

## Texas Delegate Selection Process to Republican National Convention

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Texas will hold its presidential primary on March 1, 2016. The Texas primary will be the fifth delegate selection event of the 2016 cycle, preceded only by two caucus states (Iowa & Nevada) and two primary states (New Hampshire & South Carolina).

Because the Texas Primary is being held during the first week of March, the RNC rule applies that the delegates be proportionally divided, if no candidate receives over 50% of the vote. A recent University of Texas/Texas Tribune poll provides substantial argument that no candidate will receive over 50%. Thus, with 155 delegates at stake<sup>1</sup> on the primary day an active and aggressive campaign has the potential to provide a worthwhile payoff of delegates.

- The March 1 primary will determine the number of delegates that each presidential candidate will receive of 155 delegates.
  - However, the overwhelming majority of the allocation of delegates will not be determined by the statewide outcome, but by the outcomes in each of 36 congressional districts. Three delegates per congressional district, 108 in total, will be determined in this manner. Forty-seven at-large delegates (three of which are the RNC members from Texas) will be allocated based upon statewide primary outcomes. The graduated proportional allocation method is detailed below.
- The Texas Delegation to the Republican National Convention is wholly selected by the State Convention Delegates. A complicated two-step process leads to selection of those attending the state convention.
  - The state convention delegates will break into 36 separate congressional caucuses to select by majority vote 108 national delegates (three per district and their alternates) by nomination from the floor at each caucus meeting. Each of the three Congressional District Delegates in a caucus is selected by separate election, as detailed below.
  - Immediately following the Congressional District Caucuses, a National Nominations Committee comprised of one delegate from each congressional district elected in the caucus and a chair appointed by the State Chairman prior to the Convention meets to select the remaining 44 non-RNC-member at-large delegates. This committee also allocates the presidential vote to specific delegates as detailed below.

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<sup>1</sup> Texas has 155 delegates. Under Rule 38 of the Rules of the Republican Party of Texas as adopted by the 2014 Republican State Convention, 108 delegates will be awarded, three per congressional district in a graduated proportional manner based upon the primary result in each congressional district, the three RNC members from Texas and 6 additional at-large delegates will be awarded by the same method based upon the statewide vote, and an additional 38 at-large delegates, are allocated by the winner-take all secret ballot at the May 12-14 Texas Republican State Convention for a presidential candidate. However, Section 9(c) of Rule 38 provides that in the event the RNC Chair or RNC Rules Committee determines that the two-step allocation process violates RNC Rules, all 47 at-large delegates will be allocated in a graduated proportional manner based on the statewide primary vote. Texas received notification in May 2015 that the RNC Chair determined that the two-step allocation process violated RNC Rules, so all delegates will be allocated on the proportional basis of the primary vote.

## **The Texas primary election is really 36 mini-campaigns**

In reality, it is important to recognize that while running a statewide effort for the March 1 primary, a presidential campaign will be running 36 separate mini-campaigns to successfully maximize the opportunity to garner the majority of the three delegates in each of the 36 congressional districts. Since each of these congressional districts has unique voting characteristics and local Republican Party leadership, strategy and tactics will need to vary from congressional district to district. Remember, 11 of the 36 districts have Democratic members of Congress, and have far fewer Republican primary voters as well as activists to run for National Delegate.

## **The March 1, 2016 Primary and the graduated proportional allocation formula**

Different rules apply to the proportional allocation of the delegates to presidential candidates both for those 108 allocated within each congressional district and the 47 statewide-allocated “at large” delegates.

Of the three delegates allocated for each of the 36 congressional districts (108 in total):

- If a candidate receives a majority of the vote (more than 50%) in a congressional district that candidate is allocated all 3 of the district’s delegates.<sup>2</sup>
- If no candidate receives a majority in a congressional district, but at least one candidate receives 20% or more, the candidate with the most votes (plurality), receives 2 delegates and the next highest vote getter receives 1 delegate.<sup>3</sup>
- If no candidate receives 20% in a congressional district, then the top 3 vote getters each receive 1 delegate.<sup>4</sup>
- Texas law and RPT Rule 38 also allow for primary voters to select “uncommitted” on the ballot, which shall be counted in the same manner as a vote for a presidential candidate. If “uncommitted” is one of the top three vote getters in a district, uncommitted delegates to the National Convention will potentially be allocated to the district as per the above formula.<sup>5</sup>
- If any presidential candidate withdraws<sup>6</sup> between December 13, 2015<sup>7</sup> and the May 12-14, 2016 state convention, the proportion of delegates to which those presidential candidates had been entitled are considered “lapsed” and “uncommitted” delegates are selected in place of those candidates.<sup>8</sup> Each withdrawn candidate’s delegates are still considered separately for the purpose of the allocation formulas; that is all withdrawn candidates are not lumped together

