Code § 127.201

¹⁵ Tex. Elec. Code § 67.002

¹⁶ Tex. Elec. Code § 67.003

¹⁷ Tex. Elec. Code § 67.004

¹⁸ Tex. Elec. Code § 67.007

¹⁹ Tex. Elec. Code § 67.010

²⁰ Tex. Elec. Code § 67.011

place of the state canvass at least 72 hours before it is to occur.²¹ On the day of the canvass, the secretary of state delivers the returns submitted by each county to the governor. The secretary prepares a statewide tabulation noting the number of votes each candidate or measure received in each county and a sum of the statewide totals.²² This tabulation is then used to determine the official results of all races canvassed at the state level.²³

Certification: The Voters Have Spoken

Once canvassing is completed, winning candidates receive a certificate of election. For races that are determined by the county canvass, the presiding officer of the local canvassing authority (the county commissioners court) prepares the certificate and promptly delivers it to the winning candidate.²⁴ For races canvassed at the state level (other than president), the governor certifies the results immediately upon completion of the state canvass and delivers certificates to winning candidates.²⁵

In presidential elections, once the state canvass determines the presidential candidate who received the most votes statewide, the secretary of state delivers certificates to each presidential elector pledged to the candidate who won the statewide vote.²⁶ State law also requires the secretary to coordinate the meeting of the duly-selected presidential electors at the state capitol on the first Tuesday after the second Wednesday in December, including the conduct of casting the state's official votes for president and vice president.²⁷

Secure Democracy Foundation is a nonpartisan, 501(c)(3) nonprofit organization building stronger elections, state by state. Our work is state-focused, informed by election policy insights from a national perspective, and realized by seizing common ground.

²¹ Tex. Elec. Code § 67.012

²² Tex. Elec. Code § 67.013

²³ Tex. Elec. Code § 67.014

²⁴ Tex. Elec. Code § 67.016

²⁵ Id.

²⁶ Id.

²⁷ Tex. Elec. Code §§ 192.006; 192.104