

ELECTION CODE

TITLE 14. ELECTION CONTESTS

SUBTITLE B. CONTESTS IN DISTRICT COURT

CHAPTER 232. CONTESTS FOR OFFICE

SUBCHAPTER A. TRIAL AND DISPOSITION OF CONTEST

Sec. 232.001. APPLICABILITY OF CHAPTER. This chapter applies to a contest of an election for nomination or election to a public office or an office of a political party.

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

Sec. 232.002. CONTESTANT. Any candidate in an election may contest the election.

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

Sec. 232.003. CONTESTEE: GENERAL RULE. (a) If a contested election is for nomination or election to an office for which only one person is to be nominated or elected, the contestee is:

(1) the opposing candidate who is officially determined to be nominated or elected, or in the case of a tie for the most votes, each of the opposing tied candidates; or

(2) if the final official canvass shows that a runoff election is necessary to decide the nomination or election:

(A) each of the opposing candidates shown by the canvass to be entitled to or tied for a place on the runoff ballot if the contestant is not so entitled or tied; or

(B) the opposing candidate or candidates shown by the canvass to be entitled to or tied for a place on the runoff ballot if the contestant is so entitled or tied.

(b) If a contested election is for election to an office for which more than one person is to be elected from the same set of candidates, any one or more of the candidates who are officially determined to be elected or to be tied with another candidate for election may be a contestee. The court may require the joinder of any of the candidates who are not named as contestees.

(c) Except as provided by Section [232.004](#) or [232.005](#), this

section is exclusive as to the persons who may be named contestee in an election contest.

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

Sec. 232.004. SUBSTITUTE CONTESTEE. (a) A contestant may name as a substitute contestee the presiding officer of the final canvassing authority for the election if:

(1) a deceased or ineligible candidate receives a sufficient number of votes for nomination or election according to the official result of the contested election;

(2) a candidate who could have been named as contestee under Section 232.003 dies or is declared ineligible before the contest is filed; or

(3) a contestee dies while a contest is pending.

(b) The costs of an election contest may not be assessed against a contestee named under Subsection (a) or against the governmental or political entity the contestee represents.

(c) If in any of the circumstances described by Subsection (a) a person is appointed to a resulting vacancy in the office or in the nomination for the office, the contestant may name the appointee as a substitute contestee or the appointee may intervene on the side of the contestee.

(d) In any of the circumstances described by Subsection (a), the district court may permit one or more qualified voters who voted in the election to intervene for the purpose of representing the interests of the voters who voted for the deceased or ineligible candidate.

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

Sec. 232.005. ADDITIONAL CONTESTEE. The district court may require or permit any one or more candidates in a contested election to be named as contestee or may permit the candidates to intervene on the side of the contestee, as the court determines the circumstances warrant.

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

Sec. 232.006. VENUE. (a) The venue of an election contest

for a statewide office is in Travis County.

(b) The venue of a contest for an office less than statewide that is filled by voters of more than one county is:

(1) in the county in which the contestee or any one of the contestees named under Section 232.003 resides if the residence is in the territory covered by the election; or

(2) in any county wholly or partly in the territory covered by the election if:

(A) no contestee named under Section 232.003 resides in that territory; or

(B) none of the contestees is named under Section 232.003.

(c) The venue of a contest for an office filled by voters of only one county is in that county.

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

Sec. 232.007. RUNOFF NOT HELD UNTIL FINAL JUDGMENT. (a) A runoff election for a contested office may not be held until the judgment in the contest becomes final.

(b) This section does not affect the conduct of a regularly scheduled runoff for another office that was voted on at the same election as the contested office or at an election held jointly with the election in which the contested office was voted on.

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

Sec. 232.008. FILING PERIOD FOR PETITION. (a) A contestant may not file the petition in an election contest earlier than the day after election day.

(b) Except as provided by Subsection (c), a contestant must file the petition not later than the later of the 45th day after the date the election records are publicly available under Section 1.012 or the official result of the contested election is determined.

(c) A contestant must file the petition not later than the later of the 15th day after the date the election records are publicly available under Section 1.012 or the official result is determined in a contest of:

(1) a primary or runoff primary election; or

(2) a general or special election for which a runoff is necessary according to the official result or will be necessary if the contestant prevails.

(d) A contestant must deliver, electronically or otherwise, a copy of the petition to the secretary of state by the same deadline prescribed for the filing of the petition.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 69, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. 2817), Sec. 39, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1215 (S.B. 902), Sec. 4, eff. September 1, 2019.

Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 8.02, eff. December 2, 2021.

Sec. 232.009. NOTICE OF CONTEST TO CANVASSING AUTHORITY.

(a) After an election contest is filed, the district clerk shall promptly deliver written notice of the filing to the presiding officer of the final canvassing authority for the contested election if the election is:

(1) a primary election; or

(2) a general or special election for which a runoff is necessary in the contested race according to the official result or will be necessary if the contestant prevails.

(b) The officer receiving notice under Subsection (a) shall deliver written notice to each authority to whom the names of the candidates in the succeeding election are certified for placement on the ballot that the contest has been filed and that the certification is subject to the outcome of the contest. The officer shall deliver the notice at the same time as the certification or, if the certification is delivered before receipt of notice under Subsection (a), as soon as practicable after certification.