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<sup>2</sup> Rules of the Republican Party of Texas, Rule 38, Section 8(a)

<sup>3</sup> Rules of the Republican Party of Texas, Rule 38, Section 8(b)

<sup>4</sup> Rules of the Republican Party of Texas, Rule 38, Section 8(c)

<sup>5</sup> Rules of the Republican Party of Texas, Rule 38, Section 4

<sup>6</sup> Note that a withdrawal is only effective if a signed written statement is filed with the Secretary of the Texas State Republican Executive Committee. Candidates who have made public withdrawal announcements but who have not officially withdrawn in Texas will have their delegates allocated to them as if they had not withdrawn. Rules of the Republican Party of Texas, Rule 38, Section 2(e)

<sup>7</sup> Republican Party of Texas, Rule 38, Section 2(d). December 13, 2015 is 79 days prior to the March 1, 2016 primary.

<sup>8</sup> Rules of the Republican Party of Texas, Rule 38, Section 2(e)

with other “uncommitted” votes to determine entitlement to a delegate. The possibility of “uncommitted” delegates will exist only if the withdrawing presidential candidate would have been otherwise been entitled to one or more of the three delegates in that congressional district.<sup>9</sup>

Of the 47 delegates allocated “at large” based upon the statewide primary outcome:

- If a candidate receives a majority of the statewide vote, all at-large delegates are allocated to that candidate.<sup>10</sup>
- If no candidate receives a majority statewide, and more than one candidate receives at least 20% of the vote, then only those candidates receiving more than 20% are entitled to delegates and the delegates are allocated proportionally among those candidates beginning with the highest vote getter, rounding up to the nearest whole number, proceeding seriatim until all delegates are allocated.<sup>11</sup>
- If only one candidate receives 20% or more of the statewide vote, then only that candidate and the second-highest vote getter are entitled to delegates and the delegates are allocated proportionally between those two candidates, beginning with the highest vote getter, rounding up to the nearest whole number.<sup>12</sup>
- If no candidate receives 20% of the statewide vote, the at-large delegates are allocated proportionally, beginning with the highest vote getter, rounding up to the nearest whole number, proceeding seriatim until all delegates are allocated.<sup>13</sup>
- Allocations for withdrawn candidates and “uncommitted” delegates are determined in the same manner as for congressional district delegates. Due to RNC and RPT Rules changes, the RNC members who are at-large delegates are no longer automatically considered “uncommitted,” rather, they are proportionally allocated with other at-large delegates according to the statewide vote.

### **Selection of Congressional District-allocated National Delegates**

Selection of Congressional District Delegates to the Republican National Convention will take place within the 36 Congressional District caucuses at the May 12-14 Texas Republican State convention. Elections for a candidate’s committed delegates (based on the graduated proportional formula outlined above) are made from persons nominated from the floor at the Congressional District caucus. Elections are made by majority vote. All three delegates are elected first in separate elections, followed by three alternates. Three additional elections are held, one for a fourth delegate to be recommended to the National Nominations Committee of the State Convention for selection as an at-large delegate, one for

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<sup>9</sup> The rule for “uncommitted” delegates selected in the congressional district meeting is somewhat unclear. It would appear that, if anyone is nominated from the floor and “signs a pledge declaring themselves uncommitted at the time of their election” (at the meeting), they would become eligible to be an “uncommitted delegate.”

<sup>10</sup> Rules of the Republican Party of Texas, Rule 38, Section 9(b)(1)

<sup>11</sup> Rules of the Republican Party of Texas, Rule 38, Section 9(b)(2)

<sup>12</sup> Id.

<sup>13</sup> Rules of the Republican Party of Texas, Rule 38, Section 9(b)(3).

the member of the National Nominations Committee representing that Congressional District, and one for the Presidential Elector representing that Congressional District.

A well-organized presidential campaign will work with county chairmen and party leaders in each congressional district prior to the convention to identify persons to run as National Delegates and Alternates on a slate that has the pre-arranged votes of a majority of the state convention delegates in that congressional district. It is also important to identify candidates for National Nominations Committee and Presidential Elector, as these positions play important roles later in the process. Since very likely that some number of presidential candidates will withdraw in the six months preceding the State Convention, Texas will have a number of “uncommitted” delegate slots available “may vote as they choose” at the national convention.<sup>14</sup> The “uncommitted” delegate provision may provide a well-organized campaign an opportunity to unofficially gain additional delegates. Good organizational skills and strategy at the congressional district meeting level will be required to achieve this possibility.

