

## March presidential primaries in Texas set stage for selection of national party convention delegates

The Democratic and Republican parties of Texas will hold presidential primary elections on Tuesday, March 4, and the results will be used to choose delegates to this summer's national political party conventions. Ohio, Rhode Island, and Vermont will hold presidential primaries the same day.

Texas Republicans apportion all of their national convention delegates among the presidential candidates based solely on the primary vote, both statewide and in each of the 32 U.S. congressional districts. Texas Democrats use a hybrid selection system, apportioning national convention delegates among the presidential candidates based partly on the primary vote in each of the 31 state senatorial districts and partly on the results of a "caucus" system at local and state party conventions. None of the Democratic delegates are apportioned based on the statewide primary vote.

In 2003, the Legislature changed the date of the primary elections from the second to the first Tuesday in March, starting with the 2006 election. During the 2007 regular session, the House passed HB 2017 by Giddings, which would have moved the Texas primary election to the first Tuesday in February, but the bill died in the Senate.

The Texas presidential primary law is found in subch. A, ch. 191, Election Code. A state political party must hold a presidential primary if its nominee for governor received at least 20 percent of the vote in the last election, its national party rules authorize a presidential primary, and the national party plans a national nominating convention during the election year. This year, only the Democratic and Republican parties are required to hold presidential primaries.

### Timeline for Delegate Selection

Delegates to the Democratic and Republican national party conventions are selected at the state party conventions. State convention delegates are selected in a two-stage process.

March 4	Primary Elections  Precinct conventions: Elect delegates to the county/district conventions.
March 29	County/district conventions: Elect delegates to the state conventions.
June 6 - 7	Democratic state convention: Select delegates to the national convention.
June 12 - 14	Republican state convention: Select delegates to the national convention.

At least 75 percent of the Texas delegate seats at the national conventions, excluding those set aside for party and elected officials, must be apportioned on the basis of the March 4 primary vote. As required by law, the Democratic and Republican state executive committees have adopted rules for selecting delegates and apportioning them by presidential preference.

## How Democrats will select delegates

The Democratic National Convention will take place August 25-28 in Denver, Colorado. Texas Democrats will apportion their convention delegates among the presidential candidates through a hybrid system, based partly on results of the March 4 primary election in each of the 31 state senatorial districts and partly on results of a caucus system that includes a poll of delegates at precinct, county/district, and state party conventions. Individual delegates to the national convention will be chosen at the state party convention June 6-7 in Austin.

**Filing requirements.** Presidential candidates appearing on the 2008 Democratic primary ballot had to pay a filing fee of \$2,500 or submit a petition signed by at least 5,000 registered voters. The signature of a person who signed more than one petition did not count. Candidates also had to file an oath to support and defend the Constitution and laws of the United States and to fully support the Democratic presidential nominee. U.S. Rep. Dennis Kucinich of Ohio refused to file the oath to support the eventual nominee without reservation and challenged the state Democratic Party's refusal to place his name on the primary ballot. U.S. Dist. Judge Lee Yeakel rejected the challenge on January 11, ruling that political parties have the discretion to require their presidential primary candidates to submit such an oath as a ballot qualification. The U.S. Supreme Court refused on January 18 to hear Kucinich's appeal.

**Number of delegates.** Under national Democratic Party rules, Texas has 228 national convention delegates, plus 32 alternates. The delegates fall into several categories and include 193 pledged and 35 unpledged delegates. All are chosen at the state party convention.

**Pledged delegates.** The 193 pledged delegates include 126 delegates apportioned among the candidates based on the March 4 primary vote in each of the 31 state senatorial districts. Other pledged delegates – including 42 at-large delegates and 25 party leaders and elected officials – are apportioned among the presidential candidates based on a poll of state convention delegates.

