

Georgia Shepherd

Subject: Urban Counties News, January 30, 2012: Counties May Face Very Tight Election Schedule

Attach to the primary FYI item.

Begin forwarded message:

Subject: Urban Counties News, January 30, 2012: Counties May Face Very Tight Election Schedule

January 30, 2012

To All Urban Counties:

Counties may only have 12 days after receiving new redistricting maps before the deadline to start mailing ballots for the upcoming primary election. Counties need to be prepared to act quickly to seek relief if they cannot meet the election schedule that may be issued by the federal district court in San Antonio next week.

Last Friday the court handling the consolidated redistricting cases held a status conference with all parties in an attempt to determine a path forward with the 2012 primary elections. During the hearing, I reiterated the importance of an election schedule with which all counties could physically and legally comply.

There are two important time factors in determining whether counties can timely prepare ballots, and include (1) the extent of differences in any single county between previous maps and the final maps; and (2) whether counties will be required to seek preclearance for voter precinct boundary changes necessitated by the final maps. The Texas Conference of Urban Counties, the Texas Association of Counties, and the County Judges and Commissioners Association of Texas, after consulting with many elections officials and conducting two conference calls with Urban Counties members, represented to the court that counties generally need between 6 and 10 weeks from the issuance of new maps until ballots will be ready to be mailed. That time is needed by counties to prepare new voter precincts; have commissioners courts adopt those precincts; submit the new voter precincts to DOJ for preclearance; update voter registration information; design and test ballots; receive pre-clearance; and, finally, print voter registration cards and ballots.

Beyond the preparation of ballots, the single most important issue of counties' ability to comply with the election schedule to be adopted by the court involves the Military and Overseas Voter Empowerment (MOVE) Act. The MOVE Act requires that absentee ballots be mailed to military and overseas voters no later than 45 days prior to the election date. In response to the court's election schedule issued on December 16 (since rescinded), the county organizations requested relief from the MOVE Act. Under the December 16 schedule, counties would have been required to mail military and overseas ballots no later than 17 days after the issuance of final maps. County elections officials we spoke with stated such a timeline was not realistic, especially when the extent of changes to the final maps was unknown at the time of the schedule was adopted by the court.

Prior to last Friday's status conference, the US Attorney for the Western District of Texas filed a memorandum with the court expressing objection to any waiver of the requirements of the MOVE Act.

At the conclusion of last Friday's status conference, the court informed that parties that a unified primary may still occur on April 3, but only if the parties to the litigation presented an agreed set of maps to the court no later than February 6. The court made no mention of how it might address counties' obligations to seek preclearance of voter precincts and compliance with the MOVE Act. Therefore, the court has left open the possibility the counties may have only 12 days between the issuance of final maps and the requirement to have ballots mailed to military and overseas voters. To have a greater period of time to prepare ballots, the court would have to waive or adjust the requirements of the MOVE Act.

We will keep you apprised as this matter develops. Please do not hesitate to contact me should you have any questions regarding this or any other matter.

John B. Dahill | General Counsel
Texas Conference of Urban Counties
500 W 13th St. | Austin TX 78701
P: 512.476.6174 | F: 512.476.5122
E: john@cuc.org | W: www.cuc.org