Far more significant to building support within these congressional district caucuses, are efforts to build support among those grassroots republicans who attend county and senatorial district conventions, who actually select the delegates to the state convention and therefore, those state convention delegates who will meet in the congressional districts caucuses. The temporary chairman, appointed by the State Chairman (who is usually confirmed by the caucus as permanent chair) for these caucuses is also important, making it crucial that the campaign have a good working relationship from the beginning with the State Chairman.<sup>15</sup>

### **Selection of “At Large” National Delegates**

All 44<sup>16</sup> at-large Texas delegates (and alternates) to the Republican National Convention who are not members of the Republican National Committee are selected by the National Nominations Committee of the state convention. The National Nominations Committee is composed of 37 members, one delegate from each congressional district in their caucus, and a chairman who is appointed by the state chairman.<sup>17</sup> The National Nominations Committee convenes to hear testimony from applicants for the position of at-large delegate or alternate two hours after the start of congressional district caucuses. Usually over 500 persons apply on forms provided by the State Party prior to the convention and are included in books prepared for each National Nominations Committee member. Many more individuals submit their biographical information in-person at the Committee hearing. **One need not be a delegate to the state or lower conventions to be considered for the position of at-large delegate.**

The next morning, the National Nominations Committee reconvenes in a formal meeting (no testimony allowed) to begin the process for selecting the at-large delegates. While not formally provided for in the Rules, previous practice has been for Nominations Committee Members desiring to be at-large delegates to nominate themselves prior to considering any other nominations, and those nominations

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<sup>14</sup> Rule 38, Sec 10(c)

<sup>15</sup> Rules of the Republican Party of Texas, Rule 33(h).

<sup>16</sup> The three RNC members from Texas are also at-large delegates, without alternates, by virtue of their office.

<sup>17</sup> Rules of the Republican Party of Texas, Rule 34A

are accepted by acclamation. Next, the Committee accepts nominations for the “fourth” delegate or alternate recommended by their congressional district caucus.<sup>18</sup> Then, nominations are opened for statewide elected officials to be nominated as delegates. No U.S. Senator or Member of Congress from Texas is eligible to be selected as a delegate or alternate.<sup>19</sup> Finally, the floor is opened to nominations of individuals testifying before the committee the previous evening. Most delegate slots are filled by this point, and the bulk of these nominations are for alternate slots.

Following the selection of at-large delegates, the National Nominations Committee proceeds to allocate the delegates bound to each presidential candidate, and “uncommitted” pursuant to Party Rules to specific individual delegates elected at both the congressional and at-large levels. Allocations to specific delegates made at the congressional district levels have been honored if communicated by that district’s National Nominations Committee member to the Committee, but there is no requirement that the Committee do so.

Finally, the National Nominations Committee officially accepts the report by each member of the person elected by their congressional district caucus to serve as a presidential elector, and selects two additional at-large electors from Texas. Texas has experienced problems in the past with unfaithful electors, so this aspect of the process should not be overlooked. It has been past practice to have two persons of opposite gender serve in this position, though there is no requirement for this.

The Chair of the National Nominations Committee is also responsible for filling, by appointment, any vacancies in at-large delegates or alternates between the date of the state convention and the national convention.<sup>20</sup>

All delegates and alternates from Texas (except “uncommitted” delegates) are pledged and bound to support the respective presidential candidate fully through the first ballot of the national convention.<sup>21</sup> The delegates and alternates chosen by the committee are presented in a report to the state convention for “confirmation or rejection.” If rejected, the committee reconvenes to revise the report. The process would continue until the report is confirmed by the convention.

### **Post-Convention Delegation Meeting**

The Texas Delegation to the National Convention meets immediately upon adjournment of the State Convention for the purposes of electing those representatives from Texas who serve on the temporary committees of the National Convention.

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<sup>18</sup> Rules of the Republican Party of Texas, Rule 38, Section 7(a) “...each Congressional District Caucus may recommend the name of one (1) member for consideration by the National Nominations Committee as a National Convention delegate or alternate...” The National Nominations Committee is not required to select these individuals recommended, but practice has been to do so.

<sup>19</sup> Rules of the Republican Party of Texas, Rule 38, Section 7(b).

<sup>20</sup> Rules of the Republican Party of Texas, Rule 38, Section 11.

<sup>21</sup> Rules of the Republican Party of Texas, Rule 38, Section 10(b)(1-3). National Delegates remain fully pledged through the 1<sup>st</sup> ballot of the national convention and are released for the second ballot, only if the candidate to whom they are pledged does not receive 20% or more of the total votes cast on the 1<sup>st</sup> ballot. All delegates are released for the 3<sup>rd</sup> ballot or subsequent ballots.