### *Pledged delegates apportioned by primary vote.*

A total of 126 delegates will be apportioned to the presidential candidates based on the March 4 primary vote in each state senatorial district. Delegates are allocated among the 31 districts according to a formula that takes into account each district's vote for Democratic nominee John Kerry in the 2004 presidential election and for Democratic nominee Chris Bell in the 2006 gubernatorial election. The 126 slots are allocated as follows:

Two:	District 31
Three each:	Districts 6, 7, 9, 22, 24, 27, 28, 29, 30
Four each:	Districts 1, 2, 3, 4, 5, 8, 11, 12, 15, 16, 18, 19, 20, 21, 26
Five each:	Districts 10, 17
Six each:	Districts 23, 25
Seven:	District 13
Eight:	District 14

In each senatorial district, delegates are apportioned among presidential candidates who receive at least 15 percent of the primary vote in the district. If no candidate receives 15 percent of the district vote, the threshold for

receiving delegates is reduced to the percentage received by the district's plurality winner, minus 10 percentage points. For example, if the top vote-getter in a district received 12 percent of the vote, the threshold for receiving delegates would be 2

percent. Unlike the Republicans, the Democrats do not apportion any delegates to presidential candidates based on the statewide results of the primary election.

***Pledged delegates apportioned by convention poll.*** Of the 193 Texas delegates pledged to a particular presidential candidate, 25 must be party leaders and elected officials (PLEOs), and 42 are "at-large" delegates.

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*Texas Democrats will apportion delegates among the presidential candidates through a hybrid primary/caucus system.*

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At the state Democratic convention in June, delegates will be polled to determine the apportionment of the 25 “pledged PLEOs” and the 42 pledged, at-large delegates. A presidential candidate must receive at least 15 percent of the state convention delegate vote to receive any at-large or pledged PLEO delegates.

The 25 pledged PLEO delegates are selected from among party leaders and elected officials in this priority order: (1) Democratic mayors of cities with a population of at least 250,000, including mayors elected in a nonpartisan election, and the Democratic statewide leadership; (2) the state legislative leadership and Democratic state legislators; and (3) other state, county, and local Democratic elected officials and party leaders. No individual on the priority list is required to be selected as a pledged PLEO delegate.

#### **Unpledged delegates.**

Of the 228 total Democratic delegates, 35 are party leaders and elected officials who are not pledged to a particular candidate. These “unpledged PLEOs” or “superdelegates” are the members of the Democratic National Committee from Texas, the Democratic members of Congress from Texas, former U.S. House Speaker Jim Wright, and former Democratic National Committee Chairman Robert Strauss, plus three “add-on” delegates with long, recognized histories of party support who are chosen at the state convention. These delegates will be formally “unpledged,” although they may endorse and vote for any candidate.

State law requires that 75 percent of a party’s “base” delegation – excluding party and elected officials – be apportioned among the candidates based on the March 4 primary vote. The total Texas Democratic delegation is 228, with a base delegation of 168 members, excluding the 25 pledged PLEOs and the 35 unpledged PLEO “superdelegates.” As a result, 75 percent of the base (126 of 168) will be apportioned based on the March 4 primary vote, as required by state law, and 25 percent – the at-large delegates (42 of 168) – based on the poll of state convention delegates.

**Selecting state convention delegates.** Both major parties choose delegates to their state conventions

through a two-stage process – at precinct conventions on the night of March 4, then at county/district conventions on Saturday, March 29. Delegates to Democratic precinct and county/district conventions declare a preference for a presidential candidate, which ultimately determines the preferences of delegates to the state Democratic convention. At the state Democratic convention, a final poll will allocate a portion of the national convention delegates among the presidential candidates.

**Precinct conventions.** Each precinct elects delegates to the county/district convention. These delegates are apportioned among the presidential candidates based on a precinct convention poll. At the precinct

conventions, held on the evening of March 4, anyone who voted in the Democratic primary may participate by signing in either for a presidential candidate or as “uncommitted,” which is an option that is not available

on the primary ballot. In effect, Democratic primary participants may register their preference for their favored presidential candidate twice – in the primary by voting for a candidate and also at the precinct convention by signing in for a candidate.

The 15 percent threshold does not apply at the precinct level. Any candidate preference group with enough sign-ins to receive at least one delegate – based on a formula set by the state party – may caucus separately and elect its share of delegates to the county/district convention. If a group is too small to elect a delegate, individuals from that group may join another candidate’s caucus, which may increase that candidate’s share of the delegates to the county/district convention.

**County/district conventions.** County/district conventions held on Saturday, March 29 will elect delegates to the state convention. In counties with more than one state senatorial district, district conventions are held.

A presidential candidate preference poll of county/district convention delegates is used to allocate among candidates the county/district’s at-large delegates to the Democratic state convention. A candidate must exceed a 15 percent threshold to receive delegates. The convention

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*Both major parties choose delegates to their state conventions through a two-stage process.*

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nominations committee selects the at-large delegates. The delegates also caucus by precinct and elect delegates to the state convention. The total number of delegates to the state convention chosen by precinct and at large at the county/district level reflects each candidate's proportional share of the county/district convention preference poll.

