



OFFICE OF THE SECRETARY OF STATE

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STATE CAPITOL
P.O. Box 12697
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July 23, 1982

The Honorable Lucille Wolz
County Clerk, Ector County
3rd and Grant Avenue
Odessa, Texas 79761

Mr. S. Virgil Waggoner
President, El Paso Products Company
P. O. Box 3986
Odessa, Texas 79760

Election Law Opinion DAD-41
Re: County-wide bingo elec-
tion and county-wide bond
election being held
jointly

Dear Ms. Wolz and Mr. Waggoner:

This is in response to inquiries from you dated July 2 and July 16, 1982, respectively, dealing with the same issue.

This official election law opinion is rendered by me as chief election officer of the state in accordance with Tex. Elec. Code Ann. art. 1.03, subd. 1 (Vernon Supp. 1982).

Specifically, you posed six questions:

- (1) May Ector County hold a county-wide bingo and bond election on the same date?
- (2) Can Ector County have one polling place for both the bingo and bond elections or must they have separate polling places for each election?
- (3) If the answer to question (2) is yes, may there only be one set of election officials and also a single set of election materials (i.e., poll list, tally sheet, etc.)?
- (4) Can the polling places for the bingo and bond elections be consolidated?

- (5) May the bingo proposition and bond proposition appear on the same ballot or, in the alternative, may they appear on separate ballots?
- (6) Does the Secretary of State approve the holding of the bond election?

Your first question is whether Ector County may hold county-wide bingo and bond elections on the same date. There is no limitation in the Bingo Enabling Act, Vernon's Ann. Civ. Stat., art. 179d, or Vernon's Ann. Civ. Stat., art. 704, which governs the ordering of a county bond election that would prohibit another election from being held in conjunction with the special election governed by those respective statutes. Additionally, there is no prohibition in the Texas Election Code which would prohibit Ector County from holding the county-wide bingo and bond elections on the same date. Ector County, therefore, would be authorized to conduct the bingo and bond elections on the same election date.

The second question you asked is whether there may be one polling place in each precinct to conduct balloting on both the county-wide bingo and bond propositions. In V.A.T.S. Election Code, art. 2.02, §(a) states:

(a) County-wide elections held at the expense of the county. In general elections for state and county officers, special elections called by the Governor (including both county-wide elections and elections to fill vacancies in offices elected by districts which are less than county-wide), and in all other county-wide elections held at the expense of the county other than elections coming within Subsection (d) of this section, the election precincts shall be the regular election precincts established by the commissioners court pursuant to Article 2.04, Vernon's Texas Election Code. The commissioners court shall designate the polling place for each regular precinct, in accordance with the following procedure. The county officer in charge of election duties (the county elections administrator in a county which has that office and the county clerk in a county which does not have the separate office of county elections administrator) shall recommend to the commissioners court the location of the polling place for each precinct, and the commissioners court

shall designate as the polling place the location so recommended unless good cause exists for rejecting the recommendation. (Emphasis added.)

Both the bingo and bond elections are county-wide elections that are to be held at the expense of the county. Under V.A.T.S. Election Code, art. 2.02, §(a), there would be no prohibition against the county utilizing one polling place in each precinct to conduct the balloting on both the bingo and bond propositions. In addition to the foregoing, an examination of the Bingo Enabling Act, Vernon's Ann. Civ. Stat., art. 179d, and Vernon's Ann. Civ. Stat., art. 704, which governs the election order for bond elections, reveals no regulation prescribing the conduct of other elections jointly with those particular special elections. It would be permissible, therefore, under V.A.T.S. Election Code, art. 2.02, for the commissioners court, on the recommendation of the county clerk, to designate only one polling place in each precinct at which balloting could be conducted for both the bingo and bond elections.

