

ELECTION CODE

TITLE 14. ELECTION CONTESTS

SUBTITLE B. CONTESTS IN DISTRICT COURT

CHAPTER 231. CONTEST IN DISTRICT COURT GENERALLY

Sec. 231.001. APPLICABILITY OF SUBTITLE. This subtitle applies to an election contest of which the district court has jurisdiction.

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

Sec. 231.002. APPLICABILITY OF RULES GOVERNING CIVIL SUITS. Except as otherwise provided by this subtitle, the rules governing civil suits in the district court apply to an election contest in the district court.

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

Sec. 231.003. ATTENDANCE ON LEGISLATURE NOT GROUND FOR CONTINUANCE. Intended or actual attendance on a session of the legislature by a party or an attorney for a party to an election contest is not a ground for granting a continuance in the trial of the contest.

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

Sec. 231.004. DISQUALIFICATION OF DISTRICT JUDGE. (a) The judge of a judicial district that includes any territory covered by a contested election that is less than statewide is disqualified to preside in the contest.

(b) If a contest is filed in which a judge is disqualified under Subsection (a), the district clerk shall promptly call the filing to the attention of the judge. The judge shall promptly request the presiding judge of the administrative judicial region to assign a special judge to preside in the contest.

(c) A judge who resides in the territory covered by a contested election is not eligible for assignment as a special judge for the contest.

(d) Subsections (a), (b), and (c) do not apply to a contest of an election for an office of a political party.

(e) In an election contest in which the district judge is disqualified, until a special judge is assigned to preside over the contest, the presiding judge of the administrative judicial region may take any action regarding the contest that a district judge may take if the contested election is:

(1) a primary election; or

(2) an election in which a runoff in the contested race is necessary, according to the official returns, or will be necessary if the contestant prevails.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 7.14, eff. Aug. 28, 1989.

Sec. 231.005. JURY TRIAL NOT ALLOWED. The district judge shall decide the issues of fact in an election contest without a jury.

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

Sec. 231.006. COMPELLING PRODUCTION OF ELECTION RECORDS AND ATTENDANCE OF ELECTION OFFICERS. The limitation on the distance within which a witness may be compelled to attend the trial of a civil suit does not apply to officers of a contested election or custodians of records, equipment, or supplies of a contested election who are subpoenaed to appear in the contest to give testimony or to produce election records, ballot boxes, or other tangible things.

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

Sec. 231.007. PROCEDURES FOR NEW ELECTION GENERALLY. (a) If a judgment in an election contest orders that a new election be held, as soon as practicable after the judgment becomes final, the district court shall set the date for the new election. In the case of a general or special election, the court shall direct the appropriate authority to order the election for the date set by the court. In the case of a primary election, the court shall direct the appropriate officers of the political party to hold the election on the date set.

(b) Except as otherwise provided by this subtitle, the new

election shall be held in the same manner as the contested election.

(c) The district court may set the election for a date that shortens the regular period for early voting, but the date must make it possible for early voting by personal appearance to begin not later than the 10th day before election day. In the order setting the date for the election, the court shall also set the date for beginning early voting by personal appearance if it is not possible to begin on the regular day.

(d) In addition to public notice required by law, the district court may require the new election to be publicized in the manner prescribed by the court.

(e) If a function in the conduct of a new election for an office would normally be performed by an officer who is a party to the contest, the district court may designate another person to perform the function and may fix a reasonable compensation for the service, to be paid as other expenses of the election.

(f) The district court may shorten the normal period between election day and the date of the official canvass.

(g) The district court retains jurisdiction of the contest until the new election is completed and may make any orders the court considers necessary to ensure its proper conduct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.70; Acts 1991, 72nd Leg., ch. 554, Sec. 41, eff. Sept. 1, 1991.

Sec. 231.008. DELIVERY OF CERTIFIED COPIES OF JUDGMENT.

(a) As soon as practicable after a judgment in an election contest becomes final or, if the judgment orders that a new election be held, after the district court sets the date for the new election, the district clerk shall deliver certified copies of the judgment as provided by this section. If the judgment orders a new election, the clerk shall attach to each copy of the judgment a certified copy of the order setting the election date and any other order relating to the conduct of the election.

(b) If the judgment in a contest for an office affects the preparation of the ballot for a succeeding election, the clerk shall deliver a copy to the authority responsible for having the

official ballot prepared or, in the case of a statewide or district office, to the authority responsible for certifying the names of the candidates for placement on the ballot.

(c) If the judgment orders that a new general or special election be held, the clerk shall deliver a copy to the authority responsible for ordering the election. If the judgment orders a new primary election, the clerk shall deliver a copy to the state chair of the appropriate political party, in the case of a statewide or district office, or to the county chair, in the case of a county or precinct office.

(d) The clerk shall deliver a copy of the judgment to the custodian of the election register for the final canvassing authority in the contested election. The custodian shall record in the register the judgment or an abstract of the judgment in sufficient detail to show the outcome of the contest.

(e) The district judge may direct the clerk to furnish certified copies of the judgment to other persons as necessary to effectuate the judgment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 229, eff. Sept. 1, 1997.

Sec. 231.009. PRECEDENCE OF CONTEST ON APPEAL. An election contest has precedence in the appellate courts and shall be disposed of as expeditiously as practicable.

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