

ELECTION CODE

TITLE 13. RECOUNTS

CHAPTER 213. CONDUCT OF RECOUNT

SUBCHAPTER A. CONDUCT OF RECOUNT GENERALLY

Sec. 213.001. GENERAL SUPERVISION OF RECOUNT. (a) The presiding officer of each local canvassing authority having jurisdiction of election precincts included in a recount shall manage and supervise the recount for the precincts in that authority's jurisdiction.

(b) In a recount of an election canvassed jointly with another election, the presiding officer of the authority designated by law as the canvassing authority for the election, rather than the presiding officer of the joint canvassing authority, shall manage and supervise the recount.

(c) The custodian of voted ballots in the election, or the custodian's designee, is entitled to be present at each phase of the recounting process.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.002. RECOUNT COMMITTEE. (a) Before beginning a recount, each recount supervisor shall appoint a recount committee composed of as many members as the supervisor determines are necessary for a speedy recount. The committee must be composed of at least four members. The recount coordinator may appoint one member.

(b) The recount supervisor shall appoint a chair from the membership.

(c) The recount committee shall count the votes in a recount under the direct management and supervision of the chair. The recount supervisor or the supervisor's designee may exercise the chair's authority when present during the counting process.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 8, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 288, Sec. 3, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 864, Sec. 211, eff. Sept. 1, 1997.

Sec. 213.003. ELIGIBILITY FOR COMMITTEE MEMBERSHIP. (a) Except as provided by Subsections (b) and (c), to be eligible for appointment as a member of a recount committee, a person must be a qualified voter of the political subdivision served by the recount supervisor and must otherwise meet the eligibility requirements prescribed by this code for precinct election judges and clerks. A person who served as an election judge or as judge of the early voting ballot board in the election is ineligible to serve as a member of the recount committee. An officer of a political party is eligible to serve as a member of the committee.

(b) A tabulation supervisor, assistant tabulation supervisor, or manager of a central counting station appointed in a recount using automatic tabulating equipment to recount ballots originally counted at a central counting station is not subject to Subsection (a).

(c) A person who is appointed as a member of a recount committee by the secretary of state or a state party chair and who otherwise meets the eligibility requirements prescribed by this code for precinct election judges and clerks is eligible for appointment regardless of whether the person is a qualified voter of the political subdivision served by the recount supervisor.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 9, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 288, Sec. 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.68; Acts 1991, 72nd Leg., ch. 554, Sec. 39, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 212, eff. Sept. 1, 1997.

Sec. 213.004. COMPENSATION OF COMMITTEE MEMBERS. (a) Except as provided by Subsection (b), a member of a recount committee is entitled to compensation for time spent in making a recount at an hourly rate set by the recount supervisor, not to exceed the maximum hourly rate for election judges.

(b) A tabulator assisting in a recount using automatic tabulating equipment to recount ballots originally counted at a central counting station is entitled to compensation in an amount

set by the recount supervisor, not to exceed the rate of compensation for the tabulation supervisor of the central counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.005. COUNTING TEAMS. (a) A recount committee in a recount other than a recount on automatic tabulating equipment shall function as one or more counting teams composed of three members each. The recount coordinator may appoint one member of each team.

(b) Subject to the authority of the recount supervisor or the supervisor's designee, the recount committee chair shall designate the members to serve on each team and the duties to be performed by each member.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg. 2nd C.S., ch. 59, Sec. 10, eff. Oct. 20, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 74, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 213, eff. Sept. 1, 1997.

Sec. 213.006. DETERMINATION OF COUNTING QUESTIONS. (a) The recount committee chair has the same authority as a presiding election judge to determine whether a particular ballot may be lawfully counted and how a voter's marking of a ballot should be interpreted.

(b) After consulting the recount coordinator's appointee, the recount committee chair shall prepare a written statement of the specific reasons for not counting a particular ballot. Any uncounted ballots shall be kept separately in the appropriate container.

(c) Early voting ballots rejected by the early voting ballot board may not be counted in the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 11, eff. Oct. 20, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.69; Acts 1991, 72nd Leg., ch. 554, Sec. 40, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 214, eff. Sept. 1, 1997.

Sec. 213.007. ACCESS TO BALLOTS, EQUIPMENT, AND OTHER MATERIALS. (a) On presentation by a recount committee chair of a written order signed by the recount supervisor, the custodian of voted ballots, voting machines or test materials or programs used in counting electronic voting system ballots shall make the ballots, machines, or materials or programs, including the records from which the operation of the voting system may be audited, available to the committee.