(c) If the contested election is a general or special election and the officer receiving notice under Subsection (a) is not the authority or presiding officer of the authority that orders

the runoff election, the clerk shall deliver written notice of the filing to that authority.

(d) The contestant in an election contest in which notice under Subsection (a) is required must attach to the petition a statement informing the clerk that the notice is required and containing the name and address of each person to whom the notice is required to be delivered.

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

Sec. 232.010. FILING PERIOD FOR ANSWER. A contestee in a contest of a general or special election must file an answer to the contestant's petition not later than 10 a.m. of the 10th day after the date of service of citation on the contestee or 10 a.m. of the fifth day after the date the official result in the contested race is determined, whichever is later. The citation must command the contestee to answer by the specified deadline.

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

Sec. 232.011. RETURN OF UNSERVED CITATION. The citation issued in an election contest must direct the officer receiving the citation to return it unserved if it is not served within 20 days after the date of issuance.

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

Sec. 232.012. ACCELERATED PROCEDURES FOR TRIAL OF CERTAIN CONTESTS. (a) This section applies only to the contest of an election described by Section [232.008\(c\)](#).

(b) When the contestant's petition is filed, the district clerk shall immediately notify the district judge of the filing.

(c) A contestee must file an answer to the contestant's petition not later than 10 a.m. of the fifth day after the date of service of citation on the contestee. The citation issued for the contestee must command the contestee to answer by the specified deadline and must direct the officer receiving the citation to return it unserved if it is not served within 10 days after the date of issuance.

(d) After the clerk receives the officer's return showing

service of citation, the clerk shall promptly notify the district judge of that fact. The judge shall set the contest for trial for a date not later than the fifth day after the date by which the contestee must answer.

(e) The district judge may not grant a continuance in the trial except:

(1) one time for a period not exceeding 10 days for good cause supported by the affidavit of a party; or

(2) with the consent of the parties.

(f) The district judge may limit amendments to the pleadings of a party after the party announces ready for trial.

(g) Subsections (e) and (f) do not apply to continuances or amendments to pleadings for the purpose of bringing in a substitute contestee following the death of a contestee.

(h) This section supersedes other provisions of this subchapter to the extent of any conflict.

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

Sec. 232.013. RESCHEDULING RUNOFF FOR CONTESTED RACE. (a) If the final judgment in an election contest necessitates a runoff election in the contested race, the district judge shall set the date for the runoff if the judge determines that lack of time prevents the proper conduct of the runoff on the regularly scheduled date. The runoff must be held on the same day of the week as the regularly scheduled runoff.

(b) The date set for the runoff may not provide a longer interval between the court order and the runoff than is required or authorized by law between the main election and a regularly scheduled runoff. The date may provide a shorter interval, but the interval must make it possible for early voting by personal appearance to begin not later than the 10th day before election day.

(c) If the runoff is set for a date that shortens the regular period for early voting, the order setting the date of the election must specify the date for beginning early voting by personal appearance.

(d) If the contested election is a primary, the district clerk shall deliver a certified copy of the order setting the date

of the runoff to the state chair of the 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.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.71; Acts 1991, 72nd Leg., ch. 554, Sec. 42, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 864, Sec. 230, eff. Sept. 1, 1997.

Sec. 232.014. ACCELERATED APPEAL IN PRIMARY CONTEST. (a) This section applies only to the contest of a primary election.

(b) To be timely, an appellant's bond, affidavit, or cash deposit for costs of appeal must be made not later than the fifth day after the date the district court's judgment in the contest is signed. If the appellant is not required to give security for the costs of appeal, the notice of appeal must be filed by the same deadline.

(c) If an appellant files an affidavit of inability to pay costs of appeal, a challenge to the affidavit must be filed not later than the fifth day after the date the affidavit is filed.

(d) As soon as practicable after an appeal in a contest is perfected, the district judge shall set the deadline for filing the trial court record in the appellate court. The judge may make any other orders to expedite an appeal that are reasonable and appropriate, including reducing the time normally allowed for filing appellate briefs, subject to review by the appellate court on motion of a party.

(e) The court of appeals may refuse to permit a motion for rehearing to be filed or may reduce the time for filing the motion.

(f) The decision of the court of appeals is not reviewable by the supreme court by certified question or any other method.

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

Sec. 232.015. ACCELERATION OF APPEAL BY COURT IN CONTEST OF GENERAL OR SPECIAL ELECTION. (a) The trial or appellate court may accelerate the appeal in a contest of a general or special election in a manner consistent with the procedures prescribed by Section [232.014](#).

(b) Section 232.014(f) does not apply to a contest of a general or special election.

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

Sec. 232.016. APPEAL SUSPENDS EXECUTION OF JUDGMENT. The perfecting of an appeal in an election contest suspends the execution of the district court's judgment pending the disposition of the appeal without the necessity for a supersedeas bond.