Your third question asked, if only one polling place may be designated in each precinct for both the bingo and bond elections, then may only one set of election officials and one set of election materials (i.e. poll lists, tally sheets, etc.) be utilized for each precinct? Neither the Texas Election Code nor the statutes governing bingo and county bond elections (Vernon's Ann. Civ. Stat., arts. 179d & 704, respectively) address the particular issue posed by your question. It may be concluded by reference to V.A.T.S. Election Code, art. 2.02, however, that because both elections are being ordered by the commissioners court and are being held at county expense on the same date, it would be proper for the commissioners court to appoint one set of election officials for each precinct to oversee the voting on the bingo and bond propositions. This conclusion is reinforced by the provisions of V.A.T.S. Election Code, art. 3.01, which allows the commissioners court to designate the presiding judge, alternate presiding judge, and election clerks for all county-wide elections held at the expense of the county. Additionally, there is no prohibition in the Texas Election Code or the statutes governing bingo and bond elections which would require the utilization of two sets of election materials for conducting the bingo and bond elections. This is supported by the fact that all voters who vote in the county-wide bingo election will also be qualified to vote in the county-wide bond election. You may, therefore, have one set of election materials for each polling place at which balloting for the bingo and bond elections will take place.

In your fourth question, you asked if the bingo proposition and bond proposition may appear on the same ballot. Reference to the Bingo Enabling Act, art. 179d, supra, and Vernon's Ann. Civ. Stat., art. 705, which governs county bond propositions does not create any impediment to both the bingo and bond propositions appearing on a single ballot. It is, furthermore, provided in V.A.T.S. Election Code, art. 6.05, subd. 8, that in special elections more than one proposition may appear on the official paper ballot. No difficulty is posed by the conclusion that both the bingo and bond propositions may appear on the same ballot because both propositions may be voted on by all qualified voters within the county. If, however, there were to be two elections ordered by the county commissioner with one proposition being voted on a county-wide basis and the other being voted on by only part of the county, steps would have to be taken to ensure that no voter could cast a ballot on a proposition for which he was not entitled to vote. It is concluded, therefore, that both the bingo and bond propositions may appear on a single ballot since both are to be voted on by all qualified voters within the county pursuant to the election order of the commissioners court.

Your fifth question asked whether the election precincts in Ector County may be consolidated for the bingo and bond elections. In V.A.T.S. Election Code, art. 2.02, §(g), it states:

(g) In any election for which the election precincts are required to be those formed under the provisions of Art. 2.04 of this code, if in any county there is no local office or proposition to be voted on by the voters of only that county or a part of that county, the authority holding the election may combine any two or more regular election precincts into consolidated precincts for such election in that part of the county having no such local office or proposition to be voted on if it appears that the voters included within each consolidated precinct can be adequately and conveniently served at one polling place; provided, however, that there shall always be at least one consolidated precinct wholly within each commissioners precinct of the county. (Emphasis added.)

Both the bingo and bond issues are propositions that will be voted on by voters of only Ector County. Therefore, it is clear from art. 2.02, §(g), supra, that consolidation is not permissible.

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In your final question you asked "Does the Secretary of State give a go-ahead for a bond election?" As chief election officer of the state, pursuant to V.A.T.S. Election Code, art. 1.03, subd. 1, the Secretary of State is responsible for insuring a uniform interpretation and application of the Texas election laws. It is outside the scope of authority for the Secretary of State to either approve or disapprove the holding of an election, if under the Texas Election Code all procedural requirements and conditions have been met. Accordingly, beyond the questions answered in the foregoing paragraphs, I am unable to either approve or disapprove the holding of a bond election.

SUMMARY

Ector County may hold the county-wide bingo and county-wide bond elections on the same date.

There may be one polling place in each precinct at which balloting on both the bingo and bond propositions will be conducted.

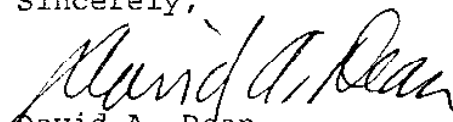
Only a single set of election officials and election materials are needed at each polling place to conduct the balloting for both the bingo and bond propositions.

Both the bingo and bond propositions may appear on a single ballot.

Ector county may not consolidate election precincts for the county-wide bingo and county-wide bond elections.

The Secretary of State may not approve or disapprove the holding of a bond election beyond insuring that all procedural requirements and conditions specified in the Texas Election Code have been complied with.

Sincerely,


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Secretary of State

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