(b) The custodian of keys to secured materials or equipment shall make the keys available to the committee in the same manner as provided by Subsection (a).

(c) The recount committee chair shall have the materials and equipment restored to their secured condition and returned to the appropriate custodian.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 215, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1315, Sec. 54, eff. Jan. 1, 2004.

Sec. 213.008. ARRANGEMENTS FOR RECOUNT; SETTING TIME AND PLACE. The recount supervisor shall make the arrangements necessary for conducting the recount and shall set the time and place for beginning the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.009. NOTICE OF RECOUNT. (a) The recount supervisor shall give personal notice of an initial recount to the petitioner, personal notice of a supplementary recount to both the petitioner and applicant, and personal notice of an expedited recount to the petitioner and to any applicant.

(b) Notice required by Subsection (a) shall also be given to each person entitled to notice under Section [212.032](#).

(c) The notice must include the time and place at which the recount is scheduled to begin and the number of counting teams designated for the recount, if applicable.

(d) Except as provided by Section [213.010](#), the notice shall be given at least 18 hours before the recount begins.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.010. EARLY RECOUNT. A recount may begin earlier than 18 hours after notice is given under Section 213.009 if each person entitled to the notice agrees to begin at a specified earlier time.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.011. VOTES COUNTED BY PRECINCT. The recount committee shall count the votes separately by precinct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.0111. RECOUNT OF DISPUTED BALLOTS. (a) On receipt of an affidavit executed by any recount committee member alleging that legal votes were not counted or illegal votes were counted during the initial recount, the recount coordinator may order a new recount of the disputed ballots. For a county or precinct office in a primary election, the county chair may order the new recount only on the approval of the state chair.

(b) The affidavit must be received by the recount coordinator within 48 hours after the determination of the results of the initial recount.

(c) Notice of the new recount shall be given in the manner prescribed by Section 213.009 for an initial recount.

(d) The new recount must begin not later than the seventh day after the date the notice is given.

(e) The recount coordinator shall appoint a recount committee to conduct the new recount.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 12, eff. Oct. 20, 1987. Amended by Acts 1993, 73rd Leg., ch. 759, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 216, eff. Sept. 1, 1997.

Sec. 213.012. COMMITTEE REPORT OF RECOUNT. (a) After the recount is completed, the recount committee chair shall prepare a report of the committee's vote count and sign the report. Votes shall be reported separately by precinct.

(b) The chair shall deliver one copy of the report to the

recount supervisor and one copy to the general custodian of election records.

(c) The copies of the report shall be preserved for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 217, eff. Sept. 1, 1997.

Sec. 213.013. REPRESENTATION OF PARTIES AND POLITICAL PARTIES AT RECOUNT. (a) Each person entitled to notice of the recount under Section 213.009 is entitled to be present at a recount.

(b) In a recount of an election on an office, each candidate for the office is entitled to be present at the recount and have watchers present in the number corresponding to the number of counting teams designated for the recount. If only one counting team is designated or the recount is conducted on automatic tabulating equipment, each candidate is entitled to two watchers.

(c) In a recount of an election on an office for which a political party has a nominee or for which a candidate is aligned with a political party, the party is entitled to have watchers present in the same number prescribed for candidates under Subsection (b).

(d) In a recount of an election on a measure, watchers may be appointed by the campaign treasurer or assistant campaign treasurer of a specific-purpose political committee that supports or opposes the measure in the number corresponding to the number of counting teams designated for the recount. If only one counting team is designated or the recount is conducted on automatic tabulating equipment, each eligible specific-purpose political committee is entitled to two watchers.

(e) A watcher appointed to serve at a recount must deliver a certificate of appointment to the recount committee chair at the time the watcher reports for service. A watcher who presents himself or herself for service at any time immediately before or during the recount and submits a proper certificate of appointment must be accepted for service unless the number of appointees to which the appointing authority is entitled have already been

accepted.

(f) The certificate must be in writing and must include:

- (1) the printed name and the signature of the watcher;
- (2) the election subject to the recount;
- (3) the time and place of the recount;
- (4) the measure, candidate, or political party being represented;
- (5) the signature and the printed name of the person making the appointment; and
- (6) an indication of the capacity in which the appointing authority is acting.

(g) If the watcher is accepted for service, the recount committee chair shall keep the certificate and deliver it to the recount coordinator after the recount for preservation under Section [211.007](#). If the watcher is not accepted for service, the recount committee chair shall return the certificate to the watcher with a signed statement of the reason for the rejection.