### **Selecting national convention delegates.**

Delegates to the Democratic national convention are selected at the state party convention. Those desiring to be national convention delegates must file their candidacy with the chair of the state Democratic Party in Austin between April 21 and May 21. Delegate candidates must pledge their support for a presidential candidate or declare themselves uncommitted.

By May 28, the state Democratic party will deliver to each presidential candidate a list of national convention delegate candidates pledging their support. Each candidate must file with the state party a list of approved delegate candidates. The list must contain at least three times the number of delegates and alternates to which the candidate is entitled by the primary vote, equally divided between men and women. Failure to respond by the June 5 deadline will mean that all filed delegate candidates pledged to the candidate will be presumed approved.

State convention delegates who sign in for a presidential candidate will caucus by senatorial district and choose, from the approved list of national convention delegate candidates, the delegates to which their presidential candidate is entitled, based on the district's vote in the March 4 primary. A total of 126 delegates and 21 alternates will be chosen by district based on the primary vote. No more than half the delegates and alternates may be of the same sex.

After the 35 unpledged PLEOs have been certified, the 25 pledged PLEO delegates and five alternates are chosen. Delegate slots for these positions are apportioned to the presidential candidates based on the state convention poll, with a 15 percent threshold required for a candidate to receive delegates. Candidates may disapprove delegate candidates for these positions in

the same manner as for other pledged delegates, except that they must approve at least twice as many declared PLEO delegate candidates as there are PLEO delegate slots to be filled and prospective PLEO delegates may file their candidacy at the Democratic state convention if they did not file previously by the May 21 deadline. These delegates are selected by the state convention nominations committee, which is made up of 31 members chosen by each of the senatorial district caucuses and three members chosen by the state convention chair.

Chosen last will be pledged at-large delegates (42 delegates and six alternates). They will be apportioned based on the Democratic state convention poll, with a 15 percent threshold for a candidate to receive delegates. The nominations committee will choose these delegates from among the potential delegates pledged to each presidential candidate. Presidential candidates

may disapprove these potential delegates, but they must approve at least twice as many potential at-large delegates as there are at-large delegate slots to be filled. If a presidential candidate withdraws before selection of the at-large delegates, the number of delegates

to which that candidate is entitled will be allocated proportionately among the remaining candidates entitled to delegates. The nominations committee also will choose the three unpledged at-large, add-on delegates.

The Texas Democratic delegation as a whole and the delegates chosen at the district level must be divided equally between men and women. At-large delegates and alternates are chosen last to allow the nominating committee to balance the number of men and women and to achieve affirmative-action goals for minority representation. Based on the state's population and participation in primary and general elections, the Texas Democratic Party set goals of 72 Hispanic delegates, 54 African-American delegates, 39 youth (age 18-35 years) delegates, 21-27 disabled delegates, 14-18 lesbian, gay, bisexual, or transgender (LGBT) delegates, nine Asian-American delegates, and one Native American delegate.

**Delegate pledge.** Delegates to the Democratic National Convention are not bound to vote for the candidate to whom they are pledged. The only

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requirement is that pledged delegates “shall in all good conscience reflect the sentiments of those who elected them.”

## How Republicans will select delegates

The Republican National Convention will be held September 1-4 in Minneapolis-St. Paul, Minnesota. All pledged delegates from Texas will be apportioned among the presidential candidates according to the Tuesday, March 4 primary results, both statewide and in each of the 32 U.S. congressional districts. Individual delegates to the national convention will be selected at the state party convention June 12-14 in Houston.

**Filing requirements.** Republican presidential candidates filed for the Texas primary by paying a \$5,000 filing fee or by submitting a petition signed by at least 300 registered voters from each of at least 15 of the 32 congressional districts. The signature of a voter that appears on more than one petition does not count.

### Number of delegates.

Texas will send 140 delegates and 137 alternates to the Republican National Convention. Each of the 32 congressional districts has three pledged delegates, for a total of 96. Also, 41 pledged delegates will be chosen at large. One alternate will be chosen for each of the 137 pledged delegates. Three delegates – the two Texas members of the Republican National Committee and the state party chair – automatically are unpledged delegates due to their party positions.