## **The May 12-14, 2016 Republican State Convention**

Approximately 8,000 grassroots Republican activists participated in the state convention held in 2014. The RPT Rules are established to achieve a minimum of 7,500 delegates and a maximum of 9000 delegates and a corresponding number of alternates.<sup>22</sup> The 2016 state convention should exceed the delegate strength of the 2014 convention since it will be the first Texas state GOP convention that will have its delegates participate in a winner-take all “caucus vote”<sup>23</sup> to determine the allocation of national convention delegates.

## **The selection process to attend the 2016 Texas State Convention**

Competition to be a delegate to the 2016 state GOP convention follows a process that officially begins on the primary election day. A two-step process is used to become a delegate to the state convention. The first formal step generally occurs on the general primary election day<sup>24</sup> at the precinct level at a Precinct Convention that selects delegates to the County or Senatorial District Convention which actually selects those who will be attending the state convention. These Precinct Conventions are usually sparsely attended, and are difficult to organize for.

This second very critical intermediate step will occur on March 19, 2016 at County or Senatorial District Convention.<sup>25</sup> A county convention is held when the county is completely within one state senatorial district. A senatorial district convention is held in a county when the county is divided between two or more state senatorial districts.

## **Precinct Conventions**

The first formal step occurs on the general primary election day at the precinct level at the Precinct Convention traditionally convened after the close of the polls by the Republican Precinct Chair at a place large enough to accommodate a meeting of Republican qualified voters. For practical purposes, however, the Precinct Conventions in many counties have been held in consolidated locations immediately prior to the County/Senatorial district conventions.

The qualified Republican voters attending the Precinct Convention elect by majority vote “delegates and alternates” to the intermediate level of the convention system (County or Senatorial District conventions) which actually select the delegates to the state convention. A person does not have to be present at the Precinct Convention to be selected as a delegate to the County or Senatorial District

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<sup>22</sup> Rule 23A, a.3 (the rule on Delegate Allocations and Entitlements.) These allocations are established for representation for the county conventions and Senatorial districts convention and for those who will participate in congressional district caucuses at the state convention.

<sup>23</sup> Rules of the Republican Party of Texas, Rule 38, Section 9(a)

<sup>24</sup> Rules of the Republican Party of Texas, Rule 19. Dates and places of the Precinct Convention are set by the county GOP executive committee. While most occur on the primary election date, other can occur at different dates including the Saturday following the March 1 primary, the Friday evening prior to or the morning of the March 19 county convention or senatorial district convention.

<sup>25</sup> Rules of the Republican Party of Texas, Rule 27A. “County and Senatorial District Conventions shall be held on the third Saturday after the general primary election day.”

Convention, however his or her name must be placed in nomination and approved at the Precinct Convention. The number of delegates and alternatives to the intermediate level convention that are elected by the Precinct Convention are determined by the number of votes cast in that precinct for the party's 2014 gubernatorial candidate—Greg Abbott, with a ratio of one delegate and one alternate for each 25 votes cast.

### **County and Senatorial District Conventions (March 19, 2016)**

The incumbent county chairman (which may be different than the one elected in the primary election) serves as the temporary county convention chairman. The temporary senatorial district chairman is elected by the precinct chairs within that state senatorial district in a county. Starting at this level, temporary committees are used to do some of the preliminary work for the convention. These temporary committees are appointed by the temporary chairman. For example, a temporary nominations committee may be appointed to consider those wanting to be elected as delegates to the next convention.

After this temporary committee becomes permanent at the start of the county or senatorial district convention, the permanent committee could then present a slate of delegates and alternates for the convention body to vote on. The temporary committee is generally confirmed as the permanent committee, however, if a majority of supporters of another candidate are in attendance, they may be able to oust not only the temporary chair but the temporary committees as well. It is important to note that pursuant to RPT Rule 7, **all precincts may vote their full delegated strength even if only one person is present from that precinct.**

The number of delegates that each county or senatorial district convention can send to the 2016 state convention will be based on a ratio of votes cast for the 2014 Republican candidate for Governor. The ratio is one delegate and one alternate for each 300 votes cast with that county or senatorial district.<sup>26</sup> This same ratio also applies for the number of delegates that will be assigned to Congressional District Caucuses.

Thus, the actual assignment of Delegates to the respective Congressional District Caucus is made the county and senatorial district conventions. State delegates are credentialed for both Congressional District Caucuses (relevant for the 2016 presidential campaign) and also for 31 state senate district caucuses for issues not related to the Presidential delegate selection process). In counties or senatorial districts that contain multiple congressional districts, care must be taken to ensure that delegates are selected in the same 1-300 ratio in both caucuses.<sup>27</sup> Each portion of a congressional district in a county or senatorial district within a county is entitled to at least one delegate.

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<sup>26</sup> Rules of the Republican Party of Texas, Rule 23A (a)(2).

<sup>27</sup> Rules of the Republican Party of Texas, Rule 23A(c).