(h) Each person entitled to be present at a recount is entitled to observe any activity conducted in connection with the recount. The person is entitled to sit or stand conveniently near the officers conducting the observed activity and near enough to an officer who is announcing the votes or examining or processing the ballots to verify that the ballots are counted or processed correctly or to an officer who is tallying the votes to verify that they are tallied correctly. Rules concerning a watcher's rights, duties, and privileges are otherwise the same as those prescribed by this code for poll watchers to the extent they can be made applicable.

(i) No device capable of recording images or sound is allowed inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress unless the person entitled to be present at the recount agrees to disable or deactivate the device. However, on request of a person entitled to appoint watchers to serve at the recount, the recount committee chair shall permit the person to photocopy under the chair's supervision any ballot, including any

supporting materials, challenged by the person or person's watcher. The person must pay a reasonable charge for making the copies and, if no photocopying equipment is available, may supply that equipment at the person's expense. The person shall provide a copy on request to another person entitled to appoint watchers to serve at the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 13, eff. Oct. 20, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 75, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 864, Sec. 218, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 21, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 37, eff. September 1, 2011.

Sec. 213.014. CANVASS BY COMMITTEE FOLLOWING RECOUNT. If a canvassing authority that normally makes the canvass following a recount consists of more than five members, the presiding officer of the authority may require the canvass to be made by a committee composed of the presiding officer and four other members of the canvassing authority designated by the presiding officer.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.015. BYSTANDERS EXCLUDED. (a) Only persons that are specifically permitted by law to attend a recount may be inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress.

(b) A recount committee chair has the same authority as that of a presiding judge at a polling place to preserve order during the recount.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 14, eff. Oct. 20, 1987. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 219, eff. Sept. 1, 1997.

Sec. 213.016. PRINTING IMAGES OF BALLOTS CAST USING DIRECT

RECORDING ELECTRONIC VOTING MACHINES. During any printing of images of ballots cast using direct recording electronic voting machines for the purpose of a recount, the full recount committee is not required to be present. The recount committee chair shall determine how many committee members must be present during the printing of the images. Each candidate is entitled to be present and to have representatives present during the printing of the images in the same number as Section 213.013(b) prescribes for watchers for a recount.

Added by Acts 2003, 78th Leg., ch. 583, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1235 (S.B. 1970), Sec. 22, eff. September 1, 2009.

SUBCHAPTER B. ELECTIONS WITHOUT STATE LEVEL CANVASS

Sec. 213.031. APPLICABILITY OF SUBCHAPTER. This subchapter applies to recounts in elections for which there is no canvass at the state level.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.032. NOTICE OF PARTIAL INITIAL RECOUNT. After receiving the recount committee's report of a partial initial recount, the recount supervisor shall promptly give notice of the result of the recount to each person entitled to notice of the recount under Section 213.009.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.033. CANVASS FOLLOWING RECOUNT. (a) As soon as practicable after completion of a recount that changes the number of votes received for a particular candidate or for or against a measure, the canvassing authority shall conduct a canvass for the office or measure involved using the recount committee's report in the recount supervisor's possession, instead of the original precinct election returns, for each precinct in which a recount was conducted. An original canvass for the office or measure is void, and the new canvass is the official canvass for the election on that

office or measure. If no change occurs in the recount in the number of votes received for a candidate or for or against a measure, the official result of the election is determined from the original canvass.

(b) In a recount of an election in which there is more than one local canvassing authority, the result of the canvass conducted under this section shall be reported to the other canvassing authorities in the same manner as the result of an original canvass.

(c) The appropriate authority shall take any further action that may be necessary in the same manner as for an original canvass. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 15, eff. Oct. 20, 1987; Acts 1993, 73rd Leg., ch. 759, Sec. 2, eff. Sept. 1, 1993.

SUBCHAPTER C. ELECTIONS WITH STATE LEVEL CANVASS

Sec. 213.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies to recounts in elections for which there is a final canvass at the state level.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.052. AGENT FOR RECEIVING NOTICE OF RECOUNT. (a) If a recount includes election precincts in the jurisdiction of more than one local canvassing authority, a person entitled to notice under Section [212.032](#) may designate an agent for any one or more of the jurisdictions to receive the notice required by Section [213.009](#)(b).