**Apportioning pledged delegates based on primary vote.** Unlike the Democrats, Texas Republicans will apportion among the presidential candidates all of their pledged delegates to the national party convention based solely on the primary election results. Also unlike the Democrats, the Republicans include an “uncommitted” option on the presidential primary ballot. If a candidate withdraws or dies before the state convention, uncommitted delegates and alternates will be chosen instead of the candidate’s pledged delegates.

**Delegates apportioned by congressional district vote.** In apportioning the three pledged delegates from each of the 32 congressional districts based on the primary vote, a Republican presidential candidate (or the “uncommitted” option) who receives more than 50 percent of the district vote will receive all three delegate slots for that district. A first-place candidate receiving less than a majority of the district vote but more than 20 percent will get two delegates, and the second-place candidate will get one delegate. However, if the second-place candidate receives less than 20 percent in the district, the first-place candidate will get all three delegates. If no candidate receives more than 20 percent of the district vote, the top three candidates each will receive one delegate.

**Delegates apportioned by statewide vote.** The 41 pledged at-large delegate slots will be apportioned among the Republican presidential candidates (or the “uncommitted” option) based on the statewide primary vote. A candidate winning more than 50 percent of the statewide vote will get all 41 at-large delegates. If no

candidate receives a majority of the statewide vote, the at-large delegates will be apportioned among all candidates receiving more than 20 percent.

If no candidate receives more than 20 percent of the statewide vote, the 41 at-large delegates will be allocated proportionately

to all candidates, starting with the top candidate and rounding all fractions upward.

### Selecting national convention delegates.

Delegates to the Republican national convention are selected at the state convention, and state convention delegates are elected through a two-stage process. As in the Democratic Party, but without a presidential preference poll, Republican primary voters may attend precinct conventions on the night of the Tuesday, March 4 primary to elect delegates to the county or senatorial district party conventions to be held Saturday, March 29. The county and district conventions, in turn, elect delegates to the state convention.

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*Texas Republicans will apportion among the presidential candidates all of their pledged delegates to the national convention based on the primary election results.*

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At the Republican state convention, the delegates from each congressional district will caucus and choose the three national convention delegates and alternates from their district who will be pledged to each presidential candidate entitled to delegates based on the district's primary vote. Election is by majority vote, with each delegate and alternate elected one at a time. The state convention must confirm the entire district delegation as a slate.

Each congressional district caucus also will elect one person to serve on the National Nominations Committee, which will select the at-large delegates and alternates. The state party chair appoints an additional member to the nominations committee to serve as chair. This committee will submit the at-large delegation to the Republican state convention for ratification, and only the entire delegation, not individual delegates, may be approved. If the state convention rejects the at-large delegation, the nominations committee will submit another delegation slate until the state convention approves it.

Republican Party rules prohibit abridging participation in any caucus, meeting, or convention to select delegates on the basis of sex, age, race, religion, color, or national origin. Unlike the Democrats, the Republican Party does not require equal numbers of men and women delegates and has no affirmative-action goals for minority representation.

**Delegate pledge.** Presidential candidates have no direct say in the selection of individual delegates pledged to vote for them at the Republican national convention. However, delegates assenting to their nomination pledge to vote for the candidate to whom they are pledged.

On the first ballot at the national convention, when the delegates vote to choose the Republican presidential nominee, Texas delegates and alternates may be released from their pledge to vote for a candidate only upon the candidate's death, formal withdrawal, or agreement. If no candidate is nominated on the first ballot by receiving majority support of the national convention delegates,

then a second ballot will be held. On the second ballot, Texas delegates may be released from their pledge only by agreement of the candidate. Pledged delegates are released from their pledge on a third ballot if their candidate fails to receive at least 20 percent of the total votes cast on the second ballot or if their candidate agrees to release them. Delegates are released unconditionally beginning with the fourth ballot. Uncommitted delegates may vote however they wish.

The last major party national convention that required multiple ballots to nominate a presidential candidate was the 1952 Democratic convention, which nominated Adlai Stevenson on the third ballot. The last Republican National Convention requiring more than one ballot to nominate a presidential candidate was in 1948, when Thomas E. Dewey was chosen on the third ballot.