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

#### SUBCHAPTER B. COURT-ORDERED ELECTION FOLLOWING JUDGMENT OF VOID ELECTION

Sec. 232.041. NEW ELECTION ORDERED IF CONTESTED ELECTION VOID. In an election contest in which the contested election is declared void, the court shall include in its judgment an order directing the appropriate authority to order a new election.

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

Sec. 232.042. CANDIDATES IN NEW ELECTION. Except as otherwise provided by this subchapter, the candidates in a new election ordered by a court in an election contest are the same candidates who were in the contested election.

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

Sec. 232.043. WRITE-IN VOTES IN NEW ELECTION. A write-in vote in a new election ordered by a court in an election contest may not be counted unless write-in votes were received by the candidate in the contested election.

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

Sec. 232.044. WITHDRAWAL IN NEW ELECTION. The provisions of this code governing withdrawal of candidates in the contested election apply to the new election ordered by a court in an election contest, except that:

(1) the district court shall set the deadline for withdrawal from the new election; and

(2) a political party's executive committee may not make a replacement nomination if the party's nominee withdraws from the new election.

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

Sec. 232.045. DEATH OR INELIGIBILITY OF CANDIDATE IN NEW ELECTION. (a) If a candidate in a new election ordered by a court in an election contest dies or is declared ineligible before the date on which the district court sets the date for the new election, the candidate's name may not be placed on the ballot for the new election.

(b) If a candidate in the new election dies or is declared ineligible on or after the date on which the district court sets the date for the new election, the candidate's name shall be placed on the ballot, and votes for the candidate shall be given the same effect as votes for a deceased or ineligible candidate whose name appears on the ballot for a regularly held election for the contested office.

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

Sec. 232.046. REPLACEMENT PARTY CANDIDATES IN NEW ELECTION: GENERAL ELECTION FOR STATE AND COUNTY OFFICERS. (a) If a candidate who was the nominee of a political party in a new election ordered by a court in an election contest in which the contested office was to have been filled at the general election for state and county officers dies or is declared ineligible before the date on which the district court sets the date for the new election, the appropriate party executive committee may name a replacement nominee in the same manner as the committee fills a vacancy in a nomination in a regularly held election, except that the district court shall set the deadline for certifying the name of the replacement nominee for placement on the ballot.

(b) The district court may not set the certification deadline for a date earlier than the fifth day after the date on which the court sets the date for the new election.

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

Sec. 232.047. REPLACEMENT OF PARTISAN NOMINEE IN CITY ELECTION. (a) If a candidate who is a nominee of a political organization in a new election ordered by a court in an election contest involving a city office for which partisan nominations are permitted dies or is declared ineligible before the date on which the district court sets the date for the new election, the candidate may be replaced only by a replacement nominee named in the manner prescribed by:

(1) a charter provision or ordinance of the city for filling a vacancy in a partisan nomination; or

(2) the district court if there is no charter provision or ordinance.

(b) The district court shall set the deadline for certifying the name of the replacement nominee for placement on the ballot. The deadline may not be earlier than the fifth day after the date the court sets the date for the new election.

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

Sec. 232.048. RUNOFF FOLLOWING NEW ELECTION. (a) If no candidate receives a majority vote in a new election ordered by a court in the contest of an election in which a majority vote is required, a runoff election shall be held:

(1) for a primary election contest, on the date set by the district court in which the contest was heard, except as provided by Subsection (c); or

(2) for a contest of a general or special election, on the date set by the authority responsible for ordering the runoff election.

(b) Sections [232.013\(b\)](#), (c), and (d) apply to an election ordered under Subsection (a) of this section.

(c) The candidate receiving the most votes in a new election ordered by a court in a primary election contest is the political party's nominee, regardless of whether the candidate receives a majority vote, if the date of the final canvass of the court-ordered primary is on or after:

(1) the 85th day before the date of the succeeding general election in the case of a statewide or district office; or

(2) the 75th day before the date of the succeeding general election in the case of a county or precinct office.

(d) The district court for an election contest has the same supervisory power over a runoff of the court-ordered election as the court has over the court-ordered election.

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

Sec. 232.049. SECOND RUNOFF FOLLOWING CONTEST OF RUNOFF. If in a new election ordered by a court in a contest of a runoff election there are more than two candidates and no candidate receives a majority vote, another runoff to determine the nomination or election to the contested office shall be ordered in accordance with Section 232.048, except as otherwise provided by that section.

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

Sec. 232.050. BALLOT FORM AND ORDER OF NAMES ON BALLOT. (a) Except as otherwise provided by this section, the provisions of this code regulating ballot form and preparation apply to the ballot for a new election ordered by a court in an election contest.

(b) The district court hearing an election contest shall prescribe the heading of the official ballot to be used in the new election.

(c) In a new election in which party nominees appear on the ballot, the candidates may be listed on the ballot in the regularly prescribed manner or by office title with each candidate's party alignment shown by printing the candidate's political party next to the candidate's name.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 8, eff. September 1, 2020.

(e) The provisions of this code applicable to determining the order in which candidates' names appear on the ballot apply to the new election, except that the district court may authorize a shorter period of notice of the drawing for candidates' ballot positions.

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

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 8, eff.  
September 1, 2020.