

No. 26-0464

SUPREME COURT OF TEXAS

IN RE RICHARD VEGA,
RELATOR

Request for Ruling By July 6, 2026

Relator’s petition, filed May 8, 2026, states that “mandamus could issue as late as early July and still afford meaningful relief for Vega and all [Harris County Commissioners’ Court] Precinct 2 voters by facilitating an election to fill the vacancy before Commissioners ... vote ... to adopt a budget and tax rate.” Pet. at 2-3. Relator files the present motion to provide a more detailed explanation of relevant election requirements and illustrate how a ruling by July 6 could, relatively easily, accommodate the required election to fill the seat before the budget and tax votes in mid-September.

Harris County Commissioners must vote on tax rates for tax year 2025 and a proposed budget for the fiscal year beginning October 1, 2026. Commissioners' Court has responsibility for setting tax rates not just for Harris County itself but also for the Harris County Flood Control District, the Hospital District, and the Port of Houston Authority. Given the budget process timeline as explained by Harris County itself, the tax and budget votes cannot occur before September, see Pet. at __, and, historically, the votes have been taken around the middle of the month. For example, in the four previous cycles, Commissioners voted on the tax rates and budget on September 18, 2025,¹ September 19, 2024,² September 19, 2023,³ and (initially) September 13, 2022.⁴ The final example provided here—the votes scheduled in 2022—illustrate precisely

¹ Harris County FY2026 Adopted Budget Vol. I at 7 of 129, <https://budget.harriscountytexas.gov/doc/Budget/budgetbook/FY2026/FY26 Adopted Budget Volume I v1.pdf>.

² Harris County FY2025 Adopted Budget Vol. I at 7 of 125, <https://budget.harriscountytexas.gov/doc/Budget/budgetbook/FY2025/FY25 Adopted Budget Volume I.pdf>.

³ Harris County FY2024 Adopted Budget Vol. I at 7 of 127, <https://budget.harriscountytexas.gov/doc/Budget/budgetbook/FY2024/FY24 Adopted Budget Volume I.pdf>.

⁴ Harris County FY2023 Adopted Budget Vol. I at 5 of 129, <https://budget.harriscountytexas.gov/doc/Budget/budgetbook/FY2023/FY23 Proposed Budget Volume I 20221212.pdf>.

why facilitating an election to fill the seat before the mid-September votes remains necessary and appropriate despite the shortened timeframe. In 2022, Commissioners Court was split 3-2, and the two Republican Commissioners abstained from the tax votes, effectively preventing a tax increase. *See infra* n.4. The partisan split on Commissioners' Court is currently 4-1, but if the election is held, it could again yield a 3-2 split. This is a choice for the voters to make. But it reflects how important it is for the Court—should it agree with Vega that Respondent Garcia resigned from Commissioners' Court in August 2023—to compel the election.

If the Court agrees with Relator that Garcia effectively resigned upon assuming GCPD office on August 9, 2023, the resignation triggered Respondents' ministerial duty to order an election to fill the unexpired term, and such election was required to be held in conjunction with the November 2024 general election for state and county officers. Tex. Elec. Code § 202.002(a). The fact that such statutorily-designated date passed without the election having been held does not obviate Respondents' obligation to order the election; instead, this Court has repeatedly recognized that the electorate or governmental body authorized to fill the

unexpired term should retain that right even if it becomes impossible to do so by a statutorily-required date. *See* Pet. at 38-39 (discussing *Kilday v. Germany*, 139 Tex. 380, 384-85 (1942), and *Yett v. Cook*, 115 Tex. 205, 214–15 (1926)). This is particularly true where the statutory deadline is missed because relevant officials fail to do their job. In *Davis v. Taylor*, 930 S.W.2d 581, 583 (Tex. 1996), this Court reiterated the principle of construing broadly the candidate’s interest in ballot access, which takes precedence over rote adherence to statutory deadlines when officials fail to do their job. *See also Bird v. Rothstein*, 930 S.W.2d 586, 588 (Tex. 1996) (relying on a “long line of cases in which we have given precedence to ballot access over rigid adherence to statutory deadlines when a candidate is deprived of a place on the ballot through no fault of the candidate’s”). Allowing modifications to statutory deadlines in such scenario does not nullify the deadlines, but instead “affirms the mandatory nature of the important duties placed upon election officials.” *Davis*, 930 S.W.2d at 583. *See also Sterling v. Ferguson*, 122 Tex. 122 (1932) (issuing mandamus 31 days before election—and after deadline to certify candidates—ordering Secretary of State to certify Ferguson as

gubernatorial candidate to county clerks so she is assured a place on ballot).

Accordingly, the special election required under § 202.002(a) remains required, and the Court has authority to designate when it shall occur. An election to fill an unexpired term pursuant to a judicial order does not have to be held on a uniform election date. Tex. Elec. Code § 41.001(b)(3). Relief from this Court could enable an election to fill the unexpired term by September 14 (or, at least, the week thereof) according to the following schedule.

- **July 6** – Supreme Court issues writ compelling Respondents to order special election to fill the unexpired term for Pct. 2 on August 8, 2026. This order can declare that the period for filing an application for a place on the ballot begins immediately and continues through July 17.⁵
- **Week of July 13 – 17** – Commissioners Court adopts an order for the special election.
- **Friday, July 17** – Notice of election, including polling locations, posted on County website. See Tex. Elec. Code § 4.003(b) (requiring such posting 21 days before election day). Respondents could also meet the § 4.003(a) notice requirement by posting the notice in a public place in each relevant election precinct by this date.