## Delegate selection by other parties

Under ch. 181, Election Code, a political party may have its nominees placed on the ballot if any of the party's nominees for statewide office received at least 5 percent of the vote in the previous general election. For 2008, the Libertarian Party has qualified for the ballot because in the 2006 general election several of its statewide judicial candidates exceeded the 5 percent vote threshold. Because the Libertarian candidate for governor did not exceed the 20 percent threshold, the Libertarian Party is not required to hold a primary election and will select its candidates at local and state party conventions. The Libertarian National Convention will be held May 22-26 in Denver, Colorado. Because by statute the Libertarian Party state convention must be held on Saturday, June 14, which is after the national convention, under party rules the state party executive committee will select the delegates from Texas to the party's national convention.

To qualify their candidates, including those for president and vice president, for the November 2 general-election ballot, other parties must meet certain conditions. First, they had to register with the secretary of state

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## Summary of Presidential Delegate Selection Procedures

	<u>Democrats</u>	<u>Republicans</u>
<b>Candidate Filing</b>	\$2,500 or 5,000-signature petition	\$5,000 or 300-signature petition from at least 15 congressional districts
<b>Delegate apportionment by primary vote</b>	126 by state senatorial district vote, none by statewide vote; 15 percent vote threshold to receive delegates	96 by U.S. congressional district vote, 41 by statewide vote; 20 percent vote threshold to receive delegates; 50+ percent winner-take-all
<b>Delegate apportionment by convention poll</b>	25 officials, 42 at-large; 15 percent threshold to receive delegates	None
<b>Unpledged ex officio delegates</b>	35	3
<b>Individual delegate selection</b>	<p>Delegate filing Limited candidate veto</p> <p>District delegates selected by candidates' pledged delegates from each senatorial district at the state convention. At-large delegates selected by nominations committee.</p>	<p>No delegate filing No candidate veto</p> <p>District delegates selected by delegates from each congressional district at the state convention. At-large delegates selected by nominations committee.</p>
<b>Delegate pledge</b>	Not formally binding	Bound for first two ballots. Released on third ballot if candidate receives less than 20 percent on second ballot. Unconditional release on fourth ballot.

by January 2. For the 2008 election, the Constitution, Green, New American Independent, Reform, and Texas Independence parties filed for access to the ballot, according to the Secretary of State's Office.

If the parties meet other requirements under chapters 161 and 181, Election Code, including establishing a state party executive committee and timely filing their party rules, they also must qualify for the ballot. They must submit a list of names of those participating in their precinct conventions on March 11 and a list of registered voters who signed a petition. Voters signing the

petition cannot have voted in a primary election or have participated in another party's convention. The combined number of precinct-convention participants and valid petition signers must equal at least 1 percent of all votes cast for all candidates for governor in the last general election. According to the Secretary of State's Office, the required number of names for 2008 is 43,992.

Parties may begin circulating petitions on March 12, the day after their precinct conventions. The filing deadline for parties to submit names to qualify for the 2008 general election ballot is May 27. The Election

Code does not specify the procedure for selecting national convention delegates for these parties.

**Independent and write-in candidates.** Under ch. 192, subch. B, Election Code, an independent candidate for president may qualify for the ballot by submitting a petition to the secretary of state with the valid signatures of registered voters equaling at least 1 percent of all votes cast for all candidates for president in Texas in the last election. According to the Secretary of State's Office, the number of signatures required for the 2008 election is 74,108. Those signing the petition cannot have voted in the 2008 Democratic or Republican primaries.

Independent candidates may begin circulating their ballot-access petitions on March 5, the day after the primary election, and must submit them to the secretary of state by May 12. Unlike independent candidates for other offices, independent candidates for president do not have to file a declaration of intent for their candidacy by the January 2 filing deadline. Anyone whose name appeared on the presidential primary ballot of a party holding a primary (this year, the Democratic or Republican parties) is disqualified from appearing on the

general election ballot as an independent. Independent candidates also must submit a list of the names and addresses of 34 presidential electors – who would serve if the independent candidate carried the state – with statements from the electors that they consent to serve and a statement from the vice-presidential candidate indicating consent to be a candidate.

Under ch. 192, Election Code, write-in candidates for president must file their candidacy with the secretary of state, beginning July 27 and no later than August 26, in order for votes for the candidate to be counted. They also must file the names and addresses of 34 electors and statements from the electors that they consent to serve and a statement from the vice-presidential candidate indicating consent to be a candidate.

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