(b) The recount coordinator shall ascertain whether a person notified under Section [212.032](#) desires to appoint agents under Subsection (a) and, if so, each agent's name, address, and telephone number.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.053. NOTICE OF RECOUNT TO SUPERVISOR. The recount coordinator shall give each recount supervisor involved in a recount notice of:

(1) the precincts in the supervisor's jurisdiction

included in the recount and any other pertinent information concerning the recount; and

(2) the name, address, and telephone number of each person to be notified of the recount under Section [213.009](#).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.054. NOTICE OF RECOUNT RESULT TO COORDINATOR. After receiving the recount committee's report, the recount supervisor shall promptly notify the recount coordinator of the result of the recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.055. SUPERVISOR'S REPORT. (a) As soon as practicable after receiving the recount committee's report, the recount supervisor shall prepare and sign a report of the vote count by precinct in the supervisor's jurisdiction, using the recount committee's report for the precincts recounted and the original precinct election returns for the precincts not recounted.

(b) The report prepared under this section is the official statement of the vote count in the local canvassing authority's jurisdiction.

(c) On completion of the report required by this section, the recount supervisor shall deliver one copy to the recount coordinator and one copy to the general custodian of election records. The copies shall be preserved for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.056. DETERMINATION OF RESULT OF RECOUNT; NOTICE.

(a) After receiving the notices of the results of a recount from all the recount supervisors, the recount coordinator shall promptly determine the result of the recount.

(b) The recount coordinator shall give notice of the result of the recount to:

(1) the petitioner and each person entitled to notice under Section [212.032](#), for an initial recount or an expedited recount; and

(2) the petitioner, the applicant, and any other person entitled to notice under Section [212.032](#), for a supplementary recount.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 213.057. CANVASS FOLLOWING RECOUNT. As soon as practicable after completion of a recount that changes the number of votes received for a particular candidate or for or against a measure, the final canvassing authority shall conduct a canvass for the office or measure involved using the recount supervisor's report, instead of the original county election returns, for each county in which a recount was conducted. An original final canvass for the office or measure is void, and the new final canvass is the official final canvass for the election on that office or measure. If no change occurs in the recount in the number of votes received for a candidate or for or against a measure, the official result of the election is determined from the original final canvass.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 16, eff. Oct. 20, 1987; Acts 1993, 73rd Leg., ch. 759, Sec. 3, eff. Sept. 1, 1993.

Sec. 213.058. CANVASS FOLLOWING EXPEDITED RECOUNT. (a) Unless a person entitled to notice under Section [213.056](#) makes an objection to the recount coordinator before the canvass resulting from a recount, the final canvassing authority may use results reported to the recount coordinator by telephone or telegraph under Section [213.054](#) as the basis for its canvass following an expedited recount if the orderly conduct of a runoff election would be disrupted by delaying the canvass until the recount supervisors' written reports are received.

(b) If an objection is made under Subsection (a), the recount coordinator shall ascertain the grounds for the objection and shall verify with the appropriate recount supervisor each result to which objection is made. If the verification changes the overall result as originally determined by the coordinator, the coordinator shall give notice of the change to the persons entitled to receive the original notice of the result and shall continue the

verification process until no objection exists. The canvass may then be conducted on the basis of telephone or telegraph reports as verified.

(c) If a canvass is conducted on the basis of results reported by telephone or telegraph, on receiving a recount supervisor's written report, the recount coordinator shall compare the report with the result used in the canvass. If a discrepancy exists, the coordinator shall ascertain the correct vote count from the supervisor. The supervisor shall deliver a corrected written report to the coordinator if the original written report is incorrect.

(d) If a discrepancy that affects the outcome of the election is discovered in the comparison made under Subsection (c), the recount coordinator shall immediately call a meeting of the canvassing authority or notify the governor, as applicable, to conduct another canvass and shall take the necessary action for correction of the ballots for the runoff election. If discovered discrepancies do not affect the outcome, the coordinator shall correct the canvassing authority's vote tabulation to conform to the written reports.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 59, Sec. 17, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 163, Sec. 6, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 759, Sec. 4, eff. Sept. 1, 1993.

Sec. 213.059. GENERAL ELECTION FOR GOVERNOR OR LIEUTENANT GOVERNOR. (a) A recount in a general election for the office of governor or lieutenant governor shall be conducted in the same manner as a recount of a general election for a state office in which the final canvass is made by the governor, except as provided by this section.

(b) The governor is considered to be the final canvassing authority for the election and the secretary of state's tabulation of the county election returns is considered to be the declaration of the official result.

(c) The recount supervisor shall deliver two copies of the report prepared under Section [213.055](#) to the secretary of state.

The secretary shall use one copy for the tabulation of the votes after the recount is completed. The secretary shall deliver the other copy to the speaker of the house of representatives.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 163, Sec. 7, eff. Sept. 1, 1989.