⁵ If Respondents had ordered the election, as required, to occur in November 2024, candidate applications would have been governed by the normal deadlines to apply for the primary ballot.

- **Wednesday, July 29** – In lieu of posting the notice in a public place in each precinct by July 17, the presiding officer may satisfy § 4.003(a) *either* by publishing the notice in a newspaper or mailing it to registered voters in Pct. 2 by this date.
- **August 3 – 7** – Period for early voting by personal appearance. [The default period for early voting by personal appearance “begins on the 17th day before election day” or the next regular business day if the 17th day is a Saturday, Sunday, or legal holiday. Tex. Elec. Code § 85.001(a), (c). However, the Code expressly allows early voting to begin closer to election day if necessary due to the date for which an election is ordered. *Id.* § 85.001(d) (“If because of the date for which an election is ordered it is not possible to begin early voting by personal appearance on the prescribed date, the early voting period shall begin on the earliest date practicable after the prescribed date as set by the authority ordering the election.”).]
- **August 8** - Election Day
- **September 12** – Runoff Election Day. [The date for runoff elections are typically set in advance by the secretary of state, according to the schedule for the main elections on uniform election dates. *See* Tex. Elec. Code § 2.025(e). However, as noted, the Court has authority to order elections to occur on dates other than uniform election dates, and in such circumstances the Secretary, of course, will not have already designated dates for a runoff that might be necessary. Accordingly, the Court can set the date for the runoff, if required, in any order issued in this case.]⁶
- **Week of September 14** – Pct. 2 Commissioner sworn in

⁶ For runoff dates set by the Secretary of State, the Election Code states the Secretary shall select dates between 30 and 45 days after the date of the main election. Tex. Elec. Code § 2.025. While this requirement does not apply for a runoff required after a court-ordered special election, the proposed schedule here would allow a runoff within this standard period after the main election.

Notably, under this proposed schedule—contemplating a decision nearly two months after the mandamus petition was filed in this Court—many of the default Election Code time periods can still be satisfied, including providing notice at least 21 days before election day, and allowing more than 30 days between the main and runoff elections (should a runoff be required). To the extent other default deadlines/time periods require adjustment, these can be modified as suggested, and the Court has the well-established authority to do so.

Mail balloting can also be easily facilitated as the mail ballot statutes already require the early voting clerk to mail ballots to voters who have requested them “not later than seven days after the clerk accepts the voter’s application for a mail ballot or the date the mail ballots become available for mailing.” Tex. Elec. Code § 86.004(a). Establishing July 17 as the end of the candidate application period would allow the ballot formatting process to be completed the following week⁷

⁷ A drawing would be required to determine the order of candidates’ names on the ballot. Tex. Elec. Code § 52.094. The Election Code by default only requires 72 hours’ notice to candidates of the date and time of the drawing, and contemplates contacting candidates by phone and email (provided on their applications) to advise regarding the drawing. *Id.* Respondent presiding officer of the Commissioners’ Court could post the required notice in the office during the week of July 13-17, enabling the drawing to be held early the following week, including even on Monday July 20.

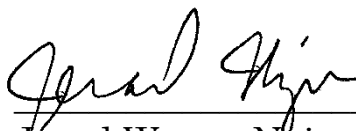
and printed ballots could be mailed to voters beginning the week of July 27.

This schedule would allow the seating of the election's winner by the week of September 14, which would be in advance of the date Commissioners' Court has traditionally voted on the tax rates and budget. Notably, in the event Respondents attempt to advance the vote earlier in September, or should additional days be necessary to complete the election process, this Court can and should enjoin Respondents from voting on the tax rates and budget until the winner can be seated. *See Davis*, 930 S.W.2d at 582 (noting the Court enjoined printing and mailing of mail ballots until relator candidate's petition could be decided). Given that Respondents violated two common law good-government rules, should the Court agree that the vacancy was created, any such additional relief that may be required to prevent Respondents from denying the Precinct 2 electorate from having its say before these critical financial votes occur would be wholly justified. Relator will file a request for such relief in the event it becomes necessary. For present purposes, Relator suggests the above schedule, contemplating seating the winner by the week of September 14, would be sufficient.

PRAYER

Relator respectfully requests a ruling on the petition by July 6, 2026, to facilitate a special election on a timetable that would allow the winner of such election to assume office before the Commissioners' Court votes on the Harris County tax rate and budget in September 2026. Relator further requests any additional relief to which he may be justly entitled.

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

Based on the word count provided by the computer program used to prepare this petition, below-signed counsel states that the number of words in the document is 1,803.

Jerald Higin

CERTIFICATE OF CONFERENCE

Pursuant to Tex. R. App. P. 10.1(a)(5), undersigned counsel conferred with counsel for Respondents, Mr. Jonathan Fombonne, who stated that Respondents are opposed to the requested relief.

Jerald Higin

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document, along with any accompanying exhibits, has been served by eService on all counsel of record for Respondents on May 15, 2026.

Jean Hjer

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Status as of 5/15/2026 4:13 PM CST

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